

PLANNING COMMISSION MEETING
Thursday,
August 25, 2005

The West Brandywine Township Planning Commission meeting was called to order at 7:34 p.m.; Bob Schini led the members in the pledge of allegiance. Those members in attendance were; Bob Schini, John Cassels, Kim Hoopes and Steven Jakatt.

Bob Schini asked for acceptance of the minutes for the July 28, 2005 meeting. Steven Jakatt motioned to accept the minutes for the July 28, 2005 meeting and have any revisions to the Planning Commission Secretary within one week. John Cassels seconded the motion with all members in favor.

First item under old business; Schnatz & Rohrer Landscaping Inc. – Preliminary/Final Land Development Plan (00-05-SCHROH) prepared by Berger & Hayes – Industrial Storage Building for Vehicles concerning Landscaping Business. Clock started Thursday May 25, 2000 and continues until Sunday, September 25, 2005. No representative was present. An extension letter was received by the Township. Bob Schini asked for a motion. Steven Jakatt motioned to table the Schnatz & Rohrer Landscaping Inc. – Preliminary/Final Land Development Plan; Kim Hoopes seconded the motion with all members in favor

Hide Away Farms - Preliminary Subdivision & Land Development Plan, (By-Right) (01-02-HAFARMS) Hide Away Farms, property located at Special School Road. Prepared by Nave, Newell & Stampfl, Ltd. – 47 Lots in West Brandywine Township. Clock started Thursday June 28, 2001 and continues until Tuesday September 25, 2001. Remains open, nothing new to discuss.

Balderston Family LTD Partnership/Swinehart Realty Associates LP – Preliminary Subdivision Plan (04-03-CULSWH), prepared by DL Howell Associates, located at Culbertson Run & Swinehart Road. Proposed 115 Single Family Dwellings. Clock started Thursday, February 26, 2004 and continues until Friday, September 16, 2005. Representative present was Andrew Rau who works with Ross Unruh. Scott Emerson was also present from Bentley Homes. Andrew Rau; we have received the Township engineers review letter dated August 22, 2005. We have gone over that in some detail, most of the outstanding comments are technical and we are prepared to make those technical changes. We will contact and discuss with the engineer the broader comments mentioned in the review letter. Given the status of that letter and our ability to satisfactorily resolve those issues, we would like to seek a preliminary approval recommendation. I have a potential draft motion, outlining the conditions that I would to give to the Board (draft motion was given to the Board) The first condition would be to satisfactorily resolve the Township engineers outstanding comments. The second would be to address the Township landscaping consultant comments. We also recognize we need to get a permit for the current Pennsylvania American proposal for the sewer. That is a state regulatory issue. If we are unable to make that happen and can't meet that condition we are going to have to come back and talk about on-site issues. That 's the current direction we are going and would like to get an approval based on those three conditions.

Bob Schini, is there anything in Mr. MacCombies review letter that you will not do. Andrew Rau; the specifics are technical issues that if needed we can discuss them further with Mr. MacCombie. We don't see any deal breakers. Mr. MacCombies first comment on page two is a waiver request, that's a condition of the letter we recognize and will seek relief on the cul-de-sac. There are technical issues that we can either resolve or work through. Steven Jakatt; we have had many review letters from Mr. MacCombie regarding several subdivisions and the applicant

sees it one-way and Mr. MacCombie another. I am very reluctant to even think about preliminary approval until the Township receives a clean letter from our engineer. Scott Emerson; our engineer has had conversation with Mr. MacCombies office since this review letter of August 22, 2005.

Kim Hoopes; at the bottom of page five, Mr. MacCombie comments; it does not appear reasonable that all construction activities can be accomplished within the 20 foot wide easement. Andrew Rau, our engineer thinks we can do that, but again that is an example of sitting down, and if we can't show them we can do that easement we have to satisfy the condition. If we have not convinced them we would propose temporary easement.

Kim Hoopes; comment 13 of the review letter, Infiltration beds, and the two-year storm event. Andrew Rau; our engineers had discussed this with Mr. MacCombie and it's a matter of getting the correct mileage in there. There was nothing our engineer found in the review letter to be a problem that was not solvable nor did we. Based on Mr. Jackets comments there is some differences of opinion, but as far as the last two review letters we received, I think its very solvable, there are no major design changes needed. Kim Hoopes, there seems to be quite a few questions on storm management, I would like to see a cleaner letter from Mr. MacCombie. John Cassels, I agree, this is the fifth review and there are still twenty-one items on the review letter dated August 22, 2005. Steven Jakatt; your client has been trying to shove this plan through, I understand he has a time clock, but when you satisfy Mr. MacCombie, I will be satisfied. Andrew Rou, you mentioned sewer, and from a legal perspective, the DEP permit is a state regulatory permit, I don't think it appropriate to hold up preliminary, the law is clear on that. We are not trying to walk away or avoid Mr. MacCombies letter. Bob Schini, you could have asked for a motion when your plan was first presented to the Board and ask for preliminary approval based on satisfying the engineer.

