

**EAST BRANDYWINE TOWNSHIP PLANNING COMMISSION
REGULAR SESSION
Wednesday, January 4, 2006 - 7:30 PM**

Those in Attendance:

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

Absent:

Mrs. Beth Valocchi, Ex Officio Member

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

Planning Commission Minutes – December 7, 2005 and December 14, 2005

Mr. Rawlings asked if there were additions or corrections to the above minutes. There were none. Mr. Corbin made a motion to approve the December 7th and December 14th minutes as presented. Mrs. Marshman seconded the motion, with all voting Aye.

Mullray Builders Subdivision

The plans propose the creation of two lots from a single 6.0319-acre tract on the west side of Bondsville Road. The plan was originally submitted as a sketch plan. The property is owned by Stacey Porter and Charles Petroff. Mr. William Mullray is the equitable owner of the property. The applicant proposes to subdivide the six acre property into two lots in the R-2 Zoning District. Lot #1 has an existing dwelling, swimming pool and stone deck. Lot #2 has a stable that the applicant plans to demolish.

The applicant, Mr. William Mullray, said that the NPDES permit was received and that DEP has approved the Sewage Facilities Planning Module, the last two outstanding items to be completed. He said that his engineer John Smirga would provide a copy of the NPDES permit for the Township files.

Mr. Rawlings made a motion to recommend the Board of Supervisors grant final plan approval for this subdivision with the condition that the applicant pay \$2,000 fee-in-lieu

of open space and \$3,507.54 in traffic impact fees. Mrs. Marshman seconded the motion, with all voting Aye.

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, Downingtown, Pa.

The Planning Commission reviewed the application in order to offer their recommendations and comments to the Zoning Hearing Board. Mr. Dennis O'Neill, engineer for the applicant attended the meeting.

In a letter dated October 25, 2005, Mr. Giannantonio describes the Steep Slope boundaries for the development as follows:

The plan submitted shows the slopes of 20% and greater in two categories. The green shaded areas are those slopes that the applicant's engineer indicates comply with the definition of Steep Slopes and are subject to the provisions of the Steep Slope District. Those slopes shown in gray shading are slopes of 20% and above, but do not have to comply with the District requirements, according to the plan legend.

Section 399-14C of the Zoning Ordinance defines Steep Slopes as slopes of 20% or greater (i.e., sloping 20 feet or more vertical over a distance of 100 feet horizontal), where such slope exists in any continuous horizontal increment of 50 feet or more.

The plan illustrates the interpretation of "horizontal increment of 50 feet or more" to mean 50 feet in "all" directions. In actuality, any 20% or steeper piece of land having a length of 50 feet in "any" direction is subject to the District regulations. A significant portion of the Steep Slopes shown on the plan, therefore, are subject to the District regulations and the plan should be revised accordingly.

A.1 -Special Exception Requests

- a. 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, 3, 5, 11 and 12, which are located in the Steep Slope Conservation District. Mr. Giannantonio stated that Lot #1 does not appear to encroach on the Steep Slope District. He also noted that the dwellings on Lots 3 and 5 appear to be able to be located to avoid all Steep Slopes.

- b. 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.

Mr. Giannantonio explained that the Special Exceptions are required based on the content of his October 25, 2005 letter. 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.

- c. 399-14.D (3)(d) – This Special Exception is to permit construction of any portion of the sanitary sewer drain field on Lot 12, which is located within the Steep Slope Conservation District.

This Section allows “sanitary or storm sewers, where approved by all regulatory agencies” to be approved by Special Exception. Mr. Giannantonio stated that the proposed primary drip system for Lot #12 is not a “sanitary sewer” and is therefore not a permitted use by Special Exception. Mr. O’Neill stated that he is completing soils testing on the drip system for Lot 12 so it can be relocated out of the Steep Slope District. The Planning Commission strongly encouraged the applicant to relocate the drip system so that this Special Exception can be withdrawn.

