

**EAST BRANDYWINE TOWNSHIP PLANNING COMMISSION
REGULAR SESSION
Wednesday, November 2, 2005 - 7:30 PM**

Those in Attendance:

Mr. Bruce Rawlings, Chairman
Mr. Stephen Cushman, Vice-Chairman
Mr. Michael Corbin, Member
Mrs. Deborah Marshman, Member
Mrs. Sandra Moser, 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:

Mr. Charles Giordano, Member
Mr. Mervin Thomas, Member
Mrs. Beth Valocchi, Ex Officio Member

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

The Planning Commission expressed their condolences to Mr. Thomas on the death of his father, Tucker Thomas, a long-time resident of East Brandywine Township and a member of the East Brandywine Fire Company and Special Fire Police. He will be missed.

Planning Commission Minutes – October 5, 2005

Mr. Rawlings asked if there were additions or corrections to the above minutes. There were none. Mrs. Marshman made a motion to approve the October 5, 2005 minutes as presented. Mrs. Moser seconded the motion, with all voting Aye.

Forge Hill Subdivision

The owner and applicant is Pine Hill Associates, Inc. The property is located at the southwest corner of Creek Road and Dowlin Forge Road and has a gross area of 37.0692 acres and a net area of 26.3798 acres. The tract is in the R-1 Residential Zoning District. The plan has been prepared using the Cluster Residential Development regulations. The plan proposes development of 13 lots based on the yield plan methodology with designated open space areas. The site contains an existing dwelling, barn, shed, driveway, woodlands, steep slopes, floodplain, water hazard soils, wetlands and a stream. The existing dwelling is to remain on Lot #13, which also shows private open space, requiring a Conditional Use Hearing. The existing driveway, shed and barn are to be razed. Access to the subdivision will be by a proposed 987 foot long cul-de-sac road intersecting with Creek Road. Each lot will be provided with an individual on-site well, septic system and stormwater management system. The applicant may request public water as part of a previously submitted Conditional Use application. The hearing has

been temporarily postponed at the applicant's request. The plan also shows an easement that can be used to bring water from the Hillendale Development. Three additional stormwater basins are also proposed.

Mr. Dennis O'Neill, engineer for the applicant, discussed the preliminary plan, the Yerkes October 28, 2005 review letter, and the Yerkes October 25, 2005 correspondence related to steep slopes.

Preliminary Plan Requirements

11. Section 350-24.B(2)(p)[2]. Any recreational areas that may be required by the Township should be shown on the plan. Mr. Giannantonio stated that a walking trail has been added to the plans on the east side of Lot #3. The Planning Commission should determine if the trail meets the recreational requirements of the Township Ordinances. Mr. O'Neill showed the location of the proposed trail and sidewalks in the development. A large part of the trail is parallel to Creek Road and will connect to a proposed trail on the Whittaker property near Dowlin Forge Road.

Another leg of the trail is shown between Lots #2 and #3 and connects to the Hillendale Development. Although this portion of the trail is not in the steep slope district in the Forge Hill development, there are steep slopes where it is proposed to connect with the Hillendale development. When Mr. O'Neill was asked if there were any other purposes for this connection he said there will be a utility easement for the possibility of public water. Mr. O'Neill stated that the applicant prefers public water because of fire safety, less woodland disturbance and wells in the vicinity of the property have a history of high iron levels. Mr. Corbin and Mrs. Moser, who are also members of the Municipal Authority, stated that there may not be water available for the Forge Hill development, at least for some length of time. They suggested the applicant consider on-lot water as their primary alternative for this development if they wanted to have the subdivision completed quickly. The Planning Commission stated the applicant might look at other areas to connect a trail to the Hillendale development, but they were not interested in seeing that portion of the trail as shown on the plan. The Planning Commission would not recommend this portion of the trail be considered in any reduction to the calculation for fee-in-lieu of open space since it appears that the primary reason for its construction would be for a utility right-of-way.

Landscaping

Mr. Giannantonio stated that landscape comments will be forwarded to the Township on the completion of the landscape plan review. Mrs. Moser stated that specimen trees should be identified on the plan, along with a plan for protection of those trees. All specimen trees to be removed should be identified.

General Comment

Lot #12 is a large lot with the existing barn that will remain on the property. A new home will be constructed on this lot. This lot was described by Mr. O'Neill as "farmette" with deed restricted open space. Lot #13 contained the existing home. Although the Planning Commission prefers keeping the barn and existing home on the same lot Mr. O'Neill stated they were not able to accomplish this.

The applicant will have deed restricted, private open space abutting several of the proposed lots. Mr. O'Neill asked if the Township had copies of covenants that govern deed restricted open space. The Township has no examples, but Mr. O'Neill said he has several examples from other municipalities to review.

The Planning Commission feels that the open space as shown on the plan defeats the purpose of open space under the cluster option. Basically, the applicant is showing a full yield plan since open space is essentially just an extension of several lots. Ideally, open space should be as contiguous as possible. The Planning Commission is very concerned that residents will begin using the open space for purposes which were not intended. It will be very difficult for the Township to enforce any restrictions if residents were to start timbering the open space or build a structure in it.

