

TYRONE TOWNSHIP PLANNING COMMISSION

Approved Meeting Minutes

September 9, 2008 7:00 p.m.

PRESENT: Bob Byerly, Joe Fumich, Dave Hanoute, Ed Kempisty, Mark Meisel, Laurie Radcliffe,

ABSENT: Gary Butler

CALL TO ORDER: 7:00 p.m. by Chairman Hanoute

PLEDGE OF ALLEGIANCE:

CALL TO THE PUBLIC:

- 1) **Scott Dietrich**, 13505 White Lake Road, asked to address the Planning Commission regarding noisy events held at the Heavenly Scent Herb Farm. He stated that the Mathews were scheduling tent parties and serving liquor on the property. He can hear the music and noise from his house. He wanted to know if the owner had ever come back to the Township for approval to sell food at that location, because their web site offers several tent and dance floor packages. Our community is residential. It's not zoned for parties.

Mr. Hanoute explained that Mr. Deitrich's concerns are an enforcement issue at this point and should be brought before the Township Board. Mr. Meisel asked if the Mathews had received a Special Land Use Permit. Mr. Hanoute said the process had been started but not completed. If they are conducting the activities as Mr. Deitrich said, that makes them in violation of the Zoning Ordinance.

APPROVAL OF THE AGENDA:

Mr. Meisel asked to speak during Other Business from Members regarding the Zoning Ordinance distribution

Moved by Fumich, seconded by Kempisty, to add Mr. Meisel's comments as Other Business from Members, Item 1. Motion carried by unanimous voice vote.

APPROVAL OF THE MINUTES:

- 1) August 12, 2008 Meeting Minutes

Moved by Meisel, seconded by Radcliffe, to approve the August 12, 2008 Planning Commission Meeting Minutes as corrected. Motion carried by unanimous voice vote.

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- Page 1, Line 22: (...approval of his requestas **directed by the Planning Commission on July 22, 2008**)
- Page 3, Line 2: (...kiosks tend to under-utilize valuable land...)
- Page 4, Line 8: (...wait until **someone**...)
- Page 4, Line 19: (...request the Planning Commission...)
- Page 4, Line 32: (...two Board members and it **was proposed** two Planning Commission...)
- Page 4, Line 44: (...so the drawings **matches** what the records show.)
- Page 6, Line 4: (...areas need to **be fenced and striped**.)
- Page 6, Line 28: (...**Site sight** drainage....)
- Page 7, Line 16: (...prior to the opening **of the facility**.)
- Page 9, Line 22: (...Regular Meeting **and Public Hearing**)

CORRESPONDENCE:

SUBCOMMITTEE REPORT:

1) **Helen Bantle** Land Division Report

Mr. Hanoute explained that the report described what had transpired at a meeting attended by Board Members Dave Kurtz and Steve Nagy, Planning Commission Members Ed Kempisty and himself, Attorney Dale Schaller, and Ron and Caroline Bantle regarding the Helen Bantle Estate Land Division request.

Mr. Hanoute stated that the group reviewed all of the Bantle's proposed Land Divisions for the current parcel where there were a number of easements and access problems. The Bantles described what they wanted to do, and the group went through the steps which would have to be taken to achieve their goals. The report generally records what was discussed and the information that will be required. We are waiting for the information requested at the meeting before taking further action on the request.

Mr. Meisel said it was generally intended that the Bantles provide the recorded descriptions of all land divisions which may have occurred prior to March of 2008, so the Township can identify what they actually did, make corrections to the Township records, and amend what has been done to comply with the Ordinance.

Carl Gill, 8374 Bennett Lake Rd., asked why he wasn't notified about the meeting. He said there should be some kind of regulation that includes all of the owners. After a further exchange of views, Mr. Gill was asked to sit down and the discussion was ended.

Mr. Hanoute asked to have the Bantle Land Division Report placed on file.

