

**EAST BRANDYWINE TOWNSHIP PLANNING COMMISSION
REGULAR SESSION
Wednesday, April 6, 2022**

Those in Attendance:

Bruce Rawlings, Chairman
Jim Buczala, Vice-Chairman
Charles Giordano, Member
Mike Corbin, Member
Michael Wagoner, Member
Francis Taraschi, Member
Luke D. Reven, Township Manager
Lisa Taraschi, Township Secretary
Tom Oeste, Township Solicitor

Opening of Meeting

Chairman Rawlings opened the meeting at 7:30 PM with the Salute to the Flag.

Chairman Rawlings reminded those in attendance of Resolution 2001-08, Rules for Conduct at Public Meetings, stating, "The time allocated to each individual making a comment shall be three minutes, unless otherwise set by the presiding officer. Additional public comment may be granted by the presiding officer at the conclusion of the meeting."

Public Comment on Non-Agenda Items

There were no comments.

Planning Commission Minutes of March 2, 2022

Mr. Rawlings made motion to approve the minutes of March 2, 2022. Vice-Chairman Buczala seconded the motion, with all members voting Aye. Motion passed 6-0.

New Business

Start Time Change for the Planning Commission and the Ordinance Task Force

A discussion was held to change the start times of the monthly Planning Commission meeting and the Ordinance Task Force meeting. It was decided the start times would be changed from 7:30 PM to 7:00 PM. This change will go into effect at the May 4th meeting.

Chairman Rawlings made a motion to change the start time of the Planning Commission meeting and the Ordinance Task Force meeting to 7:00 PM. Member Wagoner seconded the motion. With five members voting Aye. Motion passed 5-1. Member Giordano voted Nay.

Mike Wagoner to Step Down from the Planning Commission

Member Wagoner informed the Commission that he has accepted a position with Pennoni Engineering. He will be stepping down from his seat on the Commission effective May 4th, 2022. He added he will continue with his seat on the Ordinance Task Force. The Commission thanked him for his many years of service and wished him the best of luck in his future endeavors.

Chairman Rawlings asked the Commission to search for potential members and asked Township Manager Reven to post for the open position on the Township website.

Discussion on Planning Commission to Provide Comments and Review of Zoning Hearing Applications

As Solicitor Oeste stated in a previous manager's report, Mr. Reven advised that a change to the Commission meeting time may be a necessity. He also added he feels it is a benefit to have the Commission weigh-in on some of the Zoning Hearings. In many cases, the Zoning Hearing Board (ZHB) is only hearing from the applicant. This does not give the ZHB the entire picture, particularly if the Township is opposed to the application. He added it is helpful to have another viewpoint. It is not unusual for the Commission to review these applications and present their findings to the Board of Supervisors (BOS). He added the downside is that it creates more steps for the applicant. They will now need to appear before the Commission prior to the Zoning Hearing. Vice-Chairman Buczala stated it is helpful to have someone there that has an understanding and can create a complete picture for the ZHB.

Mr. Oeste advised that the Commission should not make judgements on whether or not there is a legal hardship or the minimum variance for relief. That is for the ZHB to decide. Mr. Oeste added they should be looking at the same type of items they look for in land development from a planning standpoint. Member Taraschi asked how it then work in cases of a variance that would not go before the supervisors, such as a simple deck or a pool. Mr. Oeste stated the process would have to involve the BOS. They have the right to participate in the hearing due to party status. He added the BOS could delegate that right to the Planning Commission and they then could write a letter or appear before the ZHB. However, an applicant can say that's hearsay and ask that it not be submitted to the ZHB.

Mr. Rawlings stated that he was aware that the bulk of the Board would like the Commission to review these applications when needed. He added if it means the Commission needs to change their monthly date that would need to happen. He asked what the best date would be. Mr. Reven advised the ZHB meets the first Tuesday of the month when they have an agenda. Mr. Reven added he recommends that the Commission change their date to the second Wednesday of the month. He advised it would be necessary to have a Planning Commission meeting, then the BOS meeting and then the ZHB meeting. He added that this would need to be completed in the shortest possible time frame to meet the 60-day requirement to the MPC.

Mr. Reven suggested to amend our code to set a deadline of twenty-eight days for applications to be considered at the next ZHB. Mr. Reven also stated his recommendation would be that on the second week of each month the Commission could consider it, and on the third week of each month the BOS could determine if they would like a member of the Commission to represent the Township at the Zoning Hearing. One the first week of the following month the Zoning Hearing would be held. Mr.

Oeste added it would be necessary to have a discussion regarding the day of the meeting. Mr. Reven stated under the old model the only thing that was changed was that the applicant no longer had to appear before the Commission or the BOS. He added that made the applications forty-five days and enabled us to meet the MPC requirement of 60-days. Mr. Croft stated that he would like to make the process more efficient for the applicant. He added that the BOS depends on the Commission's comments on this type of application. Mr. Buczala added that the second Wednesday of the month is the Historic Commission meeting. He suggested either a Tuesday or Thursday of the week.

