

**LOWER PROVIDENCE TOWNSHIP
VILLAGE COMMERCIAL COMMITTEE
JULY 31, 2007 MEETING MINUTES**

1) Public Meeting: Call to Order

- a) Supervisor DiPaolo called the public meeting to order at 7:20 p.m.

2) Pledge of Allegiance

3) Roll Call:

- a) The following committee members were present: Mrs. Bateman, Mr. Borai, Mr. Comroe, Mr. DiPaolo, Mr. Ferraro, Mr. Hager, Mrs. Maris, Mr. Ozoroski, and Mr. Stemple.
- b) Mrs. Satterwhite was excused.
- c) Also present were Tolson DeSa from the Montgomery County Planning Commission, and Director of Community Development Michael Siegel.
- d) **MOTION** – Mr. Comroe made a motion to nominate Mr. Hager as Vice Chairman of the committee. Mr. Ozoroski seconded the motion.
- i) **MOTION** – Mr. Ozoroski made a motion to close the nominations. Mr. Stemple seconded the motion. The motion *passed* 9-0.
- ii) **MOTION VOTE** – The motion *passed* 9-0.

4) Review of May Meeting Minutes:

- a) Supervisor DiPaolo suggested that they suspend the minutes because of the evening's full agenda and there is another meeting next Tuesday.
- b) **MOTION** – Mr. Stemple made a motion to suspend the minutes. Mr. Ferraro seconded the motion. The motion *passed* 9-0.

5) Evansburg Day Care Discussion:

- a) Mr. John Iannozzi, Esq., of Hamburg, Rubin, Mullin, Maxwell & Lupin was present to represent the applicant Mr. Rick Moscariello.
- i) Mr. Moscariello provided a brief overview of the project and layout of the proposed day care facility. This use is currently not permitted in the VC district, and Mr. Moscariello is seeking input from the Village Commercial Committee (VCC) as to if this is something they would consider as a VC use. He provided a handout to the VCC members with a copy of the site plan.
- ii) Mr. DiPaolo noted that this plan was just submitted to Mr. DeSa today. The Board of Supervisors (BOS) asked Mr. DeSa to look at the day care use in general as part of VC in other municipalities within the County and provide feedback.
- iii) Mr. DeSa provided a letter dated July 31, 2007, with the subject of "Day Care Use in a Village Commercial / Historic District Zoning District" to the committee.
- (1) Mr. DeSa noted that day care centers are not permitted by right in any VC districts within the County, and where they are allowed it is by Conditional Use only. Township's similar in size to Lower Providence do not permit this use in VC at all.
- (2) Mr. DeSa reviewed his letter for the group, highlights include:
- (a) The large AM and PM peak traffic demand would have an impact on the village, especially in the PM.
- (b) Most day care centers are not located on a primary roadway, which is another reason to permit them only by conditional use. This ensures the Township's engineers have closely reviewed the traffic flow and safety issues.
- (c) This is not considered a highest and best use for the VC district, as it does not encourage village commerce.