Andrew Rau, the fact we are on the fifth review and its now down to technical issues I think that shows we have been working on the plan and we feel we are at the point where its approvable. Kim Hoopes; the review letter shows your have a swale only five feet from the structure, it's not acceptable. Andrew Rau, we see that as a comment. Kim Hoopes; in the Ramblewood Development we had a problem with a site that was not graded properly and ended up with water going into someone's garage. It's not just a slight grading issue that we have come across. Kim Hoopes; according to the review letter we still have a grading problem and we don't want to see a repeat of the other subdivision. Andrew Rau, I think there is a difference between site conditional and plan. Your engineer has identified it and we will fix it. Steven Jakatt; fix it on the plan to satisfy Mr. MacCombie and you will get your recommended approval, although we will need an extension letter. Scott Emerson, we have sat down with the Township, our landscape architect and Menke and Menke to discuss the revision of the plan. John Cassels, some of the property owners are farmers, do you plan to increase the buffer. Scott Emerson, there were comments about increasing the buffering along the property lines. Kim Hoopes, in the Menke & Menke letter it seem to me they are recommending easements on the eastern tract. Scott Emerson, these are some of the things that were discussed at our meeting on August 12, 2005. If we had a situation with MacCombie or Menke & Menke was saying "x" and we were saying "y", we were in two different spots, we would be working through this with you or going back to the drawing board. Steven Jakatt; its my opinion that if passed to the BoS recommending approval with this many outstanding issues we would hear about this. We could give it a go, he is a lawyer he could take us to court. Andrew Rau, that's not why I am here, or what I am suggesting. We are trying to take a common sense approach to the fifth review and we are at the point we can live with from what we see.

Bob Schini asked for a motion. Steven Jakatt, if a letter of extension is not received tonight I will put together a motion recommended rejection of plan. Bob Schini, I think Steven Jakatts description is accurate; the BoS would like this Board to present them with clean plans. Andrew Rau, I will go back and discuss with the client the possibility of an extension. Steven Jakatt, either we get the extension tonight or I will recommend rejection of the plan. Ron Rambo informed the applicant the extension would be required by September 1, 2005. Andrew Rau, asked for time to call his client and for the Board to hold the motion. Bob Schini agreed and went on to other business. After a time Andrew Rau came back into the meeting room and submitted a extension letter to the Board.

Bob Schini asked for a motion. Steven Jakatt motioned to table the Balderston Family LTD Partnership/Swinehart Realty Associates LP – Preliminary Subdivision Plan, Kim Hoopes seconded the motion with all members in favor.

James P. Bryant – Final Minor Subdivision Plan (05-04-BRYT), Property location, Pratts Dam Road – Proposed Lot Subdivision. Prepared by Environmental Consultants International Corporation. Clock started Thursday, May 26, 2005 and continues until Saturday, October 22, 2005. No representative was present. Bob Schini asked the Board for a motion. Steven Jakatt motioned to table the James P. Bryant – Final Minor Subdivision Plan Kim Hoopes seconded the motion.

John & Sandra Nunemaker – Preliminary/Final Subdivision Plan (05-05-NMAKER) –Property location; 350 Reeceville Road - Proposed 2 lot subdivision. Prepared by Lake Roeder Hillard & Associates. Clock started Thursday, July 28, 2005 and continues until Wednesday October 26, 2005. Representatives present were Jerry Przystup and John Nunemaker. Steven Jakatt; you have a six page review letter that needs to be a lot cleaner, there are issues under Subdivision & Storm Water Management that need to be taken care. Next month we can pass you on if these issues are resolved. Jerry Przystup, we have received the permit from PennDOT. John Cassels; when you come up that hill toward the hospital that property is right at the crest of the hill, the question would be whether there is enough distance to put in another driveway. Jerry Przystup, the distances are shown on the plan and the subdivision issues were before the zoning hearing board. At this time Bob Schini asked for a motion. Steven Jakatt motioned to table the John & Sandra Nunemaker – Preliminary/Final Subdivision Plan, Kim Hoopes seconded the motion with all members in favor.