The Sewage Facilities Planning Module has been reviewed by the Chester County Health Department and the Chester County Planning Commission. After the advertised 30-day comment period the Planning Module will be sent to PADEP for their review and approval.

Steep Slope Determination

The plan submitted shows the slopes of 20% and greater in two categories. The green shaded areas on the plan are those slopes that the applicant's engineer indicated comply with the definition of Steep Slopes and are subject to the provisions of the Steep Slope District. Those slopes shown as gray on the plan 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 Ordinances 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 regulation. According to Mr. Giannantonio a significant portion of the Steep Slopes shown on the plan is subject to the District regulations and the plan should be revised accordingly.

The applicant does not agree with Mr. Giannantonio's decision regarding the Steep Slope District and may file an appeal of his interpretation. Mr. Giannantonio has discussed this issue with Mr. O'Neill who reported that the applicant still does not agree with Mr. Giannantonio's interpretation of the ordinance. Mr. Piersol has reviewed the ordinance and is also in agreement with Mr. Giannantonio's interpretation, as are the Planning Commission members.

Mr. O'Neill stated that the applicant will be submitting an application for several special exceptions regarding to stormwater management and septic systems.

50. Section 350-52H(6)ii.c – All basin spillways are to be used to control peak discharges in excess of the ten-year storm. The control weirs are to be constructed of concrete of sufficient mass and structural stability to withstand the pressures of impounded waters and outlet velocities. Concrete outlet aprons are to be designed as level spreaders and shall extend at a minimum to the toe of the basin slope. The calculations and plans indicate grass lining with no additional spillway protection for all proposed basins. Due to the nature of construction of basins whereby final compaction and stability may not be optimum, Mr. Giannantonio recommends that additional permanent spillway stability be provided in according with this section of the ordinance. Mrs. Moser asked if this was sufficient considering that there have been two 100-year storms during the past year. Mr. O'Neill stated that the spillways would be designed to meet the 100-year storm.

Erosion and Sedimentation Control

Since the proposed development is near the East Branch of the Brandywine Creek, a high quality stream, the Planning Commission asked that all measures be taken to protect the stream. The applicant has incorporated Best Management Practices into the plan and the Chester County Soil and Conservation District will ensure that the applicant adheres to all applicable regulations.

Demolition Permit Application for Claudio DiGiamberardino

Louis Colagreco, Esq., representing Claudio DiGiamberardino, owner of the former Mama Lena's building at 1192 Horseshoe Pike discussed his client's application to demolish the existing building. In addition to providing the permit application, Mr. Colagreco also provided a Historic Resource Report, pictures of the building and a copy of Pennsylvania Historic Resource Survey Form related to the property. Mr. Greg Newell, from Nave Newell and Mr. Wayne Grafton also attended the meeting on behalf of Wawa who is the equitable owner of the property. Wawa was granted preliminary land development approval on December 19, 2001.

During the preliminary land development process, Wawa and its consultants made it clear they planned to demolish all buildings on this site, including the “Mama Lena’s” building, to construct a convenience store. The applicant verbally agreed to catalog the building, provide the Township with pertinent information, and perform a dig in and around the structure upon demolition to confirm or locate any historical artifacts. This could be done in coordination with the Township Historic Commission or the Chester County Historical Society.

Due to the historical nature of the Mama Lena’s building, the applicant must also adhere to the procedures outlined in Article XI Historical Resource Projection Standards, Section 1105, and any relevant state or federal regulations which apply to the possible demolition of this building.

The Mama’s Lena’s building is listed in the East Brandywine Township Historic Resources Inventory. There are questions as to whether this building is a Class II Historic Resource or a contributing Class I Historic Resource since there is a Determination of Eligibility for the Village of Guthriesville, meaning that the Village may be eligible for placement on the National Register of Historic Places.

Mr. Colagreco stated that there is no difference in the Township procedures to demolish a Class I or II resource. After the Historic Commission meets, they send their recommendations to the Board of Supervisors. The Board of Supervisors considers the application for demolition at a public meeting where the applicant presents evidence pertaining to the demolition. The Board may vote to authorize the permit immediately or delay authorization for a period not to exceed 90 days from the date of initial application for a building permit, during which period the Township and applicant will explore alternatives to demolition. The permit is then issued as a matter of course. Mr. Colagreco stated that his client wanted to get the demolition permit in order. He acknowledged that they may also need additional state or federal approvals prior to demolition of the building. Mr. Colagreco stated that if review of Section 106 of the National Historic Preservation Act was necessary it would be up to Wawa to pursue. According to Mr. Colagreco, the only reason the Army Corps of engineers is involved is because of the land development plan. If the permit was submitted by a private owner with no other land development issues the building could likely be demolished without any other permits.

Mr. Colagreco was asked if it would be possible to move the building. He stated that his client wasn’t interested in moving it since it would be cost prohibitive. It is Mr. DiGiamberardino’s intention to demolish the building whether or not the Wawa plan is finalized and built.

