

**TYRONE TOWNSHIP JOINT MEETING**  
**Approved Planning Commission Minutes**

**September 27, 2005          7:30 p. m.**

**PRESENT:**

Board Members: Robert Byerly, David Kurtz, David Kuzner, Randy Laue, Michael Lewis, Steve Nagy, Lynn Thompson

Planning Commission Members: Sally Eastman, Dave Hanoute, Richard Hartigan, Steve Hasbrouck, Laurie Radcliffe,

ZBA Members: Greg Carnes, David Cypher, Mark Meisel,

Others: Deputy Supervisor Ralph Dawson, Attorney John Harris, Planner Greg Milliken

**CALL TO ORDER:** 7:30 p. m by Planning Commission Chairman Hasbrouck

**PLEDGE OF ALLEGIANCE:**

**CALL TO THE PUBLIC:** No response

**APPROVAL OF THE AGENDA:** There being no additions, it was moved by Hanoute, seconded by Hartigan, to approve the Agenda as presented. Motion carried by voice vote.

- 1) Request of **Tyrone Covenant Presbyterian Church**, represented by **Roger Toonder** and **Rick Berry**, for a site plan amendment to permit construction of a combined pavilion and storage building next to their parking lot. The building will be used to support their summer programs, store Jesus Walks props and costumes, and provide a staging area for the annual Jesus Walk.

Mr. Hanoute reported that the application from Tyrone Covenant Presbyterian Church was a site plan amendment to permit the construction of a pavilion storage area to the side and rear of the present church facility. The Subcommittee reviewed the plan and it appears to be in compliance with ordinance requirements.

During discussion of the motion, Mr. Hartigan thought the motion should reference the fact that this was a Special Land Use request. Mr. Hanoute and Mr Laue agreed to amend the motion as suggested. In response to landscaping questions, Mr. Toonder said they planned to put some shrubs around the pavilion it to make it blend into the wooded areas behind it. There was already some existing natural vegetation at the building site.

MOTION: Moved by Hanoute, seconded by Laue, to approve the Special Land Use site plan amendment as shown in the Prince Architecture Drawing received September 19, 2005. Amendment carried by voice vote. Motion carried by voice vote.

2) Remarks from Township Attorney John Harris

Mr. Kuzner introduced the new Township Attorney, John K. Harris, and explained that he had asked Mr. Harris introduce himself to all the boards. He gave Mr. Harris the option of staying for the meeting or leaving after the introduction. Mr. Harris said he would like to stay so he could observe the boards in operation.

Mr. Harris told the Township representatives that the office of Harris and Litersky is located in Brighton. He has been involved in municipal work for over fifteen years and he looks forward to working with Tyrone Township. He asked the Board members for direction regarding his contact person(s) and what the Township would specifically like him to do.

3) Discussion of revisions to Section 23.00, 22.00 and 21.00 of Ordinance No. 36, the Zoning Ordinance.

Mr. Milliken referred to the McKenna Associates letter of September 14, 2005 and explained that one of the ideas discussed at the last joint meeting was to shift some of the approval granting authority from the Township Board level to the Planning Commission level. The letter tried to summarize the changes. Basically, some decision making duties were being shifted to the Planning Commission and some administrative duties were shifted from the Clerk to Planning Commission Secretary. At the same time, a new appeals process was established to permit the Township Board to review decisions of the Planning Commission providing a way for the Township Board to be involved in the process. There is still a two step process in many of these approvals and in some cases, site condos for instance, no appeal process is provided in the current ordinance.

The changes are intended to make the approval process much more efficient. It takes one step to get approval instead of two. It is cheaper, more predictable, easier to understand, less burdensome, and takes pressure off the Township Board Agenda. Decisions will now be made by the body reviewing the plans and holding the public hearings. They are the body selected by the Township to hear these issues because of their experience and they receive additional training to stay up to date on these things.

Specifically changed in the zoning ordinance were the Site Plan Review section (23.00), the Special Land Use section (22.00) and the Site Condominium Section (21.43), and Ordinance 25, the Land Division Ordinance. Subdivision regulations and rezoning sections were not addressed because the Board must be involved in the final decision by statute. Before presenting the revisions for a public hearing and going through with the ordinance amendment process, the Planning Commission invited comments from the Board and the ZBA.

Mr. Van Hecke noted that bonds and financial guarantees have to be done through the Board. In a situation with site plan review or private road development, the financial guarantee would still have to go to the Board. He wondered if the Planning Commission should make a recommendation to the Board for the amount and then have the Board review and approve it. Mr. Kurtz thought that financial numbers usually came from the Township's Engineer based on costs. Once the money is collected it has to be put in escrow, go through the Treasurer's office, and be tracked by the Clerk's accountant so a year and a half after the project is done we can find the money when they come looking for it.

Mr. Harris commented that the Ordinance doesn't require Planning Commission input on the financial decisions. Since they are the body reviewing the application, they could take into consideration Tetra Tech's recommendations and it would make sense that they pass the recommendation on to the Township Board.

Mr. Kuzner said that it looked like the Planning Commission had done a lot of work on the project and spent some money too. He was a little disappointed that they hadn't had conversations as to the Board's feelings. At the last meeting, he left with the thought that it was open for discussion as to whether they would proceed or not and he thought there would be further dialog and it wouldn't have gotten to this depth without prior input.