Current Applications

There were none.

Township Plans

There were no new plans.

Ordinance Task Force Update

Mr. Wagoner updated the Commission on the March 23th Ordinance Task Force meeting. He stated that during the Comprehensive Plan section of the meeting, the consultants compiled a list of necessary items needed to complete the Plan, as well as, the time-line to do so. He added they are hoping to get more volunteers to complete some of the tasks. They hope to have the Plan before the BOS this summer. He stated that during the Ordinance Task Force section of the meeting, Mr. Croft made a few suggestions.

Resident, Ms. Gina DiMarco recently appeared before the Task Force. She made suggestions to amend the Township Ordinance to allow pet sitting. Mr. Wagoner advised Consultant David Sweet will look into the definition of what she wants to do as a business. The Task Force would like to get a better idea of what Ms. DiMarco is considering. He stated we would like to provide her with direction on how to move forward. The Task Force feels it would be more of a conditional use in her district. Mr. Wagoner advised Mr. Croft put together a document on the TND1.

Mr. Oeste suggested the Task Force get feedback from the Zoning Officer regarding the operation of a kennel in the Township. Allowing this type of wide use in the Township could result in a problem. He urged the Task Force to seek the feedback from the Administration, Zoning Officer and the Township Manager. Mr. Taraschi added that you need to take into account how this will affect all of the neighbors. You may have two neighbors for a kennel and you may have to four neighbors against it. Mr. Wagoner will contact the Zoning Officer to follow up with her.

Mr. Wagoner stated he asked Mr. Croft to review the Township's TND 1 overlay district. Adding, there has been some question on how effective this ordinance is. Mr. Croft stated he had participated in the ordinance originally. Mr. Croft added that it is difficult to make a village because of the physical and environmental conditions. He added he feels the density in the village is too dense and the plans we have make the traffic worse. He would like to see more village characteristics and voiced concern that we want restaurants. However, we couldn't keep the Burger King open. Mr. Croft suggested looking at less density, and increasing impervious coverage to 15% in the R1 and R2 with the required stormwater management. He feels this may help with the number of variance

applications. Mr. Taraschi stated that the majority of the recent applications are coming from the Estates at Dowlin Forge which is the R1 cluster. Mr. Wagoner voiced concern that if we increase the impervious value will we get more variance applications. He questioned if people will just keep asking for more. Member Corbin advised that if we increase the impervious surface we could require that the extra stormwater be recharged. Mr. Wagoner suggested this conversation continue at the Ordinance Task Force meeting.

Mr. Wagoner stated one of Mr. Croft's priorities is the loop road. Mr. Croft added we need to find a way to get it built. Mr. Taraschi stated that in his opinion it would be during the conditional use that you could get the developer to commit to building the road. He added during the McCausland Plank conditional use hearing, the Township should have asked the developer to build that road on his property; that is not an off-site improvement. The road could have been built to the edge of his property. The road could have then been completed had it been part of the conditional use. In Mr. Taraschi's opinion, a conditional use is to address some of the impact that this development will have on the community. He stated we let this one slip away. Mr. Buczala stated that he asked the BOS at the Conditional Use Hearing to consider in their decision the requirement that the applicant build the road to their property line. Mr. Rawlings asked Mr. Taraschi to work with Mr. Croft in helping to get the loop road built. He restated that the Ordinance Task Force time will be moved to 7:00 PM.

Public Comment on Non-Agenda Items

Mr. David Thal of Locust Knoll Farm, 1000 Horseshoe Pike, informed the Commission that he is concerned about the water runoff from the new development at 1212 Osborn Road. He asked if there was a stormwater plan to manage the water runoff. Mr. Rawlings advised that each lot would have its own stormwater system to handle the maximum up to 20% impervious surface allowed by the Ordinance per house. The six acres of open space would have a berm placed behind it. He further advised that the applicant would be addressing it. Mr. Oeste stated that with preliminary approval, the Township engineer reviewed the plan and feels it is sufficient. He added there is no stormwater management in place for open space in the back. Mr. Taraschi added there would be plants and trees planted that would help to improve the runoff. Mr. Corbin added that each house has its own stormwater infiltration. He confirmed there is a big difference between run off from a bare surface vs a grass surface. Mr. Oeste suggested that they attend the final approval meeting of the Commission. The Commission provided Mr. Thal with a guideline of the stormwater plan. Mr. Rawlings suggested Mr. Thal attend the Commission meeting when the applicant comes before them for final plan approval.