- (d) The architecture should be complimentary to existing building structures in the area, and parking should be located at the rear of the facility. Building height should be in line with existing buildings.
 - (e) The ordinance needs to be written so that there is a safeguard for historic structures, ensuring they will be preserved.
 - (f) Any signs constructed should be specifically regulated so as not to alter the village setting.
 - (g) Appropriate buffering and landscaping should be installed.
 - (h) As only two uses are permitted on the same lot, this plan would require zoning relief to allow three uses.
 - (i) Mr. DeSa noted that he is looking at VC as a Township wide ordinance and not just for this site. He commented that it is very difficult to place new construction within a village and have it fit in.
- iv) Mr. DeSa provided a letter dated July 31, 2007, with the subject of “Preliminary Sketch Plan submittal Day Care Center 3826 Germantown Pike” to the committee. This letter included a copy of the proposed text amendment to the ordinance.
- (1) Mr. DeSa reviewed this letter for the group, highlights include:
- (a) The proposed text amendment permits a day care center by right, which is not allowed in any other Township in the County. Mr. DeSa noted this cross references Township conditional use standards with this proposed permitted use. He indicated that the PBO is a less restrictive district and only permits day care centers as a conditional use, and questioned why it would be permitted by right in VC?
 - (b) Mr. DeSa addressed the references to conditional use standards for PBO, noting that several of the standards were omitted. These include:
 - (i) Section 143-118.F(1) – In PBO, the day care center must go into an existing building previously used for childcare or education, no new facilities are to be constructed.
 - (ii) Section 143-118.F(8) – In PBO, a tentative sketch plan is required as part of the conditional use application.
 - (iii) Mr. DeSa questioned why these standards are required in the less restrictive PBO and not in VC based on the proposed text amendment?
 - (c) The proposed day care center would require a special exception because they are proposing three uses instead of two.
 - (d) The John Fulton House should be retained and rehabilitated, as it is a nationally registered property. Additionally, setbacks around this house would need to be increased as required by ordinance.
 - (e) The proposed parking design in front of the day care center is not in keeping with the village setting or current ordinance requirements.
 - (f) Mr. DeSa recommended that this use, if allowed, only be permitted as a conditional use and not as a by right permitted use to ensure all appropriate conditions are complied with and the day care center fits in with the VC district. As it is written, the amendment is flawed by allowing the use by right and having two omitted sections, making it inconsistent with other districts throughout the Township.
- v) Comments from the VCC regarding Mr. DeSa’s discussion and the submitted plans:
- (1) Mrs. Maris questioned if the buffering shown on the plan was new or existing as it looks like it is on the church’s property. Mr. Moscariello stated that this was not officially addressed with this plan, which is just a sketch plan. They would buffer the parcel as required. He also noted that they intend to use the Fulton House as an office, perhaps for a lawyer.
 - (2) Mr. Ozoroski asked if it would be typical to have three uses on such a site? Mr. DeSa indicate that on a property this large it would be acceptable provided it was as a conditional use.
 - (3) Mr. Ozoroski questioned the size of the proposed day care center?
 - (a) Mr. Moscariello indicated it would be around 10,870 sq. ft. They have pushed the day care center back to move it away from the Fulton House.

- (b) Mr. Iannozzi noted that the parking would be available to others to use on the weekends.
- (4) Mr. Borai noted that there are 24 teachers and 61 parking spaces for all uses, and asked if this meets the need? Mr. Moscariello indicated that they would create as many spaces as were required.
- (5) Mr. Borai commented that the ordinance has already been written, and questioned why the VCC was wasting time on it and why this committee was needed?
- (6) Mr. Ferraro commented that the plan provided does not meet current VC requirements, and has shifted the committee's focus away from the task at hand.
- (a) Mr. Iannozzi tried to discuss the plan from a land development perspective, indicating they would do what the committee wanted with the plan.
- (b) Mr. DiPaolo reiterated that Mr. Ferraro's frustration was in part due to the fact that they did not even meet current VC requirements.
- (7) Mr. Comroe compared this plan to several other day care facilities. His primary concern is with it being on a main road and the safety implications of that, along with the lack of sidewalks. Mr. Moscariello indicated that they would design the plan to the committee's requirements.
- (8) Mr. Hager remarked that the VCC was created to look at the VC ordinance in relationship to the entire Township prior to making recommendations for change. There were past problems with the ordinance being changed and then reverting to its' current state. The VCC is now in the process of making changes to the ordinance for a specific developer with this request. If they agree to do this then others will also want a special exception. The VCC wants to look at the entire ordinance and its impact on the entire Township prior to making changes. Mr. Hager is unsure if the VCC has the authority to make any decisions regarding this project at this time, as it is not their mandate.
- (9) Mr. Ozoroski asked what specifically the BOS was asking them to do with this plan? Mr. DiPaolo indicated that they were trying to jump start the process. Preliminary plans for the ordinance amendment were to be available in September, and they wanted some indication of the direction the VCC would take with this request. It was noted that the proposed text amendment was prepared by Mr. Joseph McGrory, Esq. (Mr. Moscariello's lawyer) prior to being forwarded to the Township Solicitor.
- (10) Mr. Borai commented that at the last BOS meeting, the majority of the Supervisors indicated they would vote to approve this plan. They have a proposed ordinance and have made up their minds, so why are they having the VCC review it? He later referenced Section 3 of the proposed ordinance relating to revisions, and asked why bother to have the ordinance if it can just be changed?
- (11) Mr. Stemple remarked that the proposed ordinance text change amendment needs some revisions.
- (12) Mr. Hager commented that the VCC was not mandated to make specific exceptions for one situation but to look at the ordinance for the entire Township. If this is passed, what action will Joe Dedominic take?
- (a) Mr. Moscariello stated that Mr. Dedominic's situation is different from this one. He stated that day care centers are permitted by right in other Townships. They have districts called neighborhood commercial that are essentially the same as Evansburg where day care centers are permitted.
- (b) Mr. DeSa disagreed, asking what their Village Preservation District was? Mr. Iannozzi indicated they are trying to do what the Township wants and was here to determine those requirements.
- (c) Members of the VCC indicated that site-specific evaluations were not part of their scope.
- (d) Mr. DiPaolo requested that Mr. Iannozzi provide a copy of the Neighborhood Commercial ordinance of other Townships to himself and Mr. DeSa. He also indicated that the VCC