A.2 - Variances

- a. 399-14.D(1)(c) - The applicant is requesting a variance from this section for the portion of the driveway on Lot 7 which is located within those portions of the Steep Slope Conservation District that are in excess of 25% slope.

The entire frontage of Lot #7 contains Steep Slopes of both categories. Mr. Giannantonio and Mr. O’Neill recently discussed relocating the property line between Lots 6 and 7 to allow the driveway to be relocated out of all but a minimal amount of the Steep Slope District. Mr. O’Neill is looking at adjusting the lot and including a common driveway for Lots 6 and 7 that would be regulated by maintenance easement. If it can be done, it will be shown on the next resubmitted plan. Mr. O’Neill asked the Planning Commission’s opinion about having a common driveway for those lots. He said that it wasn’t the driveway that was too steep, but the areas on each side of the driveway. Mr. Thomas asked how much area in excess of 25% slope will be disturbed. Mr. O’Neill thought the area was between 8% and 10%. The slope of the driveway will not exceed 15%.

- b. 399-14.D(1)(c) – A variance is requested for the portion of the sanitary sewer system drain field on Lot 12 which is located within a Steep Slope Conservation District.

The basis for this variance request is that the proposed primary drip system for Lot 12 is a “sanitary sewer” and therefore permitted as a Special Exception. As indicated in A.1.c above, it is not a sanitary sewer and therefore is not a permitted use by special exception. In addition, a portion of the Steep Slope area on this lot where the proposed drip system is to be located is in slopes in excess of 25%. By State regulation, no septic system of any type can be placed in an area having slopes in excess of 25%. Again, the Planning Commission strongly encouraged the applicant to move the drip system out of the Steep Slope District. Mr. O’Neill is investigating whether this can be done.

A.3 – Appeal regarding the determination of the boundaries of the Steep Slope Conservation District.

Section 399-14.C(3)(c) of the Zoning Ordinance regarding the determination of the boundaries of the Steep Slope Conservation District.

The Steep Slope boundaries have been determined by literal interpretation of the Ordinance language as indicated in the content of Mr. Giannantonio’s October 25, 2005 letter.

B.3 – Appeal from the Determination of the Township Engineer

The Applicant indicated that the Township’s interpretation of the determination of the Steep Slope District “broadens” the definition of Steep Slope Conservation district beyond the requirements of the Ordinance.” According to Mr. Giannantonio, the Ordinance clearly states that the Steep Slope can exist in “ANY” continuous horizontal increment of 50 feet or more. The Applicant’s interpretation, in fact, narrows the Ordinance language to a measurement of the slope in only one direction, contrary to the phrase “any continuous horizontal increment. The use of the word “horizontal” in defining an engineering concept has been confused by the Applicant with the clear intent of the Ordinance language to permit measurement in either a direction up and down the slope (as the applicant’s narrow interpretation contends) or horizontally parallel to the slope or any other direction as the word “any” allows.

Mr. Rawlings made a motion stating that the he Planning Commission unanimously agreed with Mr. Giannantonio’s interpretation of the steep slope definition and recommended the Zoning Hearing Board deny this appeal. Mr. Giordano seconded the motion, with all voting Aye.

Mr. Corbin noted that the proposed subdivision was very near a high value watershed. He said that it may require additional measures on the part of the Applicant to protect that area. He also suggested that if any of the special exceptions or variances were granted by the Zoning Hearing Board, there should be follow-up by the Township Engineer in the field to ensure the subdivision is built according to the approved subdivision plans and zoning rulings.

Mr. O'Neil stated that if the Planning Commission could support the concept of a common driveway for Lots 6 and 7, and the drip fields could be moved out of the steep slope area, it would eliminate the need for the variance requests.

Mr. Thomas stated that he would be against granting variances in areas with 25% steep slope or greater.