A lot of the issues were significant to him as an elected official. The way he looks at it in his position at the Township is, "The buck stops here." That is what he believes government is set up to be. Your elected officials are responsible for certain things. When we pass this responsibility down to the Planning Commission level for the final decision we are absolving ourselves of the responsibility to the people who put us here for implementing our vision.

Some of the changes relate to his office. Currently, the Planning Commission and the Planning Commission Recording Secretary are responsible for much of this, but the Clerk oversees that. We get the files, put it on the agenda, and return the files. So we really aren't responsible for this any longer, so that part of the process doesn't seem streamlined to him. With the issue that Mr. Van Hecke just brought up, where parts of things have to come to the Board, it creates a little more confusion in those areas. The main thing is, he truly believes this Planning Commission does a fantastic job and typically it comes to the Board as a procedural rubber stamp. We don't run into a lot of problems where the Board disagrees with the Planning Commission so he didn't see a real big need for this change other than it may save a couple of weeks in between. To him that couple of weeks is more valuable as an elected official by being able to say, "Yes, I am responsible for that," and being able to have his final say. With a rubber stamp or not, as an elected official he believes that the buck should stop at the Board table.

Mr. Hasbrouck said he wasn't at the last Joint Meeting and he didn't hear all the comments, except what was in the minutes. He had heard some conflicting stories from some people, but the consensus of the Planning Commission was that there was enough interest from the Board to move forward with getting the changes on paper so the Board could look at it and make some comments on it. We are putting it out so you can see what we are talking about and we can go from there.

Mr. Hartigan said he addressed it from two perspectives. First, as a developer he had worked in many communities and he didn't know of any where the land division or site plan process wasn't the responsibility of the Planning Commission. There were very few communities within the five or six county metropolitan Detroit area where they had to go beyond the Planning Commission to the Board for approval, particularly site plan approvals. Those are a simple zoning issue matters. It's cut and dried in the zoning ordinance, and now we have instituted an appeal process. As a developer, he feels that time is critical. Time is money and when you have multiple steps to go through, particularly in some of the complicated projects, that is a big delay. You don't want to discourage developers and cause them additional costs and create additional meetings with this board or that board or some other board to deal with these things.

From the Planning Commission standpoint, some of the things are totally mundane because they relate directly to the zoning ordinance and zoning ordinance law, and the board has so much to do he wondered why they should have to deal with this at their level.

Mr. Kuzner said Mr. Hartigan might be correct, but he wanted to bring up four examples where he had to get involved with what he felt was of value to both the residents and the Township. We had a Depp land division that was very controversial that was approved by the Planning Commission that they were sitting on. It was an area that met the zoning ordinance, but there were issues there whatever they were. He thought that being able to move that request forward saved the Township Board from a law suit.

There was the Murphy incident with a private road issue. By moving that forward, those parties fought it out on their own in court. Tyrone Township didn't have to have a court battle over that issue and they fought it out among themselves. We got out of the picture by pushing it forward. Then there was the Ron Gordon property. By moving that forward it stopped him from suing us.

Then there's the Merry land division which people got in the way of and we're now in court over a Road Commission issue. We pushed it through the Board, but the Supervisor at the time was thought by the homeowner to be obstructing that process and now we are in court with the Livingston County Road Commission on that division. That's why he thinks the Board should have the power to step into the middle of something and maybe head off what they see as pending litigation or some other type of thing. To him on those four issues, he can say that it turned out O.K. and when we give that power away, three out of those four are court cases against the Township and not against the proper people.

Mr. Hasbrouck asked Mr. Milliken if those cases could have been appealed to the Board if the new language being proposed was in place. Mr. Milliken said that all could have been appealed if the Planning Commission denied the requests.

Mr. Hanoute asked if the four cases which Mr. Kuzner cited were ones the Planning Commission had sent to the Board with a recommendation for denial. Mr. Kuzner said, "No." He didn't remember the exact issues on each one, but on a few the Planning Commission had recommended approval, but they were sitting back at the Planning Commission office and he pulled them up to the Board because the people came and asked to have them decided at the Board level.

Mr. Hartigan said he didn't understand the comment that they were "sitting" at the Planning Commission. If the Planning Commission makes a decision it's either a recommendation to the Board for approval or denial. They don't "sit" unless there's an administrative problem. Mr. Kuzner said that whatever it was, the Board hadn't overruled the Planning Commission on any one of those requests.

Mr. Hanoute recalled the Merry case and explained that the Planning Commission wouldn't move it along because they hadn't provided required proof of compliance with the Road Commission's clear vision and sight distance requirements. Mr. Hartigan explained that in cases like that, where the required information was incomplete, the request was either approved as a conditional approval or denied. It wasn't held in abeyance. Mr. Kuzner said that there were issues because the Merry's had met the ordinance. Mr. Hanoute said in the Merry case they had not met the ordinance. Mr. Kuzner said he thought it did have something to do

with the ordinance, but he didn't remember the particulars. Mr. Hasbrouck said if it was the land division on McGuire Road, they didn't meet the ordinance clear vision setback requirements. We don't recommend approval of things that don't meet that. Mr. Kuzner said whether we can approve things like that or not, it was suggested by our Attorney at the time that they met the ordinance and we weren't controlling clear vision, that was the Road Commission's responsibility. So it went through the Board and instead of Tyrone Township being sued for denial of the land division, the Road Commission then became the land use committee where they couldn't get a land use permit because we had fixed that problem.