OLD BUSINESS:

- 1) Request of **Erin Cassavoy** for a Special Land Use Permit to operate the **Christian Day Montessori School and Child Care** facility at 10441 Denton Hill Road, OS parcel 11-200-012

Mr. Hanoute noted that a sketch of the parking lot had been received as requested during the July 22, 2008 meeting. The purpose of this meeting is to spell out the procedure and information requirements for a special land use permit.

Ms. Cassavoy asked why she has to have a special land use hearing if the property was already zoned OS (Office Service) and the building was already used for child care services. No one else who used the building had to have a special land use permit.

Mr. Van House, owner of the property, said he ran a day care there for 13 years and had received a special land use permit at the time, but the Township can't find their copy and he can't find his copy. The use was established in 1992. He can't understand why Ms. Cassavoy has to go through all this time and expense for something that is lost.

Mr. Hanoute said he had a copy of the information in the Planning Commission files and there is no record of a special use permit being applied for, and no record of a special land use permit public hearing. There was a rezoning to Office Services (OS), but the daycare center requires special use approval with that zoning classification. Mr. Van House replied that he came before the Board and tried to do everything he was told. He operated the business for 13 years without complaints, and it has been opened two other times since then for short periods of time. It was used for a few months less than a year ago. Ms. Cassavoy said she had signed letters from all of the neighbors stating that they didn't object to a child care facility.

Mr. Hanoute explained that there are a number of Zoning Ordinance site violations. The lights are not shielded properly or directed at the parking lot; there are drainage and erosion issues where water from the parking lot collects and winds up on the neighbor to the north, and the fenced play area extends into the asphalt parking area. Generally, the main issues are parking, lighting and storm water management.

The parking lot has not been striped as requested. As shown on Ms. Cassavoy's layout, cars have to back all the way across the parking area before they can turn around to get out of the front drive. She should use the arrangement shown on an earlier site drawing (1-16-96 rev.) Other Planning Commission recommendations for inclusion in the site plan were related to screening, trash collection procedures, parking space dimensions, and removal of the fence from the parking lot. Ms. Cassavoy told him that part of the parking area was fenced because state licensing requires a hard surface play area for children. Mr. Hanoute explained that is a situation that sets up a dangerous situation and the fence needs to be protected.

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Mr. Van House said that he had an expansion plan approved in 1995 and has proof of the approval at home. There was a one year term for completions, but he just couldn't do it financially. Mr. Hanoute told Mr. Van House that the 1996 expansion plan has expired. What is shown on that drawing isn't what exists at the site in terms of landscaping, parking, and drainage. Water can be discharged onto neighboring property as part of the natural flow, but it has to be released in a specific manner.

Ms. Cassavoy said all of the problems will remain whether she opens the child care facility or not and wondered why the problems fell on her. Mr. Hanoute explained that the problems didn't fall on her. They fall on the owner, but the only leverage the Township has to correct the problem is to not allow you to open for business until the deficiencies are corrected. Ms. Cassavoy replied that the state investigator wasn't concerned about the parking and drainage. Mr. Hanoute explained that the state oversees the program and the interior of the building. Oversight of the exterior property is left to the Township.

Mr. Fumich recalled that a few years ago when they looked at a building expansion, the Road Commission indicated there was a tree that should be removed to improve sight distance. School buses had to stop on Denton Hill Road and the children had to be met by someone from the facility. Ms. Cassavoy replied that she wasn't doing a latch key program. She is working with children under school age and doesn't plan to provide latch key programs in the future. Mr. Van House said the tree was not on their property. He talked to the neighbor about removing it, but nothing has been done. Mr. Hanoute told him that the tree was his problem, not the neighbor's. Once you have permission from the neighbor, it's up to you to do the work to comply with the Road Commission recommendations. Ms. Radcliffe reported that visibility leaving the site was very poor.

Township Planner Sally Hodges recommended that the Planning Commission determine if the use has been abandoned or if it is a continuation of a pre-existing non-conforming use. The lack of approval evidence indicates that the Planning Commission should require application for a Special Land Use Permit review. The property doesn't conform to the Ordinance now and probably didn't conform in the 90's either. Ms. Cassavoy's parking plan was accepted as an interim plan to allow the facility to open, but the approval should follow the process.