Mr. Grafton stated there were two significant fires in the building. The first fire was in 1878 that damaged several rooms on the second floor. The second fire was in 1944. There was major damage to the building and roof. Mrs. Marshman pointed out that the Historic Resources Reports states that the building was used as the Cropper’s grocery

store at one time. In fact, it was the Brandywine General Rental building, not Mama Lena's, that was the Croppers store. Mr. Black stated that although there were fires that damaged the interior of the building the exterior is still architecturally significant.

Planning Commission members were disappointed that Wawa, during the land development process, would not consider designing a store that would retain some of the architectural details of the Village of Guthriesville.

Mr. John Black, Chairman of the East Brandywine Township Historic Commission, stated that the applicant should be required to meet all applicable state and federal regulations, in addition to those of the Township. He stated that removing the Mama Lena's building would decrease the value of the Historic District. In addition, he suggested that the Ordinance Task Force review our ordinances related to demolition of historic resources since he feels these ordinances could be stronger. According to Mr. Black, part of the Section 106 review is a requirement to discuss other suggested uses of the building; once all alternatives are exhausted the permit can be granted. Mr. Black was concerned that having the property owner rather than Wawa submit the demolition permit was an attempt to circumvent the process. Mr. Colagreco disagreed and stated that if the Wawa were not to be built his client could likely demolish the building without meeting Section 106 requirements.

Mr. George Holmes asked if there were a contingency plan if the Wawa is not built. Mr. Colagreco wasn't aware of a contingency plan.

Mr. Rawlings polled the Planning Commission for their recommendations and comments. Mr. Cushman had no opposition to the building being demolished. Mrs. Marshman and Mrs. Moser stated they need further information before they can make a recommendation. Mr. Rawlings, Mr. Corbin and Mr. Giordano (who did not attend the meeting but provided his recommendation to Mr. Rawlings) would like the applicant to meet all required state and federal regulations, including the Section 106 review, prior to the demolition permit being approved.

Mr. Giannantonio stated that if the building were demolished, he would like to see some of the architectural features of the building incorporated into another building in the Township, if possible.

Mrs. Marshman asked if possible denial of the demolition permit affects Wawa's preliminary plan approval status. This is a question for the Planning Commission Solicitor, John Spangler. He will be invited to attend the next Planning Commission meeting to discuss the demolition application. An Executive Session of the Planning Commission and Mr. Spangler will be scheduled for December 7, 2005 at 7:00 P.M. prior to the Planning Commission meeting.

Mr. Black stated that one of the requirements in applying for the demolition permit was to state the future use of the site. If that is the case, Mr. Colagreco will amend the application.

Overlook Road Farm AKA Applecross

Mrs. Smedley reported that Pulte Homes is granting an extension to review the subdivision plan until December 22, 2005. Mr. Rawlings made a motion to recommend the Board of Supervisors accept an extension to review the plan until December 22, 2005. Mrs. Moser seconded the motion, with all voting Aye.

CMR Corporation Extension

Mrs. Smedley reported that CMR Corporation is granting an extension to review the subdivision plan until December 31, 2005. Mr. Rawlings made a motion to recommend the Board of Supervisors accept an extension to review the plan until December 31, 2005. Mrs. Marshman seconded the motion, with all voting Aye.

Ordinance Task Force Items

As part of the Ordinance Task Force revisions of the Comprehensive Plan, a survey will be sent to residents discussing issues pertaining to the Township, planning, development, etc. This survey should be sent out within the next month. Mr. Rawlings would like to see this done as soon as possible since we have time-frames with the County that need to be met in order to receive grants that will reimburse the Township for a portion of the costs associated with updating the plan.

HeatherWynd Development

PADOT has reviewed the Highway Occupancy Permit application submitted by Gambone Brothers Development Corporation and sent a list of required changes. One of those requirements was that the entrance boulevard land widths be reduced to 16' and the median width reduced to 10'. The Planning Commission approved the length of the development road based on the boulevard being constructed as shown on the plan because it allows for emergency service access if a portion or side of the road were closed. Mr. Piersol will contact Richard Avicolli from PADOT to discuss this issue.

K. Hovnanian Settlement Agreement

Mr. Piersol stated that a meeting has been scheduled with the Settlement Committee to discuss the latest Stipulation Agreement. They will forward their comments to representatives of K. Hovnanian for their review and comments.

MISA Corporation

A letter dated October 17, 2005 was sent to the Planning Commission updating them on MISA Corporation's land development plan. It appears that a permit might have been issued for a well that was placed in the middle of the roads, although the Planning Commission opposes this well placement. MISA is currently working towards satisfying the requirements for final plan approval.

Comments from the Audience

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

Adjournment

There being no further business Mrs. Moser made a recommendation to adjourn the meeting. Mr. Corbin seconded the motion, with all voting Aye. The meeting was adjourned at 9:20 P.M.

Respectfully submitted,

Mary Beth Smedley
Secretary/Treasurer
East Brandywine Township