

TYRONE TOWNSHIP PLANNING COMMISSION
Approved Regular Meeting Minutes

November 28, 2006 7:30 p. m.

PRESENT: Bob Byerly, Sally Eastman, Joe Fumich, Dave Hanoute, Mark Meisel, Steve Hasbrouck, Laurie Radcliffe

ABSENT:

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

PLEDGE OF ALLEGIANCE:

CALL TO THE PUBLIC:

APPROVAL OF THE AGENDA:

Mr. Meisel requested addition of Item 4 to Other Business from Members (*)

MOTION: Moved by Meisel, seconded by Hanoute, to approve the Agenda as amended. The motion carried unanimously by voice vote.

APPROVAL OF THE MINUTES:

MOTION: Moved by Eastman, seconded by Fumich, to approve the November 14, 2006 Work Session Minutes as corrected. Motion carried by unanimous voice vote.

Page 1, Line 13: (Mark Meisel - **present until 9:40...**)

Page 1, Line 30: (Moved by **Eastman Eastman**, seconded by **Fumich Fimich...**)

Page 3, Line 1: (...a recommendation with **a** sight...)

Page 3, Line 6: (...was concerned about the sight clearance...)

Page 3, Line 32: (believed **he** had a conflict...)

Page 5, Line 1: (...as well as **Runyan Lake Point Avenue...**)

Page 5, Line 17: (Until **he** Mr. Hicks has proved...)

Page 5, Line 20: (**They We** have already been to the Township Board and they told **them** us...)

Page 5, Line 42: (...see the results one way or **the** other...)

Page 6, Line 2: (...so **we he** weren't going to decide...)

Page 6, Line 11: (Ms. Eastman **asked said...**)

Page 6, Line 15: (Mr. **Sporer Spoer** explained that a letter from the DEQ, dated June 28, 2006, states that...)

Page 6, Line 37: (Mr. Hasbrouck recalled that the Master Plan It is a guide...)

Page 7, Line 16: (...Runyan Lake **Point Pint...**)

Page 7, Line 25: (...there **is in** no requirement...)

Page 7, Line 27: (Ms. Eastman told **them** that the Planning Commission **We** works..)

Page 8, Line 4: (Some of the **of the** property...)

- Page 9, Line 17: (~~and may be found in the Master Plan (page 78) and Ordinance Article 700-~~
LK-1
- Page 9, Line 37: (There County review was based on...)
- Page 9, Line 44: (language would be **clearer clearer** if...**the** right to review may be...)
- Page 10, Line 3: (...and a water frontage)
- Page 10, Line 29: (...from the situation if **there their** is an appearance...)
- Page 10, Line 28: (...dated **11/24/2006**, as amended,,)
- Page 11, Line 32: (...an opinion **from form** the Planning Commission...)
- Page 11, Line 39: (...to maintain contacts with...)
- Page 11, Line 47: (... in **the sewer assessment** district will be notified they have 180 days to
connect to the sewer.

CORRESPONDENCE:

APPLICATION SUBCOMMITTEE REPORT:

OLD BUSINESS:

- 1) Approval of the final text for revisions to Ordinance Article 20.02.A and establishment of a Public Hearing date

Mr. Milliken provided new language and new graphics for Section 20.02.A. The Planning Commission discussed:

- The Board's moratorium on LK-1 splits;
- Revisions to the LK-1 Zoning Ordinance;
- Evaluating the split potential of the Township's LK-1 parcels;
- Using a footnote to require that all LK-1 parcels must have water frontage;
- Revising the width and area requirements for LK-1 parcels;
- Providing for existing LK-1 lots without water frontage;
- The difference between the Master Plan LK-1 description and the Ordinance Lk-1 description;
- The intent of the Township's two LK-1 zoning districts;
- Regulating lots with water frontage that are not in an LK-1 district;
- Effects on the value of existing LK-1 parcels when adjacent parcels are divided;
- The presentation made by the Clerk, certain Planning Commission members and the Zoning Administrator that the Hicks property would not be split into more than 4 parcels prior to purchase of an adjacent property by Mr Meisel;
- Concerns about the division of any other unplatted lake front lots within an LK-1 zoning district;
- Devaluation of lake front property by allowing low cost lots or homes within the district;
- Consideration of minimum rear yard widths for other zoning districts;
- The function of triangular lots as a width adjustment for road curves and natural features;
- Establishment of minimum rear yard width standards for triangular lots;
- Prohibition of any future triangular lots;
- Revising the last line in the first paragraph of footnote C to "...the setback distance specified shall be measured from **any the most recent** proposed right-of-way line..." to comply with the Inter Highway Plan;

- Section I should be compared to the parking ordinance in regard to allowing unrestricted parking in the right-of-way, in B-1, B-2 or ES zoning districts; and
- The Use Chart on page 20-11 should reference a Golf Course or **Country Club**.