The Planning Commission had the following comments and recommendations for the Zoning Hearing Board:

1. The Planning Commission would like to see the variance requests eliminated and the special exception requests reduced.
2. The Planning Commission will support the concept of a common driveway for Lots 6 and 7 as a means to move the driveway on Lot 7 out of the Steep Slope District and reduce the amount of grading that would be needed to construct the driveways, with the condition the applicant completes a Common Driveway Declaration and provides a formal maintenance easement.
3. Place the drip field outside the Steep Slope District on Lot 12.
4. Explore options for placement of the houses on Lots 1 and 12 so the dwellings won't encroach on the Steep Slope District.
5. Consider retaining walls to minimize the disturbance on Lot 3.
6. The Planning Commission unanimously agreed with Mr. Giannantonio's interpretation of the steep slope district and recommended the Zoning Hearing Board deny this appeal.

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 revised plan and the Yerkes December 25, 2005 review letter. He stated that the wetlands delineation was completed with the Army Corps of Engineers in the fall. He said that the boundary was accurate, but ponds, tributaries, and other features still needed to be labeled. He hopes to receive a

copy of the Jurisdictional Determination prior to the next Planning Commission meeting. Since some of the lots are close to the minimum net lot area, the Planning Commission wanted to wait to review the results of the Jurisdictional Determination before recommending preliminary plan approval to the Board of Supervisors, since the results could affect lot lines on the plan.

Mr. Cushman asked Mr. Brower about the results of nitrate testing. Mr. Brower will look into this and report back to the Commission.

Extension

On behalf of the applicant, Mr. Brower provided an extension to review the DeCovny subdivision plan until February 16, 2006. Mr. Rawlings made a motion to recommend the Board of Supervisors accept this extension. Mr. Cushman seconded the motion, with all voting Aye.

Applecross AKA Overlook Road Farm

Extension

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

James and Dorothy Poland and Pamela Fentner, residents of Bollinger Road, discussed some of their concerns with the proposed Applecross Subdivision. Mrs. Poland said that she was surprised that a road was being constructed across from her house. She said she thought some consideration would be given to the residents along Bollinger Road. Ms. Fentner stated that she thought the location of the proposed road would cause safety issues for residents living along Bollinger Road.

Mr. Rawlings stated that the basic design of the road is complete. The northern portion of the property near the Poland and Fentner residences was agreed upon as part of a settlement agreement. The roads for the southern portion of the development were set as part of preliminary plan approval. He also said that the townhouses and golf course that will be constructed on the northern tract are a vast improvement from what could have been constructed there under the old planned residential development zoning. Mr. Giannantonio stated that the road would be widened along Bollinger Road, along with other proposed improvements, and that traffic engineers for the applicant and the Township approved the location of the roads. It would be very difficult to change the road locations at this point in the review process. It was suggested that if Mr. and Mrs. Poland have other questions or concerns they discuss them with the Board of Supervisors since the Planning Commission simply advises the Supervisors. Although it isn't likely

that roads can be moved, the applicant might provide landscaping or buffering for the residents along Bollinger Road.

Ms. Fentner stated that one day this week her house shook as the developer began constructing the road and brought in heavy equipment. Mr. Piersol said that if there is property damage she should contact him and he will contact the contractor.

Brandywine Village/Croppers

Extension

The applicant is granting an extension to review this subdivision application until February 28, 2006. Mrs. Marshman made a motion to recommend the Board of Supervisors accept this extension. Mrs. Moser seconded the motion, with all voting Aye.

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 Pancoast 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.

Mr. Cushman agreed to revise the plan in accordance with the Yerkes January 4, 2006 review letter, but did want to discuss a waiver request with the Planning Commission

19. 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. The applicant met with Mr. Giannantonio prior to submission of the plan and it was suggested that a waiver request to permit the arrangement shown would be more likely to gain approval than a variance request for a substandard lot width.

There is 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. The Planning Commission will defer commenting on Mr. Cushman's waiver request until they are provided that information.

