

**LOWER PROVIDENCE TOWNSHIP
PLANNING COMMISSION
FEBRUARY 25, 2009 MEETING MINUTES**

1. Call to Order:

A. Chairman Schlack called the Planning Commission meeting to order at 7:30 p.m.

2. Pledge of Allegiance

3. Roll Call:

- A. The following planning commission members were present: Mr. Bodek, Mr. Brooke, Mr. Endlich, Mr. Kuberski, Mr. Rutledge, Mrs. Satterwhite, Mr. Schlack, Mr. Stemple, and Ms. Zimmerman.
- B. Additional attendees included: Mr. Lonnie Manai, Township Engineer, Mr. David Onorato, Township Solicitor, Ms. Jean Holland, Montgomery County Planning Commission, Ms. Stephanie Butler, Township Traffic Engineer, and Mr. Michael Siegel, Director of Community Development.

4. Approval of Planning Commission Previous Meeting Minutes:

A. Planning Commission Meeting Minutes for January 28, 2009:

1. **MOTION** – Mr. Stemple made a motion to approve the January 28, 2009 PC meeting minutes. Mr. Brooke seconded the motion. The motion *passed* 8-0-1. Mrs. Satterwhite abstained from the vote because she did not attend that meeting.

5. Subdivision and Land Development Reviews:

A. S-08-10 Turkey Hill Major Land Development for Preliminary / Final Plan Approval:

1. Mr. Keith Marshall, P.E., with Nave Newell, was present to represent the applicant, Turkey Hill.
2. Mr. Marshall explained that the applicant was previously granted a conditional use for this parcel in June 2008. There are some minor comments in the reviews that they will address and/or comply with, or work with staff to resolve.
3. Mr. Marshall indicated that there would be two waivers they are requesting:
 - a) The first waiver relates to the site triangle as required by ordinance. This requires the triangle to go 100 feet into the site and in either direction. This is prohibitive with such a small lot. Down Ridge Pike there are buildings within the required triangle, and the additional trees required on site will also impact the site triangle.
 - (1) Ms. Zimmerman asked if the site distance was still safe should this waiver be granted? Ms. Butler remarked that it was. She explained that the applicant needs an egressing site distance for both accesses as required by PennDOT. Once this is provided on the plan she is OK with the waiver. Ms. Butler explained that the PennDOT site triangle varies from the one required under Township ordinance.
 - (2) Ms. Zimmerman asked if Ms. Butler's comment #2 was addressed from the February 19, 2009 review letter? This comment relates to the PennDOT site triangle. Mr. Marshall stated that this would be provided on the revised plan. Ms. Zimmerman indicated this should be made a condition of approval.
 - b) Mr. Marshall explained that second waiver, which is related to tree replacement.
 - (1) A larger amount of trees were removed from the back corner of the lot. The Township requires trees to be replaced caliper inch per caliper inch. Because the volume of replacement trees is significant, there is not enough room to provide all the required trees. CMX, the Township's landscape architect, has requested that they plant additional shrubbery under the trees and along the property boundary.