Ms. Eastman asked for further information from the Board about the LK-1 moratorium put into place until March. Mr. Van Hecke said he had heard the moratorium was for land division and construction, but he had not received any information.

Mr. Hasbrouck asked Mr. Milliken to prepare some LK-1 draft language for discussion prior to a possible hearing in January.

2) Approval of final text for revisions for Ordinance Article 24.00 and establishment of a Public Hearing date

During Planning Commission review of the language to be added to the Private Road and Shared Driveway Ordinance and maintenance agreements, the Planning Commission members were told:

- "Parcel owners" responsible for maintenance at the intersection of the easement referred to all private access owners collectively;
- The language was modeled on the Attorney's Maintenance Agreement;
- Signatories to the agreement would be responsible for abiding by the agreement;
- Language has been added stating that all users of a private road are responsible for safety and maintenance whether they sign an agreement or not;
- The nonconforming road ordinance requires a maintenance agreement when a request for road use expansion is requested; and
- The length of the cul-de-sac (24.03.F) is measured to the farthest front yard building line setback to accommodate fire hose length.

Planning Commission members asked Mr. Milliken to:

- Split the Drainage and Sight Distance references in 24.03.B into separate sections; and
- Relocate the Intersection Design Standards (24.03.G) to the Sight Distance Section (24.03.B).

Mr. Hasbrouck scheduled a public hearing for the first meeting in January (January 9, 2007) to present the revisions to Article 24.00 and the road and driveway maintenance agreements.

3) Approval of the final text revisions for the Planning Commission Bylaws adopted November 14, 2006

Mr. Milliken observed that the Bylaws had been adopted at the last meeting, but they could be re-adopted at any time if revisions to the text were needed.

The Planning Commission asked Mr. Milliken to make the following revisions:

- Page 3 - Remove Section 3.02 and replace it with 3.03 ~~Other~~ **Subcommittee Meetings**. At their discretion, the Planning Commission may form ~~additional~~ subcommittees for the purpose of reviewing ~~and processing~~ applications, issues and projects of interest to the Commission. Each subcommittee shall consist of not more

than three (3) Planning Commission members but may include ~~additional~~ members of the public.

- Page 5 - Correct the 3.09 Agenda "Subcommittee Application Report" to **Application Subcommittee Report**, and
- Page 5 - Relocate Section 3.10 - "Posting" to the duties of the Secretary.

MOTION: Moved by Meisel, seconded by Hanoute, to table approval of the final text revisions for the Planning Commission Bylaws until the next meeting to allow for additional revisions. Motion carried by unanimous voice vote.

NEW BUSINESS:

- 1) Review of proposed revisions to Article 2.01 - Definitions, 4.03 - Special Land Uses and 22.05 Site Design Conditions related to Agri-Business

MOTION: Moved by Radcliffe, seconded by Fumich, to suspend the rules and begin with Item 2 under New Business.

Ms. Eastman said she understood the motion, but there was a resident in attendance interested in the Agri-Business request (Item 1). Ms. Radcliffe withdrew her motion and Mr. Fumich withdrew his second.

Mr. Milliken reviewed his recommendations for revisions to the existing ordinance which presently restricts agricultural sales to roadside stands for items grown or raised on the farm. To create a new agri-business definition, his criteria were 1) there must be an agricultural use on the site; 2) the retail sale of items raised or grown on the site must be maintained; 3) the items must be related to the primary agricultural use on the site, and 4) the use must fit one of the categories mentioned at the end of Section 4.03. The special use categories would be 1) food service using products grown on site; 2) historic or natural features tours, 3) sale or production of specialty products incorporating materials grown on the site; and 4) specific special events related to the agricultural use which meet criteria established in other sections of the ordinance. Amendments to other ordinance sections which would apply to the agri-business special use categories are based on these criteria.