had a specific process they were following which has been stopped to review this plan, so the VCC members are upset.

(13) Mrs. Bateman asked if they could have clarification from the BOS about what they want the VCC to do with this request? The BOS is having a work session this Thursday so Mr. DiPaolo can bring this matter up to them at that time.

(14) Mr. Comroe began questioning if this was contract zoning subject to challenge. Mr. DiPaolo noted that Mr. DeSa is not a lawyer and should not be asked for legal opinions.

vi) Public Comment:

(1) Mrs. Leslie Bass, Lee Road, commented that the VCC members were right to question the appropriateness of this situation. They are here to discuss changes to the ordinance and not consider plans more appropriate for the Planning Commission. This item does not belong here. The VCC is to look at what VC zoning is and what belongs in the VC district, this request is an insult to the VCC.

(2) Mr. Jay Keene commented that this goes against the scope of the committee. The BOS should follow the current ordinance. To interject this onto the VCC is wrong and places them at a disadvantage. They should not be looking at a proposal when they have an ordinance that already addresses it.

vii) **MOTION** – Mr. Ferraro made a motion to reject the amendment currently being considered.

(1) Mr. DiPaolo noted that they just received comments from the County today and should not make a snap decision.

(2) **MOTION RESCINDED** – Mr. Ferraro rescinded his motion.

viii) **MOTION** – Mr. Comroe made a motion to have the VCC review the material provided today, bring comments back to the next meeting, and then send a decision to the Board of Supervisors after the next meeting. Mr. Ferraro seconded the motion.

(1) Mrs. Bateman indicated she was not ready to make any decision on this without clarification from the BOS.

(2) Mrs. Maris questioned how they could amend the ordinance when they are still working on the ordinance?

(3) Mr. Ozoroski asked if the proposed ordinance had been advertised? Mr. DiPaolo indicated that it was advertised.

(4) Mr. Stemple asked if the VCC had been asked to comment on the advertised ordinance prior to advertisement? They were not. He asked what they were here for?

(5) Mr. Moscariello indicated it would be a waste of his time to come to the next VCC meeting as the committee had already made up their minds.

(6) **MOTION VOTE** – The motion *passed* 9-0.

ix) This portion of the meeting took over an hour to discuss.

b) Mr. Larry Waetzman of The Waetzman Planning Group was present to request that the VCC consider rezoning several parcels as part of their project. Mr. Waetzman represents Mr. Larry Tornetta. He provided a packet of information to the VCC to review.

i) Mr. Waetzman indicated that the parcels in question were on the North side of Egypt Road, currently zoned R2, across from the Giant Shopping Center and adjacent to Shannondell. There are three lots located on either side of Wedgewood Way that he feels should be considered for rezoning.

ii) Mr. Waetzman reviewed his handouts, which listed the pros and cons of rezoning these parcels to either VC or GC, as any use is better than residential. He stated that they are inappropriate to single family use.

iii) Mr. Waetzman's arguments actually indicate that the parcels would be best as GC since the three isolated homes do not make up a village and are located across from a GC parcel.

iv) Mr. DiPaolo indicated that they would consider the rezoning of these parcels to the VC district, and would request the County's opinion of the request.