- (2) Mr. Stemple asked if they intended to install the smaller trees? Mr. Marshall indicated they would, along with additional perimeter plantings.
4. Mr. Kuberski noted that the Montgomery County Planning Commission (MCPC) commented on the handicapped parking area in their review letter, and asked if this was addressed?
 - a) Mr. Marshall has discussed this with McMahon Associates. There should not be many conflicts with traffic. There is one parking space adjacent to two handicapped parking spaces, and the incoming traffic is what was being questioned.
 - b) Mr. Siegel asked if they would make this an employee only space? Mr. Marshall noted they have employee parking by the fueling area. This was designed so if the fuel truck is making a delivery, only employee parking spaces will be blocked.
 - c) Mr. Brooke suggested having three handicapped spaces.
 - d) Mr. Onorato asked if they needed the space to comply? Mr. Marshall indicated they do not. Mr. Onorato suggested removing the space in question and spreading out the tow handicapped spots.
 5. Mr. Rutledge asked if there were sidewalks? Mr. Marshall used the plan to indicate where they are provided along the property frontage.
 6. Mr. Kuberski asked if stormwater issues were resolved?
 - a) Mr. Marshall noted that for the most part stormwater is addressed underground. The fuel area drains to a rain garden. Overflow from this goes to an underground storage bed with pipes to provide infiltration. If that overflows, it goes to an underground basin. There are existing storm pipes under Ridge Pike that will connect to this system.
 - b) Mr. Manai commented that they were working toward the right path on the stormwater issue.
 7. Mrs. Satterwhite asked if Mr. Cicippio's comments were addressed? Mr. Marshall has added the appropriate notes and changes to the plan.
 8. Mr. Siegel noted that this was one of the first plans to fall under the RPBD. He displayed drawings of the proposed completed project which include: a stone knee wall, multi-colored plantings, benches, a digital amber monument sign, a pitched roof design with stone accents, a right-turn lane, a countdown crossing guide and more.
 9. Mr. Onorato suggested they consider Mr. Manai's comment to convert the "extra" parking space by adding a bike rack. Mr. Onorato had several questions for the applicant.
 - a) Mr. Onorato asked if the additional shrubs used in lieu of trees would be shown on the plan? Mr. Marshall indicated they would.
 - b) Mr. Onorato asked if the site triangle required by PennDOT was to be shown on the plan? Mr. Marshall indicated that it would.
 - c) Mr. Onorato requested that the applicant provide examples of both site triangles on the plan, both the Township's and PennDOT's, so that it is clear for the Board of Supervisors. Mr. Marshall indicated that he would.
 - d) Mr. Onorato verified that in obtaining a waiver from the Township's site triangle, the applicant would still be required to comply with PennDOT's site triangle, which Mr. Marshall confirmed.
 10. Mr. Marshall indicated that they would comply with all other comments. He is working to get the requested changes onto the plan.
 11. Mr. Siegel commended the applicant for working so closely with Township staff on this project. He would recommend that the requested preliminary and final approvals be granted.
 12. Waiver Requests:

- a) Section 123-36.H – to permit shade trees and monument signs and existing dwelling structures to located within the clear site triangles of the proposed driveways.
 - (1) **MOTION** – Mrs. Satterwhite made a motion to grant the requested relief with the condition that the proper site distance egress and such access points in accordance with the State requirements be obtained and maintained by the property owner and to show that on the final plan. Ms. Zimmerman seconded the motion. The motion *passed* 9-0.
- b) Section 123-51.H – tree replacement.
 - (1) **MOTION** – Mr. Stemple made a motion to grant the requested relief with the condition that in lieu of additional trees the applicant will provide more under story trees and/or shrubs to provide improved aesthetics and increased buffering for the adjacent areas. Mr. Endlich seconded the motion. The motion *passed* 9-0.
- 13. **MOTION** – Ms. Zimmerman made a motion to recommend that the Board of Supervisors grant preliminary and final plan approval for Turkey Hill store number 299, major plan S-08-10, with the requirement that they comply with all of the consultant’s review letters. Mr. Stemple seconded the motion. The motion *passed* 9-0.
- 14. There was no public comment on this matter.

6. Other Business:

A. Old Business –

- 1. None

B. New Business –

1. Discussion of rezoning request from R-2 & VC to R-4 for parcel number 43-00-05266-02-8, Maris Property:

- a) Mr. Robert J. Iannozzi, Jr., Esq., was present to represent the applicants Howard and Kathy Maris, also present.
- b) Mr. Iannozzi explained that the applicants are requesting rezoning of their parcel from R2 and VC to R4. This parcel is vacant, the applicants intend to retain this as a vacant lot, and they are willing to have a deed restriction placed on the parcel to permit only elderly housing be developed. This was reviewed in January 2009 by the MCPC, who recommended the rezoning because it is consistent with the 2005 Township Comprehensive Plan.
- c) Mr. Iannozzi has forwarded the deed restriction language to the Township Solicitor, and he found it to be satisfactory.
- d) Ms. Holland recommended that with the deed restriction they also have pedestrian access guaranteed in the future to connect to the VC area.
- e) Mr. Iannozzi indicated they were amenable to discussing this requirement during the land development process.
- f) **MOTION** – Ms. Zimmerman made a motion to recommend that parcel 43-00-05266-02-8, which is currently zoned R2 Residential and Village Commercial, be redesignated as R4 Residential on the Lower Providence Township zoning map. Mr. Stemple seconded the motion. The motion *passed* 9-0.
- g) There was no public comment on this matter.