Mr. Vince, Welk 1228 Osborne Road, stated he was not aware of the pending plan. He and the surrounding neighbors were not notified of the new development moving forward. He asked how is it possible to put seven houses in on that side when there are five houses across the street. He stated he is also concerned that the easement and walkway along lot one is too close to his house. He added he heard there is also going to be a fence. He questioned who is going to maintain the fence. Mr. Welk stated if notices were sent out you would get more input for the neighbors. Mr. Taraschi stated that during the preliminary plan meeting, seven neighbors were in attendance and provided feedback. Adding, one of those neighbors had the same concerns regarding the trail and easement. Mr. Welk asked why the applicant didn't place the easement and trail between lots 4 and 5; let the new residents deal with the access. Why do I have to deal with the access? Mr. Wagoner advised that the easement was placed near Constitution Drive because eventually the road will be striped and used for the trail to Bondsville Mill. Mr. Wagoner added that the placement of the sidewalks in front of those homes is to

enable the resident to move more freely. He stated the easement is required to give the public access to the open space. Mr. Welk stated that he understands, however, he does not want the easement next to his property. Members of Commission added that the fence is a post and rail type fence. Mr. Welk stated he does not feel the esthetics of the houses fit the area. He also added he will look out his kitchen window and look at the house on lot 1 because it's only 130 feet from his house. Vice-Chairman Buczala stated that the Commission agrees with Mr. Welk. He added that the design meets the ordinance. Suggestions can be made; however, it is up to the property owner. Mr. Welk also voiced concern regarding the water that will pool between lots 4 and 5. He asked how it will be managed. Currently, there is only a 15' pipe to pull that water to the basin across the street. He inquired as to what the property owner across the street would do with all that water. Mr. Rawlings stated that the developer is supposed to be addressing that issue.

Mr. Rawlings stated that Mr. Welk brought up a good point. How to notify residents on what is going on. He feels that is a process that the Supervisors can talk about moving forward. Mr. Reven advised that we had quite a few engaged residents. He provided the background on how that occurred. He added calls came into the Township when the auction signs went up on the property Mr. Reven kept a list of interested residents and reached out to them when an application was received. Mr. Oeste added this should go to the Ordinance Task Force. However, you can put that burden on the applicant. Have the applicant demonstrate that he notified the surrounding resident in accordance with the Ordinance. Mr. Oeste added this requirement has to be placed in an ordinance. Mr. Welk thanked the Commission for their time.

Chairman Rawlings informed the Commission that the Supervisors will hear a request from Mapleview to reduce the number of parking spaces to allow for an above ground stormwater pit. Member Gibson asked if the basins have to be drained. Mr. Corbin confirmed that they are construction basins

Supervisor Croft explained that they are appearing before the BOS to review the removal of the temporary mailboxes. The mailboxes will be placed in the designated spots per the postmaster's request. They intend to widen the road in phase 3 and add 12 additional parallel parking spots. The underground stormwater basin will be changed to an above ground basin which will hold more water. However, they will lose the 21 spots that were on top of that underground basin. Mr. Croft added the impervious coverage will be reduced. Mr. Oeste stated when he was approached by their attorney, this change was based on a request from the postmaster. However, Mr. Oeste is not aware if this was confirmed. He added the developer would like to do this as a field change; they do not want to go before the Planning Commission or the BOS with any land development changes. This issue alone may be something the Planning Commission communicates with the Supervisors. Mr. Rawlings is concerned with the process as this seems to be a large change to the plan. He feels the Commission should have had a look to advise the BOS as to the Commission's recommendation. He added the Commission was not aware of any of these changes until today.

Mr. Reven stated there are a couple of open issues. The mailboxes in Phase 1 and Phase 2 are not installed pursuant to the plan. The developer has indicated he intends to move them to the location shown on the approved plan. The developer asked for a meeting with the Chairman of the BOS to discuss a plan amendment he would like to make. This meeting was attended by Supervisor Croft. He added the developer is appearing before the BOS because he asked for a spot on the agenda to make a presentation to the BOS. Mr. Reven added there is no intent to bypass the Commission. Mr. Reven

asked Mr. Oeste assuming this is more than a field change that happens routinely in land development, what does the MPC say about how a developer goes about amending an approved plan. Mr. Oeste stated the MCP says the developer has to go through a similar process as the original approval process. He added it is an abbreviated process. It should go through the process because it will have to be recorded. In order to do that, it has to be approved by the Township. Mr. Oeste stated that if they were only relocating mailboxes that would be considered a field change. However, they are also removing and changing parking. He added they should go through the land development process. He also added it helps that Phase 3 plans have not been recorded because all of the changes are in Phase 3. Mr. Buczala asked if Pennoni has been involved in this process. Mr. Reven confirmed that a draft of what the developer has prepared has been reviewed by Pennoni. He added that the developer indicated that revisions to his MPDES permit had been revised to show the basin change. Mr. Oeste stated the developer will need to file an amended land development application for Phase 3 and present it to the Commission.