Mr. Hartigan commented that the proposal McKenna Associates had put in front of the Board, made the action everyone had to take clearer. In the Merry case, somebody had to come and pound on the table and get somebody's "ear" to get that thing moved from the Planning Commission to the Board's attention. With the appeal process, an applicant if denied by the Planning Commission has a clear choice or clear direction where to go. He goes to the Board with an appeal. That is a clear cut operation and he would have gotten in front of the Board anyway, but in a more defined and controlled manner.

Mr. Hanoute thought this was citing a unique case. He could cite a hundred other cases that should have moved quicker than they did because of the archaic process we are under. What the Township Board really did in the Merry case was re-write the zoning ordinance by their action. Because of that case, we should now re-write our ordinance to officially adopt their policy. We can't deny anyone an approval based on clear vision any longer. Mr. Kuzner said they were advised by their counsel that they didn't have authority to deny the Merry request. Mr. Hanoute replied that if the counsel's advice had been made known to the Planning Commission, they could have forwarded the recommendation to the Board.

Ms. Eastman said the point being made was that there will still be room for an appeal in a way which makes it clearer for everyone. Another thing is the time constraint. When someone brings something to the Planning Commission on Tuesday, the Recording Secretary has until 9:30 a. m. on Wednesday morning to get it on the next Board Agenda. That can be a hardship for the secretary and the applicant which can make them wait not just another week, but an extra month.

Mr. Kuzner wanted to know why that was a hardship. Ms. Eastman said if the request required revised drawings the applicants couldn't meet the deadline. Mr. Hartigan commented that most approvals had some sort of condition where they had to correct the drawing, bring it back, and have it forwarded to the Board. The time frame as it exists now just doesn't work.

Mr. Kuzner asked what the process is for corrected drawings brought back to the Planning Commission. Mr. Hartigan explained that based on the motion and the conditions, Mr. Van Hecke reviews the drawing before they get turned in. Mr. Hasbrouck added that depending on the conditions, an engineering firm or the planner could do a final review on a corrected drawing. It would depend on the circumstances.

Mr. Kurtz thought that more than one person should review a drawing. It could get significant when you do a redraw and then get three drawings in one day and miss something on the check list and the drawing gets accepted. You need more than one person to look at re-draws before they hit George for approvals. Mr. Hartigan explained that nothing is conditionally approved unless it involves minor conditions. The Planning Commission wouldn't approve major re-design issues. They would be denied and sent back for satisfaction of both the

Planner's and Engineer's comments and then brought back to the Planning Commission. We are talking about the routine every day stuff where the county might be put in as Genesee instead of Livingston. That would be a typical condition of approval and its not going to the Board until it is corrected and that has to be done in less than 24 hours to get on the Board Agenda.

Mr. Kuzner said that when he first came on board as Clerk, what happened was they would get conditions upon conditions. That was the frustrating part for him because it would come to the Board with conditions and the drawings that would come to him weren't signed by the Secretary. He didn't want to sign drawings that the Planning Commission hadn't signed. They were pushing that so far ahead, it was coming to the Board without the conditions the Planning Commission set and the Board was setting it's conditions on top of that. We had a back log of things, so he stopped accepting things that had conditions that weren't met. There wasn't a mechanism in place to track the conditions. We didn't have time where we had people checking to see if conditions were met. His stop gap measure was to not accept anything until the conditions had been met. Things had to come to the Board so it could be a rubber stamp and fewer things fell through the cracks. He doesn't know what the stop gap measure is at this point to keep things from falling through the cracks.

Ms. Eastman said she was talking about getting papers filed for the next Board meeting. That's really the case. She was talking about simple things like removing the line from a drawing that shows a driveway that's not there. She wasn't talking big conditions. Mr. Kuzner said that all that has to be submitted the next day is the language for the agenda item so it can go to the paper. It's Friday at 10:00 before the packet materials have to be submitted. Mrs. Eastman said she didn't want to argue the point, but there is time pressure to submit.

When Mr. Hasbrouck asked if there were comments from other Board members, Mr. Lewis said he was learning and wanted to hear more discussion before he made his comments. Mr. Hasbrouck asked Mr. Lewis if he could authorize Mr. Harris to review the proposed language. That is what the Planning Commission was counting on. Mr. Lewis wanted to know if there were any other boards in any other Townships that do things this new way. He wanted to know how others were doing it and how it was working out.

Mr. Kuzner was worried about how the Board would appeal a Planning Commission decision if it doesn't agree with the decision. Mr. Hanoute explained that the Board doesn't have an appeal. If the applicant appeals, then the Board may or may not reverse the decision. In response to Mr. Kuzner's question about what would happen if the applicant doesn't appeal and the Board disagrees, Mr. Harris said the decision of the Planning Commission stands. At that point, it becomes the action of the Township. The Township Board is an appellate board for someone who is aggrieved by the decision so a person whose action is turned down, or even a neighbor, adversely affected by a decision of the Planning Commission could appeal that decision to the Board, but the Board on its own cannot seek a review of what the Planning Commission did.

Mr. Kuzner worried that if there was a density in a development that was higher than the Board thought it should be, there would be no recourse at that point. Mr. Hanoute said the Planning Commission enforces the Zoning Ordinance density and they don't have recourse either. Mr. Laue added that we couldn't go past what the ordinance allows. Mr. Hasbrouck reminded Mr.

Kuzner that if there was a density change there would have to be a public hearing and Mr. Kuzner could voice his concern then. The hearing would be for everyone, not just the Board, but the Board would still get final approval of zoning amendments.