2. Discussion of Natural Resource Plan Ordinance:

- a) Mr. Siegel explained that several of the Supervisors wanted the Township to revisit the tree ordinance. A committee was formed, consisting of Mr. Siegel, Ms. Holland, Mr. Onorato, Mr. Glenn Harris of CMX, and Mr. Dunbar. The committee held several meetings to discuss how to best tackle the issue of developers clear-cutting lots prior to land development. This ordinance addresses that issue, as well as providing more details on

other items such as the use of deer resistant trees. Mr. Siegel thanked the committee for their work. He has already incorporated the MCPC's review comments into the ordinance, which has been advertised.

- b) Mr. Siegel noted that the applicant that started this ordinance review, for Valley View Church, has decided they need additional trees on their parcel. They have already planted more trees than were required of them, are installing a walking trail on the property for use by the general public, and are working with the Perkiomen Conservancy on this project.
- c) Mr. Onorato explained that this ordinance started with Section 123-51.H&I, better known as the replacement tree ordinance in SALDO. This issue has been the subject of debate in PA for many years, and similar provisions in PA have been found unconstitutional. They have tried to make a previous version of the ordinance compliant with State law, but those changes were not adopted. The primary issue is that you cannot make someone do more than is required by the MPC.
 - (1) Mr. Onorato noted that one of the challenges with a tree replacement ordinance is that often, once combined with other landscaping requirements, it is not always possible to replace the trees. The Township previously said that developers could plant the trees elsewhere in the Township or pay a fee in lieu of, however the MPC does not allow that option.
 - (2) What was originally the tree replacement ordinance has become the Natural Resources Ordinance. This highlights the times in which the Township can require the preservation of natural resources, including trees.
 - (3) Under Section A of this ordinance, relating to applicability of the ordinance, certain actions taken prior to submission of a land development application would trigger this ordinance. They have tried to identify certain natural resources they would like developers to preserve. Developers are required to show natural resources on the site and identify how they intend to preserve them. This will be done prior to land development, and would effect items such as ponds, groves of trees, heritage trees etc.
 - (4) With respect to tree replacement, there is a chart identifying tree sizes and how many trees will need to be replaced. A credit will be provided for preserving trees. There is also a mechanism to determine cost for tree replacement. The Township will have the ability to review previous aerial photography of the site to determine if it has been clear-cut prior to development.
 - (5) A constitutionally sound mechanism has been provided for those who would opt to pay a fee in lieu of replanting trees.
- d) Ms. Holland noted that this is in SALDO, so it is subject to waiver requests. However, it is clearly spelled out so the applicant would have to make a case as to why they need a waiver. She hopes this will provide a clear-cut tool for the PC to use.
- e) Mr. Stemple asked if the MCPC review questions had been addressed? Mr. Siegel indicated that they were and had been incorporated into the ordinance.
- f) Mr. Bodek asked if a homeowner now has to obtain a permit to remove trees on their lot?
 - (1) Ms. Holland noted there is a list of reasons indicating where a permit is not required.
 - (2) Mr. Bodek asked if you just want to cut down a tree but are not building on your lot you don't need a permit? Ms. Holland indicated this was true.
 - (3) Mr. Bodek asked if a permit was necessary to remove street trees? Mr. Onorato commented that if they were required as part of the original land development plan, the trees must stay on the land.
- g) Mr. Brooke asked if there were trees originally required of the developer that a new homeowner does not know about but wants to cut down, how would this be addressed?

Mr. Onorato indicated that they have to find a way to educate the homeowners about this ordinance.

- h) Mr. Siegel commented that they would have a section on the Township web site relating to this ordinance.
- i) **MOTION** – Mr. Endlich made a motion to recommend forwarding this ordinance to the Board of Supervisors for approval. Mrs. Satterwhite seconded the motion. The motion *passed 9-0*.
- j) There were no public comments on this item.

C. Comments:

- 1. There were no further comments at this time.

7. Adjourn

- A. **MOTION** – Mr. Stemple made a motion to adjourn the meeting. Mr. Endlich seconded the motion. The motion *passed 9-0*. The meeting ended at 8:30 p.m.

Next Meeting: March 25, 2009 – Regular Meeting
 April 22, 2009 – Regular Meeting