Pulte Homes gave a presentation on proposed ARTICLE XIII Open Space Design Option, concerning age restricted communities. Pulte Homes; We have been working on this for the last six months. John Snook has been extremely helpful and we feel at this point the amendment is ready to be advertised. We are here tonight to get your support on these amendments. John Snook, I want to make clear that at the suggestion of John Good, Ron Rambo and myself that we have met with Theresa and the Pulte staff to suggest an approach to an amendment that would accommodate a transfer of development rights without formal establishment transferable rights and without formal establishment transferable development rights.

The reason John Good recommended this is one is less complex and the other in this situation where the parties are proposing the development that will receive development rights also own the properties that will be restricted and in the traditional transfer development rights the transfer of potential multiple ownerships and the former owners keep the land that the rights are sent from, they just send the right and keep the restricted land. In this case Pulte has suggested to transfer development rights and then as one grand plan, dedicate all the other properties as open space and in that case dedicate both larger properties to the Township.

That could not be required under conditional TDR ordinance. Kim Hoopes, to do this type of development the owner has to own all the non-contiguous uses. John Snook, it has to be under a common plan and agreement, you could technical have multiple owners sign onto a common plan with a agreement to pursue a single unified plan of multiple parcels. In this case Pulte has all the properties so its not complicated. In order to use the Open Space Design Option with a single unified plan covering multiple discontinuous properties certain amendments are necessary. Not only are several parcels discontinuous but they are also located in different zoning districts. While the Open Space Design Option applies to all the residential zoning districts its not an overlay zone in itself simply a separate set of provisions that apply in each zoning district. You can't transfer entities from one zoning district to another without a mechanism in the ordinance to allow you do so. These properties are differentially zoned R1, R2 and R3 today. Pulte is proposing to move the development rights from the properties from the R1 and R2 district all into the property that is in the R3. There are some issues with standard area and bulk requirements, which are less appropriate, because of the size of the individual units and lots that people want to have. The amendment allows for both the transfer, the unified plan covering discontinuous tracts. There are among those amendments the most significant being side yard that vary the standard area in bulk, but only for age restricted. If someone else wanted to do the same thing but didn't want to use age restricted, they would not gain the benefit of

those special areas in bulk considerations for age restricted. We tried to keep the amendments minimum, but one amendment impacts potential multiple sections. Formally the plan is not in front of you at this time. The Ordinance has to be amended first before Pulte can formally pursue a plan in accordance with the amendment ordinance. At their risk, they may pursue a sketch plan simultaneous with the Townships consideration with the zoning changes. Before they can request any formal action on the plan this amendment has to be passed first, then they need to have the granting of the conditional use and then go through subdivision approval. Pulte has made an effort and with receiving the input from Ron Rambo and myself could develop a good sketch plan. Your recommendation of approval to the BoS of the Zoning Amendments does not in anyway submit the current plans that are still down the road.

Ron Rambo; John Snook and myself have met for the last nine months going over John Goods review who is agreeable with the amendments. Basically what Pulte Homes is asking is for the Planning Commissions supports what is there so that gives me the ability to forward it to the County for their review and approval, they have thirty days to look at a time schedule to either advertise as required by law, by October 6, 2005 for public hearings

Steven Jakatt motioned to recommend to the Bos the changes in the Open Space Ordinance wording, Chapter I, Article XII, Chapter 200, Article 22, Open Space Design Option to include all those additions as recommended terminology to the current Open Space Design Option as presented by Pulte Homes, Kim Hoopes seconded the motion with all members in favor.

General Discussion – All Souls Cemetery – Representative Chris Cummings stated they have completed the submission for Final Land Development Application. We were before the Board two years ago and received Preliminary Approval, the engineers have received a Highway Occupancy permit from PennDot, Chester County Soil Conservation Erosion and Sedimentation control approval letter, this past week we received the redemption letter for the on lot sewage septic system for the administration building. There were some issues with the Final Plan submission but those have been resolved and the Township has approved the submission as being complete. We would just like to give you an update on where we are today. We are trying to get development approval for approximately 25 acres of what will eventually be 175-acre cemetery. We are hoping to back before the Board next month. We should at that time have a brief review letter from Mr. MacCombie. There is a slight adjustment to the plan, we moved the entranceway off of Manor Road, further toward 322. That was the holdup for the last 26 months determining where that entrance way should be. Illustrations were shown to the Board.

Bob Schini; the ground breaking for the Church is Saturday September 10, 2005 at 10 am. I will be there and encourage the Board to also attend.

Meeting reminders were read at this time.

Bob Schini, asked for a motion to close the meeting. Steven Jakatt motioned to adjourn at 9:38 p.m. John Cassels seconded the motion with all members in favor

Joann C. Ranck

Planning Commission Secretary

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