- v) Mr. Borai noted that one of the parcels was owned by Mr. Dorenzo who did not accept Mr. Nielson's offer to purchase his property, and would probably not be interested in this.
 - vi) Mr. Waetzman indicated that as a planner he looks at what is in the best interests of a Township, and these parcels are inappropriately designated as R2. He is just here to request that the VCC considers this request during their process, not take action on it this evening.
 - vii) Mr. Hager noted that the VCC previously agreed this area needs to be rezoned as part of their discussions.
- c) Mr. Joe Dedominic, owner of Bud's Bar, indicated that he wants to secede from the VC district. He feels that as a result of spot zoning he has been spot zoned himself. He is surrounded by GC uses that he is unable to apply to his VC parcel. The VC uses that were applied to those parcels are not available to him under the current VC ordinance. He would like his parcel to be zoned GC.
- i) Mr. DiPaolo questioned if this meant that Mr. Dedominic did not want banks or drive-thru's permitted in the VC district?
 - ii) Mr. Dedominic stated that if the VC uses were expanded within reason it would be OK, otherwise he wants to be GC.
- 6) Continued District Designation Discussion:**
- a) Audubon Village:
- i) Mr. DiPaolo noted that at the last meeting, the VCC agreed to retain the current VC parcels as they are and to potentially expand the VC district in this area. Mr. Sheehan's office is zoned VC. They were considering going further up Egypt Road and also down Egypt Road to the Rod & Gun Club with VC.
 - ii) Mrs. Margaret Hine, S. Park Avenue, commented that her parcel is residential but surrounded by GC uses and she would like to be rezoned VC.
 - (1) Mr. Ferraro indicated they should look at going down Park Avenue with VC.
 - (2) Mr. Borai stated they would have to rezone all of Willow Avenue VC.
 - (3) Mr. Ferraro commented that this is currently not a walk able area, but if they get VC along Park Avenue with sidewalks it could become walk able.
 - (4) Mr. DiPaolo commented that there was a lot of discussion at the last meeting regarding if this is a VC area because of the walk ability.
 - iii) Mrs. Leslie Bass, Lee Road, commented that if the VCC is considering rezoning parcels they should send letters to people in the area so they know this is being considered. If they knew rezoning was being considered they would attend the meetings.
 - (1) Mr. DiPaolo noted that when all components of the ordinance are completed they would be advertised to the public for additional input prior to being submitted to the BOS.
 - (2) Mrs. Bass commented that while she has always wanted sidewalks in this area, it does not have to be rezoned to have sidewalks installed.
 - (3) Mr. Ferraro questioned how Mrs. Bass would have them do this process? The VCC is all volunteers and are looking at VC throughout the Township. They have been open with their discussions and meetings, which are advertised and open to the public to attend.
 - iv) Mr. DiPaolo asked for the committee's thoughts on expanding VC in this area.
 - (1) Mr. Stemple suggested expanding VC down Egypt Road to Pinetown Road.
 - (2) Mr. Hager suggested expanding it to the Rod & Gun Club.
 - (3) Mr. Comroe commented that the Nielson property at the corner of Pinetown Road is VC and the Gun Club is R2. He suggested running VC down Egypt Road to Pinetown.
 - (4) Mr. DeSa warned of the commercial creep to residential properties. The impacts of this on the Culp Road neighborhood should be considered. Sidewalks will make the area more VC, more so than just rezoning it.
 - (5) Mr. Hager noted that a lot of these houses couldn't get out onto the road because of the traffic.
 - (6) Mr. Borai noted that years ago he suggested sidewalks from Egypt Road all the way to Audubon Road but does not see sidewalks going in with the new development.