During review of Article 22.05.R, the Planning Commission discussed:

- Limiting the facility size to 4,000 square feet to help control the amount of traffic in and out of the site;
- The use of pre-existing buildings larger than 4,000 square feet;
- Methods of permitting special events;
- Referencing the permitted special uses and the routine special events in the Special Use Permit;
- Substituting "agricultural crops or products" in place of "produce;"
- Reconsidering the size limits for facilities (4,000 square feet) and retail space (1,500 square feet);
- Specifying the types of buildings to be excluded from the maximum footage restrictions;
- Insuring that uses by right are not defined as special uses;
- Ways to regulate the scale of the special use operation;

- Assuring that tourism is allowed as one of the agri-business uses;
- Instances where a 4,000 foot retail area might be restrictive;
- Considering an 8,000 or 10,000 square foot facility minimum, and
- Clarifying the intent of the introductory paragraph in Section 22.05.K.

Mr. Milliken was asked to refine the language and reconsider ways to allocate the footage or increase the minimum allowance.

MOTION: Moved by Hasbrouck, seconded by Eastman, to table further discussion of the Agri-business text amendments pending further revision. Motion carried by unanimous voice vote

- 2) Request of **Dan Callan**, purchaser's representative, for re-approval of the expired Preserve residential site plan. The site plan was last reviewed in 2005 for relocation of open space.

Mr. Callan said that the purchaser was requesting no changes to the original site condominium plan (approved 8/14/98). The boundary realignment (approved 9/6/05) divided the original development into four parcels—golf course, residential, site condominium, and open space. They are asking for reapproval of the residential plan so the sale can proceed.

Mr. Hasbrouck asked if any changes had occurred in the way things were built as opposed to the way they were shown in the plan. Mr. Callan said there were no changes. The plan prepared by Boss Engineering for the land division reflects what has been built and what is approved. Mr. Hasbrouck observed that the condominium site plan showed golf course pathways and walking trails. He wondered if those would still be included as shown in the residential plan reapproval. There was also a reference to golf course memberships on the plan and wanted to know if those were still available or if that part of the site plan had been changed.

Mr. Callan said that was all changed when the golf course was separated from the residential property. As it was approved last year, the residential property is completely separate from the golf course and there is no tie in. The open space that was on the golf course was changed to the 32 acres in Section 9 (sic).

Larry Czekaj, representing the property owner (TCF) said he had appeared before the Township in October and November of 2004 for reaffirmation of the original site plan approved in 1998.

The site plan was reaffirmed in July of 2005 when the open space issue was resolved. Open space from the golf course was transferred to the balance of the residential property as well as the Section 9 property. Mr. Fumich recalled they were 2 acres shy of the required open space. Mr. Czekaj said they had been granted a variance for the two acres by the ZBA at the same time they were given a variance for the percentage of open space located in wetlands in July 2005 (June 6, 2005).

In 2004, when the Township questioned the amount of construction done, we told them the residential development was finished. The roads are in, the utilities are in and the lots have

been described and approved. The open space relocation was requested by Coyote Preserve Golf Course. It wasn't a TCF issue it was a golf course issue, and we only agreed to cooperate. The open space was not a part of the site plan reaffirmation. The 2004 meeting minutes specifically stated that the open space was not a part of the site plan reapproval.

We are here because we were told our site plan had expired, but the road work is in, the utilities are in, and the only thing missing are the sewer trenches in the back phase. We have complied with the site plan, although we have been told we have not. Not being able to sell lots isn't a reason to have the owner come back for site plan re-approval. He doesn't believe the site plan has expired, and everything is done except for the final asphalt wearing course, which won't go on until the home sites go in.

Mr. Hasbrouck asked if he considered that the project was a full condominium development when the sewers weren't constructed throughout the project. Mr. Czekaj said the trenches weren't put in because they had approval for a community system until sewers become available.

Approximately two years ago, the numbers were removed from lots 1 through 46 (Phase I) and he didn't know why. The Preserve Master Deed was written for 26 lots. It is an expandable condominium project. The 46 lots without numbers can become a part of this project or they can be created as a separate condominium. The expansion phase time period has expired, but the lots can be brought back in as a new phase or created as new project because the residential phases are separated. That was done so that different development standards could be applied to the different phases.

Mr. Hanoute asked if the Township Board had approved the 2005 land division request. Mr. Hasbrouck explained that the Board has been working with the Preserve on a sewer plan which indicates they are aware of the plans and agree with them so they must have approved the plan.