Mr. Rawlings asked if anyone had an update on the sale of the Hammil property off of Fisherville Road. Mr. Taraschi informed the Commission that the property sold for 1.15 million dollars. The new owner has very aggressive plans for the property. Mr. Buczala stated that there is a historic property on that location which has historical value. Mr. Taraschi added this property expands through three townships. One of which, Caln Township, is not allowing much of an access through their section. There will be a lot of work involved to get it to the point where the developer can do anything with the property. He added the historic resource is a concern. He was told the people that purchased the property have no inclination of keeping the historic resource. However, half of the 54 acres that were purchased are wetlands.

Mr. Rawlings stated on the BOS's agenda is a discussion of the simplified fee schedule. Mr. Reven stated his intent was to consolidate the fee schedules into one location based on a single resolution. The only change is the fee change to the time and material escrow for small stormwater projects. Mr. Reven added that it would be appropriate to review the fee schedule annually; he welcomes feedback.

Mr. Rawlings asked about the digital packets for the meetings. Mr. Reven explained it is for a demonstration at the BOS meeting the following morning. He added his recommendation is that we do not switch to digital packets. Mr. Rawlings added that he likes the digital packets. A discussion continued on the process of adding and removing documents to the civic plus program and how time consuming it is to do so. Mr. Reven added the second part of the proposal to the Board is that there would be a series of PC's at the Dios that the boards/committees will have access to. It can become complicated as the need to switch back and forth quickly will become an issue as that is not done as easily on a PC as it is with paper copies. Mr. Buczala added it may help the public to understand what is going on in the Township. Mr. Reven agreed and added anyone with WIFI would have access to that information.

Mr. Rawlings updated the Commission that the Bondsville Mill is moving along with the gardens. He asked what the status is on the bridge repairs. Mr. Reven stated the bridge at the eastern entrance to the park was damaged by hurricane Ida. The Township was awarded PEMA and FEMA funding which will pay 100% of the cost of the damage caused by hurricane Ida. He added the Township has been exploring a temporary fix which will also be paid by PEMA and FEMA. A proposed temporary improvement has been identified with the Township Road Department. Mr. Buczala added the tentative schedule is bridge use by May 1st. Mr. Reven confirmed.

Mr. Buczala stated that Phase 2 of the project will not be completed until later in the fall. The plants will have to be pushed back until 2023. Mr. Reven added while the bridge is an important part of that calculation it is not the only part. Discussion continued regarding the volunteer and the planting of the plants and grants.

Mr. Rawlings asked Mr. Reven for an update on the Giant. Mr. Reven stated the Judge rendered an order on April 4. The judge's order in the case involving the settlement agreement and the return of condemned land has reversed both. The Township has been ordered to comply with the judge's order.

Mr. Taraschi informed the Commission that he attended the Zoning Hearing for 25 Harner Court. The variance application was for a pool; they did not meet rear setbacks. The rear of the property has a retaining wall which the pool fence would be set very close to. Member Taraschi asked the applicant during open comment who would be responsible for the repair of retaining wall should something happen to it. The applicant stated the HOA would be responsible for the retaining wall. Mr. Reven conformed that there is an HOA with the majority of seats belonging to the residents of the Estates. He added that Open Space A, which backs up to the property in question, is still owned in fee by Metropolitan Development Group. It has not been conveyed to the HOA at this time. He also added when the Zoning Hearing Board granted the variance, it placed a condition that the applicant meet with the HOA because of its proximity to the wall for their approval. Mr. Taraschi added there was no representation present from the HOA.

Mr. Oeste reiterated that the Board of Supervisors has to determine if they would like someone to speak on behalf of them in an official capacity. The BOS can have the Township Solicitor appear before the Zoning Hearing Board and state that they are opposed to this variance. He added the Zoning Hearing Board can ignore the solicitor but at least they hear him. Mr. Oeste stated that the Zoning Hearing Board is a quasi-judicial board, however, there was a time when there were members of the Zoning Hearing Board that were strict about enforcing the Zoning Ordinance. He added some of it depends on the way the people on the Zoning Hearing Board view the zoning ordinance. The Commission asked what the process is. Mr. Oeste stated that the process is the BOS has to authorize the Township Solicitor to attend the hearing. Mr. Reven added the prior BOS did not want to see every Zoning Hearing Board application. Supervisor Croft stated that he would like to review the applications.

Adjournment

Member Wagoner made a motioned to adjourn the meeting at 9:20 PM. Member Corbin seconded the motion, with all members voting Aye. Motion passed 6-0.

Respectfully submitted,

Lisa Taraschi,
Township Secretary