Mr. Milliken said that he had done some quick web research within a local three county area to develop a generalized list about who approved site plans, special land uses, site condos, and land divisions. Mr. Harris commented that each use has to be looked at separately because they serve separate functions. Site Plan, in his experience, is uniformly done by the Planning Commission. With a site condo, he felt more comfortable having the Township Board involved because that is a development. Generally, a site plan applies to a particular site and the zoning requirements apply or don't apply. Review by the Planning Commission would be consistent with the way most municipalities handle that issue. With site condos, he had no preference, but thought the Board might want to have a final say. Generally those developments are more extensive and sometimes more controversial.

Mr. Van Hecke asked Mr. Harris how involved he thought the Board should be in the Site Condo review process. Mr. Harris said his experience has been that the Planning Commission makes a recommendation and the Board takes a look at the recommendation and can ignore it or adopt it. The Planning Commission does the planning function and the Board takes a look at it as a whole. On Special Land Use, it is six of one and half a dozen of the other. When the Planning Commission makes a decision on behalf of the Township as Mr. Kuzner has indicated, they are a non-political body, an appointed body, making decisions for the Township. Some Townships don't want that responsibility from a policy standpoint because Special Use Permits are sometimes controversial. From an efficiency standpoint there is no question that having it done by one board without having to make recommendation to another board is more efficient. It is a policy decision, because the statutes allow either the Planning Commission or the Board to be the final decision maker.

Mr. Laue asked if land division was usually a Planning Commission decision. Mr. Harris said that in most Townships that was a staff or Planning Commission decision, but it was a jumble. Staffs might make a decision for creation of one or two parcels, and above certain number you go the Planning Commission and the Board doesn't get involved. If you have a split which is not a site condo or plat and is going to be a number of splits, you would want someone to look at that for the Township. Most municipalities have the Planning Commission do more than two splits.

Mr. Hasbrouck commented that the Planning Commission sees a lot of three parcel splits on a shared driveway. Our ordinance allows up to four parcels on a shared driveway and those are the ones we see the most of. Mr. Harris said in that case there would probably be things to follow up on, and that should be a Planning Commission rather than staff function.

Mr. Nagy observed that he works in some communities which treat site condos the way they would treat a plat. From the public perspective they can drive through either one and don't have the foggiest idea of which one they are in or that there is a difference in the process.

Mr. Hasbrouck expressed his concerns about relating infrastructure to planning and how we can provide sewers to the locations where people want to apply for rezoning or higher density than they normally would without sewers. That is an administrative issue that needs to be addressed. Mr. Nagy commented that was the same issue you had with plats. They do go hand in hand. We should specifically address infrastructure planning, and if we haven't we

should. Mr. Hasbrouck then asked if the Board had a committee to deal with that. How do we handle developers with property not on a sewer line or not in an assessment district who want to get sewers and do 300 homes. Mr. Kuzner said the Economic Development Committee would take care of that and they have had some people come in and talk about it.

Mr. Hasbrouck explained that the Planning Commission felt that Mr. Hartigan was the best person to represent them on the Economic Development Committee, but had waited until he came back from vacation to see if he would be willing to participate in the Economic Development Committee and he has agreed to do that.

Mr. Meisel said that Steve Nagy, Dave Kuzner, Dave Kurtz and he were on the Committee. Mr. Kuzner felt there were enough people on the Committee to meet with people in the beginning and they wouldn't need an alternate. So far, they had met with Insight Development and some people who wanted to talk about The Preserve or purchasing the Crown property. They did tell Insight what the Township was looking for and they said they would come back with plans. Mr. Hasbrouck asked if the Committee was looking at the Master Plan with the developers because it was critical to stick with that.

Mr. Hartigan wanted to know if the Committee had done anything on going forward to sit down with the Livingston County Economic Director, Mr. Dillingham, and ask him for some help in bringing projects to the Community. Mr. Kuzner said they had been waiting for a Planning Commission representative and then they were going to put the group together, create a mission statement, and then move forward in what he viewed as a professional manner to try and sell some of the ideas he had been throwing out. Mr. Meisel said most of the people they talked to so far had just stopped in to see if the Township would be receptive to development and most of the questions so far have been procedural. Most of it is about getting acclimated to Tyrone Township. The biggest hurdle is that a lot of folks don't know what would be well received or received at all by the Township, and they don't necessarily know who to talk to and where to find information.

Mr. Hartigan said larger developers who looked to quality projects would go to the Livingston County Economic Director first to find out what's available. Our message would be well placed there if we were looking to bring people in. We should let him know we are interested and what we are looking for. Mr. Meisel said that was their intent, but they were really green. Mr. Kuzner commented that so far we have had no advice from Fred Dillingham, but someone from the Board sent them a check for \$500.00, and then we sent a letter along telling them we would like to get something for that money. Fred does know we are interested. Mr. Hartigan reminded the Economic Development Committee that water would be a big issue. He did know that several years ago Mr. Dillingham was able to obtain infrastructure grants, including water, for other communities and he should be able to help us.

In response to a question from Mr. Hasbrouck, Mr. Kuzner said the Economic Development Committee didn't have a schedule and met when other people asked to meet with them.

4) Discussion of revisions to regulatory Ordinance 25.00, the Land Division Ordinance

Mr. Milliken said that the Land Division Ordinance changes were similar to the others. It moved from a two step process to a one step process and added an appeals process. He had been surprised to find that some City Councils were reviewing land divisions because it was his experience that most of them were done by staff or the Planning Commission.