Mr. Czekaj said the land in Section 9 was owned by Golf Course Properties, LLC the former owner of the golf course. That is a subsidiary of TCF Bank which owns the residential parcels. Mr. Hanoute asked if that was a separate entity from the other two. Mr. Czekaj said it was. It was brought into play for purposes of open space. Mr. Hanoute and Mr. Van Hecke recalled that the ZBA had approved the open space variance, so that really wasn't an issue.

Ms. Eastman referred to legal descriptions and other documents which she requested at the time the site plan was re-approved. Mr. Van Hecke said that we still had not received any descriptions for the residential parcel containing proposed units 1 through 46 or the legal descriptions of the units shown on the 1998 site drawing. Parcel numbers can't be assigned until the legal information comes in. Mr. Czekaj said he had the information and it would be easy to resurrect. Ms. Eastman said we would be willing to give them the 46 lots as they originally were proposed, but we don't have any information about them. We also asked for legal descriptions of the two open space parcels associated with the residential development. We don't have any information about them.

Mr. Van Hecke said the open space parcels had been combined under a single parcel identification number. That may have been done because the taxes were being appealed to the State Tax Tribunal.

The Recording Secretary said the plan was brought back for re-approval because the information at the Township did not match the plan approved in 1998 and the information requested related to the first reapproval had not been provided. Mr. Czekaj explained that this was not a phased project. It was a plan approved for 72 lots and that is what they were asking for.

Ron Gordon, one of the proposed purchasers, thought the lots would have been surveyed and staked for final approval. The questions should be if there would be a problem getting 46 individual tax ID numbers, if there was going to be a problem to get the sewer installed in Phase II (approved as Phase I), and if there was going to be a problem in tying into the sewer system. The project is built. Mr. Hasbrouck told Mr. Gordon the project was almost built and there are things still to be done.

Mr. Milliken informed the Planning Commission the plan didn't need to be here for reapproval. The ordinance says the approval shall expire one calendar year from the date of such approval unless construction has begun in accordance with the plan (Section 23.12). It was his opinion that installation of the road is construction in accordance with the plan and they comply with the ordinance requirements. They don't need to be here for that purpose.

Mr. Hasbrouck asked about the legal situation when the lots aren't shown as separate units. Mr. Milliken said he wasn't aware of that issue. The plan could go forward and the descriptions could be taken care of administratively. Mr. Hanoute asked about the open space, and Mr. Callan said it will be included as an addition to the drawings presented to the Planning Commission. Mr. Callan felt the Board had already approved the request, because the Zoning Administrator was issuing land use permits.

Mr. Fumich asked, if we didn't have to reapprove the plan, what we should do about the other items that haven't been completed. Mr. Hanoute thought the legal descriptions could be assembled at any time. What was important was to prove that the Board had approved the separation of the golf course and the residential property (approved 9/6/05).

Mr. Czekaj said there were two Parcel ID numbers in 2004 when the land division was approved. One for the golf course and the land in Section 9 and the other for all of the property north of the golf course. The residential component to be purchased is property owned by TCF Bank. The boundary realignment was between Coyote Preserve and Golf Course Properties. The owner of the residential property is TCF Bank. Somebody split off the golf course before the bank's time from a parcel that was originally approved as a site plan with 72 residential units surrounding a golf course. The legal boundary of the golf course shouldn't have anything to do with the approval of the 72 lots.

Mr. Czekaj complained that he has been coming here since 2002 and he has had issues and no results. For example, he spent a lot of time and money in 2004 addressing the issue of whether he has site plan approval. There is no need for us to have reaffirmation of the site plan approved in 2004. Now the issue raises its head again and you are telling me what I have done as a developer doesn't apply and I am told over the phone that the site plan has expired. You get to take shots at me all over again and that is why I am frustrated. Your Planning Consultant just said the site plan, as approved, is good. The legal descriptions are someplace in this building

Ms. Eastman said she had asked for the descriptions in 2004 and couldn't understand why Mr. Czekaj had trouble providing them. Mr. Czekaj asked Ms. Eastman if it would make her feel better if he told her they had been provided. Ms. Eastman said it would make her feel better and asked him if he had, in fact, provided the information. Mr. Czekaj said he thought he might have provided it.

Mr. Hasbrouck said he didn't think there was an issue with the site plan and Mr. Czekaj was going to give us the information we need. Mr. Gordon said he asked to come to the Planning Commission just to make sure there were no snags and he could get 72 lots. He asked the Planning Commission for conditional approval pending legal descriptions. The Section 9 property will be conveyed as part of the residential development.