- (7) Mr. Leo White, 2854 Egypt Road, commented that he would donate part of his land to make a trail connection if it was rezoned VC. His three neighbors would also like to be rezoned and would like sidewalks in the area as well.
- (8) Mr. DiPaolo noted that the consensus seems to be that everyone wants sidewalks. He indicated that they could request that the Township apply for grants for sidewalks.
- (9) Mr. Hager noted that seven years ago he recommended that there be sidewalks along all major corridors in the Township to make it a walk able community.
- (10) Mr. Dedominic commented that it is too dangerous to have pedestrian traffic cross near his intersection. The previous light standards had No Pedestrian signs on them. Mr. DiPaolo noted that if it were too dangerous here, it would also be too dangerous at all intersections along Ridge Pike and Germantown Pike.
- (11) Mr. Ferraro asked Mrs. Hine if she would like her property to be rezoned VC? She indicated that she would like that. Mr. Ferraro indicated that VC should run up to Sandpiper.
- (12) Mr. Siegel concurred that Mrs. Hine's property should be rezoned along with Willow Avenue. These residential parcels are at a disadvantage with their property values and traffic. He noted that single-family homes are a permitted use in VC. If Willow Avenue were rezoned, perhaps at some time a developer would come in and purchase all the properties and then create a real village area. Mr. Siegel would not extend VC up Egypt Road beyond Wren. He is hoping for some grant money for developers to install sidewalks. Mr. Siegel suggested that when they review the performance standards, they could be written to have sidewalks extended to the nearest residential development.
- (a) Mr. DiPaolo questioned if you could mandate off site improvements like that? Mr. Siegel thinks they can.
- (b) Mr. Ozoroski suggested they might come up with an additional fee to be used for other public improvements within the VC district.
- (13) Mr. DeSa indicated that they need to study this area extensively. If they rezone all the small homes along Egypt Road they are removing the bungalows that create and lead up to the village.
- (14) Mr. Ozoroski asked if they could have two different VC districts, such as one for Evansburg and one for Audubon? Mr. DeSa indicated that they could.
- (15) Mr. Borai asked if a decision had been made regarding the properties from Lark Avenue up to Audubon Road? Mr. DiPaolo indicated that there had been no consensus other than to go up Egypt Road toward Culp.
- (16) Mrs. Maris indicated it looks cleaner to stop rezoning at an intersection.
- v) **MOTION** – Mr. Hager made a motion to designate a study area to expand the VC District in the Audubon Village section up Egypt Road to Culp Road, up Park Avenue to border the back of Sandpiper Drive, and down Egypt Road to the Road & Gun Club. Mr. Comroe seconded the motion.
- (1) Mr. White asked if they were considering the other side of Egypt Road to Pinetown for rezoning? He indicated that he was forced to file an appeal, which he will drop if his parcel is rezoned.
- (2) Mr. DeSa noted that in the Comprehensive Plan this area is PBO, which is a good design for professional office business district, but not necessarily good for the gateway to the Township. He indicated that they could have different VC districts and separate standards for the gateway. The Comprehensive Plan calls for this area to be PBO, but he is not sure if the gateway should be PBO.
- (3) It was noted that this is a separate district to discuss and not combined with the Audubon Village district.
- (4) **MOTION VOTE** – The motion passed 9-0.
- vi) Mr. DiPaolo asked if the study would be available to discuss in September? Mr. DeSa indicated he should have it by then.

- b) Pinetown & Egypt Roads:
 - i) This was not discussed this evening.
- c) Providence Square (Grange & Germantown Pike):
 - i) This was not discussed this evening.
- d) Any Additional Districts Identified by the Comprehensive Plan:
 - i) This was not discussed this evening.
- 7) Gateway Triangle Discussion:**
 - a) This was not discussed this evening.
- 8) Discussion of Upcoming Agenda & Meeting Date:**
 - a) Mr. DiPaolo noted that they would stop the meeting and pick up with the Pinetown: & Egypt Road discussion next week. He requested that they add August 21 and September 18 to the meeting schedule.
 - b) They will see if they can distribute a primer for dimensional standards prior to the September meeting along with the scope for the study area.
 - c) Mr. Ozoroski suggested that they keep all public comment to the end of the meeting because it sidelines the group's discussions.
 - d) **MOTION** – Mr. Ozoroski made a motion to hold public comment to the end of the meeting and to not have any additional presentations on specific properties during these meetings. Mr. Borai seconded the motion.
 - i) Mr. DiPaolo noted that they would accept materials from individuals and distribute them to VCC members but not have any presentations.
 - ii) **MOTION VOTE** – The motion *passed* 9-0.
 - e) Mr. Borai thanked Mr. DeSa for his presentations earlier in the evening.
- 9) Public Comment:**
 - a) Mr. White clarified what constituted the Pinetown Road area, and reiterated that he would drop his appeal if rezoned.
- 10) Adjournment:**
 - a) **MOTION** – Mr. Hager made a motion to adjourn the meeting. Mrs. Maris seconded the motion. The motion *passed* 9-0.
 - b) The meeting adjourned at 9:30 p.m.

Upcoming Meetings: August 7, 2007
 August 21, 2007
 September 4, 2007
 September 18, 2007