Mr. Kurtz commented that as long as he has been on the Board, every land division has come through the Board for a rubber stamp. The significant issue is that the Board doesn't guarantee that the piece will be buildable. Of the things the Board reviews, he thought that site plans and land divisions should belong to the Planning Commission. They have the ordinances. He wanted to spend a little more time considering the other two, Special Land Use and Site Condos, because he had more concerns.

Talking about site plan review is talking about economic development and the developers need to come in and talk to somebody who understands the rules and points them in the right direction. When they do that, the Planning Commission reviews their site plan and they are on their way. Land divisions are fairly simple, especially state statute divisions, but they tie into ordinances for shared driveways and we're trying to keep as many driveways off the main roads as we can, so it has to go through the Planning Commission for that. He didn't have an issue with those two things.

He got more interested about special land uses because much of what he does is a special land use and he would like to have a shot at it. The site plan and the land division changes will streamline half of the stuff that comes across the Planning Commission plate. Land division is a nice thing to know on the Board level for review. Mr. Laue commented that the Board would still receive the Planning Commission minutes, so they would know what went on at the meetings and what had been approved.

Mr. Hasbrouck explained that the changes proposed and the language proposed is still a work in progress. We wanted to give the Board a chance to look through it and give us comments and to allow counsel to look through it for feed back at a later date. At this point, we will wait until you have a chance to think it through because we have a whole list of things we can be working on other than this.

From the comments made, Mr. Milliken considered that the Board thought that special uses are more controversial and they should have it on their plate. They are right that the heavier or more intense land uses are special uses and that is why they require public hearings. Another question to keep in mind is how many applications the Township is likely to get. Uses like concrete batch plants or adult entertainment have to be provided for in the zoning ordinance, but how often will the Township get requests for them. If you get those every month, the Board should probably be dealing with those issues. If you seldom ever get them, the use is more like a site plan. You have to consider where the line falls for this Township.

In the case of site condominiums, that is currently a two step process with a preliminary plan that has to be approved and a final plan that has to be approved. As the ordinance currently exists recommendations are made by the Planning Commission and approved by the Board. As currently proposed, the preliminary and final plans would be approved by the Planning Commission.

As a compromise, there are communities that have the first plan reviewed and recommended by the Planning Commission and approved by the Board and then the final plan is just approval by the Planning Commission. The final plan is basically just a confirmation of the approved site plan with the addition of final engineering specifications and the Master Deed and By-Laws. The concept plan is really where the layout of the development and all the specifics of the layout are finalized. That would be another way to compromise on streamlining site condominium developments.

Mr. Hanoute asked what the Board saw as controversial about Special Land Uses. There are areas that are designated for special land uses and there are requirements that are designated for special land uses. It's black and white in our ordinance. You must meet the criteria set forth in the Zoning Ordinance, or the request will be denied. You can attach conditions to special use approvals and maybe that is what the Board's concerns are, that the Planning Commission might not attach the right conditions.

Mr. Kurtz said special uses were his concern. He owned concrete plants, gravel pits, and building supply stores. Concrete plants are a special land use. Even when they buy industrial land it is very seldom a line item of approved special land use. If you are not a line item in the ordinance you fight and you fight and you fight. He could put in a steel mill or a cement plant, but he couldn't put in a concrete plant which would be one tenth the size of the others. When it becomes a special land use, it becomes a fight. As well as we write ordinances, and as well as we try to funnel the right kind of business into the right kind of zoning, we can't hit every topic or every kind of business. Does it fit or does it not becomes a personal judgment of this group (Planning Commission). From there, the fight would probably get pushed to the Board for an appeal anyway.

That's why he is a little funny about special land use. The special land use is granted in certain zoning conditions, but it is already tempered by special conditions within the special land use zoning which only lists a few things that are permitted. Mr. Hanoute agreed, but commented that we couldn't list every special use, because tomorrow there will be a new use. You can define the character and the general requirements for a zoning district wherein you can measure whatever special use is coming in to see if it fits the puzzle or not. Mr. Kurtz said he agreed in theory, but felt there were enough different kinds of things out there to question that.

As an example of typical special land uses, Mr. Hartigan referred to churches. In our community they are neighbor friendly because the size and scale isn't offensive. In Plymouth Township a church became a very political issue when they had to have a 5,000 car parking lot because of the size of the congregation. That became a real hot potato because it just didn't fit. Even though it was allowed as a special use by the zoning ordinance it still became a political issue.

Mr. Harris then referenced St. Patrick's church in the city of Brighton which is building a school in an industrial area of the city. The City Council will make the final decision based on recommendation of the Planning Commission and it is a hugely political issue. There is a lot of pressure being put on both sides to accept or reject the proposal. It was his opinion that a decision of that type should be made by the elected body. As said earlier, that is where the buck stops on those sorts of issues. Special use permit issues don't present themselves that often, but when they do and are very controversial the people who should be held accountable are the people who are elected.

Mr. Kuzner said that we had a casino issue here and he never thought he would see that when he moved here. As an elected official, when you talk to people who vote and want you to make their community a certain way, he wants his head on that chopping block when it comes to making that decision. He doesn't want to say, "Well, I deferred that decision to somebody else." Character of the community is a lot of what people care about and when you defer that responsibility, not that other people can't handle it, and when you are elected to do a certain

thing that becomes an ideological standpoint. You don't have them every day. You may have one every five years, you may have one every ten years, but when people elect other people to define their community, that's part of the responsibility of running for office.