Mr. Czekaj interrupted to say the Section 9 property was a contract issue between Mr. Czekaj and Mr. Gordon. That property is not part of the 72 lot residential property. The open space requirements for the residential property were imposed on Section 9 and that is why we came back in 2004. The golf course open space was not there to satisfy the golf course requirements, but was put in place to satisfy the adjusted lot size for the residential components. The Township's position was that if the open space was taken from the golf course, it had to be relocated. Right now, we have only agreed to what is open space, what is uplands, what is wetlands, and what will satisfy the requirements for the 72 lots, but not the ownership.

Mr. Hasbrouck noted that the plan had evolved significantly since it was first presented, but we should continue with the residential layout as it was originally shown. The intent is still that they will hook into the sewer system and replace the existing community system. Right now, there is nothing that shows us there are 72 lots except a piece of paper. There is no legal work. When there are legal descriptions the Planning Commission can recommend reinstatement of the plan and request that the Assessor issue parcel numbers.

Mr. Czekaj said the Master Deed and Bylaws were being revised to include conservation easements required by the DEQ. Some of these overlap the open space. Mr. Hasbrouck told him that our Attorney should review any revisions to the Master Deed and Bylaws before they were recorded. Mr. Hanoute asked for a copy of the ZBA recommendation regarding the open space and wetlands variance.

In response to a question from Ms. Radcliffe, Mr. Czekaj said there were two project entrances. One from the new portion of Lee Jones Road and the other from Linden Road. The Linden Road entrance was gated to control vandalism, but there was a lock-box installed with approval of the Fire Department. Mr. Fumich commented that their entrance light at US 23 wasn't working.

Mr. Czekaj asked if we had any information about the dedication of the new Lee Jones Road easement to the Township because he couldn't find his. Mr. Van Hecke said he would investigate the status of the easement with the Road Commission.

Mr. Hasbrouck didn't feel a motion for reapproval was necessary in this case. The applicants and Mr. Czekaj were aware of what needed to be done in order to get parcel ID numbers and the Planner felt enough construction had been done to not require formal reinstatement of the plan. As soon as the legal information was returned, the Township could begin issuing parcel

ID numbers.

3) Election of Officers

MOTION: Moved by Hanoute, seconded by Fumich, to nominate the current slate of officers.

There being no discussion, Mr. Hanoute moved to elect the current Planning Commission officials and Mr. Fumich seconded the motion. Ayes: Radcliffe, Hanoute, Eastman, Fumich, Byerly. Abstention: Hasbrouck. Nay: Meisel.

The motion to elect Steve Hasbrouck as Chairman, Sally Eastman as Vice-Chairman, Laurie Radcliffe as Secretary, and Mark Meisel as ZBA representative carried by majority voice vote.

Mr. Hasbrouck said he would be willing to continue as a member of the Application Subcommittee and asked Mr. Hanoute to continue as Chairman. Joe Fumich was reappointed as a third member and Laurie Radcliffe was reappointed as an alternate.

OTHER BUSINESS FROM MEMBERS:

1) Recording of Land Divisions

Discussion was postponed for the next meeting.

2) December 26, 2006 Meeting

The Planning Commission members agreed to cancel the December 26, 2006 meeting.

3) Magazine Subscriptions

The Planning Commission members agreed to ask Township Clerk Morton to discontinue the subscription to the "Zoning Practice" magazine.

4)* Discussion of Board requirements for approval of the Zoning Ordinance amendments

Mr. Meisel told the Planning Commission the Board had tabled review of the general MZEA amendments for further explanation of the text changes. He had discussed their requirements with Mr. Kurtz and volunteered to provide the information they needed.

ZONING ADMINISTRATOR'S REPORT:

ZONING BOARD OF APPEALS REPORT:

- 1) Mr. Meisel reported that the ZBA had denied a front yard pole barn request because the applicant had not proved that the lot encumbrances he claimed were great enough to prohibit compliance with the ordinance.

BOARD ACTION:

1) LK-1 Moratorium

Mr. Byerly said the Board had passed an LK-1 moratorium. The details were in the motion.

FUTURE AGENDA ITEMS:

NEXT MEETINGS:

December 12, 2006 - Work Session

December 19, 2006 - Subcommittee Meeting

December 26, 2006 - Cancelled

January 9, 2007 - Work Session

ADJOURNMENT: 10:45 p.m.



Laurie Radcliffe, Secretary
Tyrone Township Planning Commission



Barbara Burtch, Recording Secretary
Tyrone Township Planning Commission