The applicant was asked to identify all wells on the property on the next plan and to mark all large trees. Mr. Cushman stated he would do this.

Ordinance Task Force Items

Beginning in January, the Ordinance Task Force will meet on the 4th Wednesday at 7:30 P.M. at the Delaware County Community College, Room 238.

Mr. Piersol stated that the zoning modifications regarding mobiles homes, open space and keeping of animals was sent to the County Planning Commission for their comments last week. He will wait to advertise the changes until the County's comments are received.

The February 22nd Ordinance Task Force meeting will be a public meeting to discuss the resident survey and Comprehensive Plan.

The next Ordinance Task Force meeting will be held January 25, 2006.

HeatherWynd West Development

Mr. Rawlings asked if there has been feedback from PADOT regarding their opposition to the proposed boulevard street for the HeatherWynd Development. Mr. Piersol hasn't heard back from them, but will look into this.

Rothman Tract

Mr. Piersol and Mr. Yerkes will be meeting later in the week to discuss the Rothman Tract related to the conditions of the dwelling and other safety issues.

K. Hovnanian Stipulation Agreement

Mr. Piersol will be scheduling a meeting in the near future to continue discussions regarding the stipulation agreement.

Hopewell Methodist Church

Representatives for the Church have been contacted about problems with the recently installed fence surrounding a basin on the Church property. Mr. Piersol is waiting for a return phone call advising when fence repairs will be completed. If the issue is not addressed by later in the week, it is the Township's intention to take further action to ensure the fence is properly installed and maintained.

Sunoco Convenience Store Proposed Site Development Plan Modifications to Canopy and Parking Lot

The plans propose modifications to the fueling area canopy, fuel pumps, underground fuel storage tanks, seven parking spaces, sidewalk and grading to the northeast side of the site. The fueling area canopy is lengthened approximately six feet and the two northerly sets of fuel pumps have been shifted northeast. The set of fuel pumps closest to Horseshoe Pike is in the same location as originally approved. The underground fuel tanks have been enlarged and extended underground toward the south. The seven parking spaces and sidewalk on the northern boundary of the site have been shifted approximately five feet toward the northern property line. The dividing island to the west of those seven spaces has been modified somewhat and minor grading modifications have been made.

Mr. Giannantonio was asked to bring a copy of the plan to the next Planning Commission meeting for their review.

Other Business

Mrs. Moser raised concern about traffic circulation for the proposed Wawa and Sunoco Conveniences stores. In light of the recent facility as a motorist was leaving Sunoco, she raised concerns about allowing traffic to exit on to Rt. 322. She also raised concerns about tractor trailers speeding on Rt. 322 and discussed what sort of traffic calming measures could be taken to slow vehicles down as they go through the intersection. Mr. Piersol pointed out that this latest accident was not caused by the error of either truck driver. Mrs. Moser would like the Township to contact PADOT to talk about what can be done to make this intersection safer. Last year, the Traffic Impact Committee had recommended that a loop road be constructed that would divert traffic around the Village of Guthriesville. Since Rt. 322 is a State Road it would be up to PADOT to approve this plan. The Township could possibly help pay for engineering of the road through traffic impact fees, which might help in gaining approvals for such a plan. Mrs. Moser said that she will be attending the next Board of Supervisors meeting to discuss this issue.

Pine Hill Associates, Inc. Zoning Hearing Continued

Mr. Cushman suggested that at next month's Planning Commission meeting the Pine Hill Associates application be reviewed again, using the guidelines outlined in the East Brandywine Township Comprehensive Plan.

Comments from the Audience

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

Adjournment

There being no further business Mr. Cushman made a motion to adjourn the meeting. Mrs. Marshman seconded the motion, with all voting Aye. The meeting was adjourned at 9:30 P.M.

Respectfully submitted,

Mary Beth Smedley
Secretary/Treasurer
East Brandywine Township