- 6) Consideration of methods for processing approvals for shared driveway construction, maintenance agreements, parcel legal descriptions and recorded documents based on changes in the land division requirements

Mr. Van Hecke explained that we are finding that shared driveways aren't being constructed until more than one parcel is developed. The shared driveway isn't really evident to the first person who builds on a site although it should be evident from the maintenance agreement that they will have to share part of the maintenance and construction costs of it. Often times what happens is a driveway is put in and a party moves in, but the shared driveway is not constructed until another party wants to build on it. It would be an easier route if the developer is held responsible to make sure those things are done before the property is sold and guarantee that the driveway will be put in. The owner could either work it out in the sale price of the property or the Township could have the driveway constructed and work it into the price of the property when it is sold.

Another issue we have is the problem with recording of documents. The Planning Commission and Board approve a property split and then it isn't recorded at the register of deeds the way it was approved. Often it isn't recorded until the owner is ready to sell or build, but when they are ready to record it, many times they have made alterations. There is no requirement at the Register of Deeds for proof that the land division presented is the one that has been approved. A surveyor can make up a new plan because the owner doesn't like the approved easement location and wants to move it from over here to over there. That has happened. They draw it up and record it and the change isn't shown when a title search is done. For all intents and purposes, the buyer thinks he gets the property with the easement as shown and then we get confronted with it at the office. It can be either a requirement of the Planning Commission or the Board, but something has to be recorded as approved by the Planning Commission or the Assessor, because the Assessor ascribes the tax ID numbers.

Mr. Hartigan asked if we didn't withhold land use permits until the driveway is completed to all the parcels it was approved for. For example, if he asked to split four parcels off a shared driveway and turned in all his stuff to split off a shared driveway, you should deny him when he comes in for his first land use permit on the driveway unless the driveway is all the way in. Mr. Van Hecke agreed that was possible, but even with private roads, the Board would approve permits for a residence when the driveway easement is only being used by a single party. We issued up to four land use permits in Irish Hills without having the road put in. Typically on a shared driveway or private road we will issue one permit as a use by right, but as soon as another one comes along we require completion.

Mr. Hartigan said that sounded like trying to accommodate somebody at the same time he was undermining the Township's position to get it done the way it needs to be. Mr. Hanoute suggested requiring a guarantee like we do for a private roads. Mr. Hasbrouck thought that the intent of the Planning Commission when we give approval for the driveways was that we expect them to get built and then the houses get built. If we are allowing four of them, there should be a decent driveway to get to all four of them. Mr. Hartigan said that most

communities would not allow construction in a situation like that unless the road is in, because they can't get safety equipment down there. If they have an accident, they can't get help in there to serve the person who needs to be served.

Mr. Hanoute thought there should be a deadline stipulated for recording land splits. Mr. Van Hecke said we require a survey, but the recording part sometimes isn't done because it's up to the individual to go down and record it. Mr. Nagy said he thought they had to bring in a recorded document before they could build. Mr. Van Hecke replied that they have to submit a survey to the Assessor within a period of time, but it doesn't have to be recorded. We need to work out something on that. Mr. Kurtz thought we should do the same thing that we do with the roads; before you get a building permit you put in the road and before you get a building permit you bring a copy of the recorded deeds with all the stuff that needs to be on it back to the Assessor.

In terms of authority, Mr. Kurtz thought the Planning Commission could make recommendations to the Board for the new policy to be adopted. Mr. Kuzner thought the Board had requested this with a flow chart at the last Joint Meeting. Mr. Van Hecke said there could be other options. Maybe the Township shouldn't assign parcel ID numbers until the land division was recorded properly. Without a tax ID number it wouldn't be a bona fide split. Mr. Kurtz said that would allow the Assessor and the Zoning Administrator to match it with the approved plans.

Mr. Hasbrouck referred to Zoning Ordinance Sections 24.02.C and F which established private road maintenance, land use and certification requirements in regard to the issuance of land use permits. Shared driveway ordinance Section 24.05.C stated what should be done in regard to shared driveways. Mr. Kuzner said that currently the Board sends the applicant away with a letter that states everything they need to do to make their land division complete. He thought that they were going to the Register of Deeds to record their survey before they come to the Assessor. That's what it says in the letter. He wondered what part of that process isn't happening. Even if the survey is being modified, the Assessor gets a copy of the land division after we approve it. Mr. Hanoute commented that for one thing there was no time limit on the recording. It could take a year or two before it gets to the county. Mr. Kuzner asked what he could do to make the process work better and if a time limitation would work better.

Mr. Hasbrouck thought we were primarily citing concerns about the construction of the driveways and roads. The road construction is pretty cut and dried, but we made a change in the driveway ordinance. Because we increased the number of parcels that can be built on the shared driveways we adjusted some of the requirements. Mr. Kuzner asked if the Planning Commission wanted an escrow deposit. Mr. Hasbrouck said that if the driveway was built before any land permits were issued they wouldn't need to have a letter of credit or put money in escrow. That is a flexible item, but we shouldn't issue land use permits until the driveway is built, or we have the money to do it if they don't follow through.

Mr. Kuzner asked for a time line on what Mr. Van Hecke wanted to happen. A lot of time people will divide their land, but they don't want to build for ten years or something. He asked for an explanation of how the process works and where the stop-gap should be. Mr. Hasbrouck suggested that the stop gap should be prior to the sale of the property to someone who wants to build. Mr. Hanoute and Mr. Kurtz agreed that the driveway should go in immediately. Mr. Kurtz commented that if you don't do it at the get-go, the driveway location gets buried or lost, or a shed gets built in the middle of the easement because the applicant

still owns the land even though it was divided. Mr. Kuzner said another problem comes when someone splits their personal house off and their driveway is already in. They do the split, but they don't plan to build for five or ten years and all of sudden someone gets a driveway through the middle of their lawn.

Mr. Hasbrouck referenced ordinance Section 24.05.F which allowed one year for the completion of the driveway. Mr. Kurtz suggested requiring a bond for the cost of the road up front. Mr. Kuzner asked that if the Board was going to contemplate putting land divisions in the lap of the Planning Commission if that would be a policy the Board creates for the Planning Commission to apply. Mr. Hanoute noted that the financial guarantee language is already included in the zoning ordinance, but it has to be enforced. Mr. Van Hecke said the dollar amount would still have to be figured out and we would have to make sure the driveway is put in prior to any second development. Mr. Kurtz commented that they had 12 months, so we should get the money, hold it for 12 months and at the end of 12 months if they haven't put the road in then we put the road in.

Mr. Hasbrouck replied that the 12 month period actually concerned the land division approval. It voids the approval and the site drawing. Mr. Kurtz asked what happened if the Assessor had already split the property. Mr. Hanoute thought that a year had to pass before the split takes effect on the tax rolls. Mr. Kurtz said the number could be entered in the computer at any time, but the Treasurer doesn't have to account for it, but once it's in the machine it just rolls over if someone doesn't catch it.

Mr. Hasbrouck commented that we still ought to have some sort of guarantee that the driveway will be built. Mr. Hanoute suggested a bond to be called after one year if the driveway isn't built. In that case, the township would keep the money. Mr. Kurtz said that way if the owner didn't do something it would become a penalty, but he wondered if we had an ordinance that allowed us to do that. Mr. Hasbrouck said he thought there should be a way to guarantee that the owner would spend some of the purchase money on the driveway. Mr. Kuzner thought the problem was just enforcing the ordinance.

Mr. Hanoute noted that the recording issue still needed to be addressed in an ordinance with some deadline for recording. Mr. Harris suggested that a Township representative meet with the Planner, who actually drafts ordinances, to review the process for the split and the posting of a guarantee. We do have some language in the ordinances that talks about posting guarantees but doesn't say what you do with it once you have it or what to do if there has been a failure to adhere to the requirements of the ordinance. The planners can help you establish the procedure. This is not a unique problem and every township has their own version of doing this.

In the case of an approved site plan with a specific layout, where the applicant decides they don't like the plan and wants to rearrange it, and there have been revisions in the ordinance between approval of the first plan and filing of the revisions, Mr. Harris agreed that the ordinance in effect at the time the changes are presented establishes the conditions to meet.

**5) Review of the Planning Commission Action List of future ordinance revisions**

Mr. Hasbrouck explained said that there were many other things the Planning Commission planned to look at and reminded them that the Action List had been provided for informational purposes. These things won't come free and we do need a budget that keeps the Township

going forward. Also, we have dealt with specific Board requests and those took a long time to deal with. The keyhole ordinance took many months and many meetings and we spent beaucoup bucks on that even with the help of the Lake Association. Now there are other things we need to work on and he asked the Board to keep supporting the Planning Commission efforts and expenses associated with the use of the consultants and Mr Harris. He asked the Board and ZBA to review the list, and forward suggestions for items to include or move up and down on the list within a few weeks. Some of the items on the list relate to the Master Plan and are important to get in place based on the plan updates, but there may be other things that the Board or ZBA feels are important.

7) Economic Development Committee report

The Economic Development Committee was discussed under Item 3, Page 8, paragraphs 1 through 5.

8) Other topics to be brought forward at the meeting

Mr. Hasbrouck said he wanted to bring up a topic that Mr. Fumich holds close to his heart. Mr. Fumich supported hiring an Ordinance Enforcement Officer and he still believes that we should have one. It takes great expense to come up with zoning ordinances and regulatory ordinances. If we are going to have all these rules we need to follow through. Otherwise, we're not supporting the public that voted us into office. We have public hearing criteria that we follow, the Board looks at all of this, and the Attorneys review it. Let's follow through. If there are people out there not following the ordinances, they need to be dealt with, like the lights that people have in their next door yards. These are Mr. Fumich's concerns and he wanted to share them. He believes in following the ordinances because that is what we have them for.

Mr. Kuzner asked if the Board wanted to include two of the zoning ordinance revisions for discussion at their next meeting and move forward with the site plan and land division language. Mr. Kurtz suggested including some of them for public comment. There were two issues he wasn't sure about. In order to stream line things and make Mr. Kuzner comfortable about taking the lead on those responsibilities they were elected to take and those things which are perfunctory, let the things that are perfunctory become staff functions.

Mr. Harris said he had some concerns about the way the Land Division Ordinance (25) was written and asked the Board for authorization to contact Mr. Milliken in order to work out the language. He would do as much or as little as they wanted, but asked for direction to work out things with McKenna, but the site plan amendments were fine.

Mr. Kuzner said that as soon as the recommendation came back from the Attorney, he would put them on the Board agenda and move them forward.

Mr. Milliken explained that three of the issues were zoning ordinance issues and the Planning Commission would have to hold a public hearing and have it reviewed by County Planning. He wasn't familiar with the Township regulatory ordinance procedures and what would have to happen with the Land Division ordinance before it could be adopted by the Board, but the final language also should be reviewed by the Planning Commission and County Planning.

Ms. Eastman said she would like Mr. Harris to hear some remarks about the open space from members of the Planning Commission. Mr. Hasbrouck explained that the open space requirement has been in affect for quite a while. Even before the state came out with their clustering option, we already had open space language in our ordinance. It is extensive and works well, but it is complicated to understand. The biggest problem is the math equation involved with the calculation, but we've made some changes this Spring which helped. Mr. Hartigan thought it would be a good idea to have a discussion about the open space outside of this meeting.

Ms. Eastman said she thought it was as important to understand the open space intent as it is important to understand what is on the written page. Mr. Harris replied that what is reviewed in a court of law is the written page. Ms. Eastman commented that what she hoped was that Mr. Harris could help us describe the intent better than we had so far. Mr. Hartigan explained that the open space concept originally resulted from the discussion of density and the rural character of the township.

Mr. Harris replied that the ideal situation is to make sure that the intent of the Planning Commission is transferred into the document so that if something that comes up in court you can defend the intent. The need is that they work together. Mr. Hasbrouck said that we didn't want to just single out the higher type density developments for open space. Obviously we want open space on those higher use sites, but what we didn't want to say that just developments have to do that. So any lot splits or land divisions have to have some type of open space associated with them. It is pretty fair in the way it works and the way the land will be utilized in the future.

Speaking from the audience, Erika Bockleman said she had come to the last Planning Commission meeting because she doesn't know what to do with her land because she happens to be involved in a shared driveway issue. She doesn't want to take up time at the meeting, but she doesn't know what to do. A new land use permit has been given, but this issue hasn't been settled, and now she is being asked to sign a new shared driveway agreement. Coming to these meetings doesn't seem to be what she should be doing to solve the problem.

Mr. Hasbrouck asked what the person dealing with her on the new driveway agreement has suggested to solve the problem. Ms. Bockelman said she has been asked to sign a paper and that is pretty much it. Tim Leist said he was involved in the same problem. Five years ago he bought 20 acres off Faussett Road with an easement that went all the way up to his property. Then they split the land ahead of him so he had an easement with the Bocklemans. Now the owner of the property in front has abandoned another easement and put it all on us. I bought my property with an easement shared with the Bockelmans and now Callaghan homes wants to use our easement. That will bother the future use of my 20 acres. He is OK with the easement now, but wondered if he would have to pay for making it a shared road or shared driveway in the future.

Mr. Van Hecke explained that originally, the only one with a house who was using the easement was Bockelmans. Ms. Bockleman said that now there was another party waiting to move in and they have no easement because Callaghans abandoned that easement without telling us and then added them onto ours

Mr. Hasbrouck recalled that the Township had received a request for relocating the easement. The Subcommittee reviewed it and asked the Callaghans to provide the final documents, but they haven't done it. Mr. Van Hecke explained that originally the Callaghans had an approved easement, but they decided they didn't want to use it. Now they have come in to the Planning Commission to change it over. But before they came to the Planning Commission they had a surveyor draw a new site using Ms. Bockleman's easement to drive across the front of her property to theirs.

Mr. Hasbrouck said the Callaghans came in after the fact with a new drawing showing what they wanted to do. Mr. Leis asked if his easement was for two people or four people. When he bought his land there were two people using it and he wanted to know if just anybody could use it. He wished he had been asked before Mr. Callaghan decided to abandon the easement on the west side and move everything to his side.

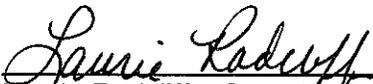
Mr. Hasbrouck explained that we were trying to tighten that up. Your specific case needs more work and the Callaghans have some kind of responsibility to follow through on what was approved. There is still a chance that they might do something. That split was originally approved before we revised our driveway regulations. He told them that if they wanted to come to other Planning Commission meetings they would be welcome.

Mr. Milliken asked if the application for the Callaghan driveway had been submitted. Mr. Hasbrouck said a concept drawing had been reviewed by the Subcommittee but it wasn't complete. Mr. Milliken then reminded the Bockelmans and Mr. Leist that a public hearing would be required because of the location of the easement, and they would be notified. Ms. Bockleman said another building permit had already been issued for their easement after the other driveway was closed. They don't even have a shared driveway agreement, and now her main concern is that she might not even have an easement.

Mr. Hasbrouck said we couldn't give her an answer at this point. Mr. Leist thought the biggest question was who she could talk to to get her questions answered. Mr. Hasbrouck suggested Mr. Kuzner. Mr. Dawson asked her to talk to Mr. Van Hecke first. He can find out what her questions are, answer all the ones he can, and find out the answers to the ones he can't. Mr. Van Hecke noted that new information had come up and asked her to visit him at the office on Monday or Wednesday.

Mr. Hasbrouck asked for suggestions about scheduling the next meeting and it was the consensus of the group that they wanted to wait until after the Christmas Holidays.

**ADJOURNMENT:** 9:30 p. m.

  
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Laurie Radcliffe, Secretary  
Tyrone Township Planning Commission

  
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Barbara Burtch, Recording Secretary  
Tyrone Township Planning Commission