Mr. Van House said the property has always been in use and has only been empty for just a few months. The previous user operated continuously until he had to have her ejected sometime in April of 2007. The building was leased out last summer for three months and was vacant again in October 2007. It has been vacant since October 1997 when Ms. Cassavoy leased the building. She has met all the state licensing requirements.

Mr. Kempisty said he still has concerns about lighting, parking, and fencing at a minimum with secondary concerns about ponding and drainage. Ms. Cassavoy said the Environmental Health Department didn't mention anything about parking. Mr. Hanoute reminded her that parking and other site issues were the responsibility of the Township not state or county agencies. We can regulate conditions that protect health, safety and welfare.

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None of the lighting is shielded. The barn light on the south end of the building doesn't have a lens and you can see it for half a mile. That's an issue for the people next door. You could remove it, but you will still will have to have a light for every required exit. The parking lot lights are currently directed at the neighbors to the north. Ms. Cassavoy said the lights were regulated by timers at 6:00 am and 6:30 p.m. Mr. Hanoute commented that the neighbors might not object now, but new ones might not.

Mr. Meisel noted that we have worked with the applicant to establish some minimum requirements to allow the facility's use until November. The intent is to work through the process to improve the property, meet Township standards, and at the same time provide an opportunity to earn some income to meet our special land use requirements and hold a public hearing. We need a site plan whether we have a hearing or not. We can help prioritize the process so the improvements can be paid for and establish criteria so she can continue to move forward with property improvements as income is generated rather than have a non-conforming vacant building.

Ms. Hodges noted that Mr. Van House and Ms. Cassavoy would still have to address the parking, lighting, drainage, and fencing issues that came up in the previous site plan review (1/16/96 rev.) and then show the revisions on an accurate site drawing so there is a reference document. Mr. Hanoute reminded Ms. Cassavoy that all building dimensions would have to be accurate. The process can be phased, but the Planning Commission has to enforce the Ordinance and the applicant needs a professional drawing to provide a reliable record with accurate measurements.

Mr. Van House summarized the issues as he understood them---parking, shielding the exterior lights including the light over the south end door so they don't shine on neighbors, providing protection for the part of the parking lot children use for a play area to make it safe, and correcting the drainage. Mr. Hanoute said that bumper blocks could be used in the parking lot but they should be anchored to the pavement and kept away from the fence. The "U" shaped parking area proposed by Ms. Cassavoy won't work. She needs to delineate the general parking area, the barrier free parking area, the loading and unloading area, and show the bumper block locations including those used in place of curbs between the parking area and sidewalk, and direct the shielded lights to the surface of the parking lot to protect the neighbors.

Other Planning Commission recommendations were to request speed limit signs in the vicinity of the entrance, check the delinquency status of the taxes, provide the dimensions of the play areas to insure compliance with the minimum Zoning Ordinance area requirements, and indicate the type of screening to be used at the property lines.

Mr. Van House wondered why the play area needed screening. Ms. Hodges said the Ordinance required screening to separate the unlike zoning districts. The screening can be a fence, a berm, or plant materials. Trees would be best solution in this case. They were proposed in a previous site plan but not provided. Mr. Hanoute said the new plan should also show the location of site lighting, the location and type of drainage structures, and the

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building and parking lot yard setbacks. There should be a list of the agencies responsible for reviewing the facilities and issuing permits. Copies of the permits should be on file at the Township Hall for reference.

Mr. Hanoute said he wasn't inclined to recommend a special land use permit without a public hearing. Ms. Hodges commented that there was no evidence of a special use permit being obtained and no evidence of a special land use public hearing. Mr. Hanoute asked to have the Ordinances researched to determine the status of day care in the OS Zoning District in 1983 and thereafter.

Mr. Van House said he purchased the property in 1992 and had the rezoning done at that time. Ms. Hodges said that even though the property had OS zoning, a special use public hearing and site plan review is required for a nursery school or day care operation. Mr. Van House replied that they went to the Planning Commission first and were told they had to go to the Zoning Board for special use permission. As far as he knows, they changed the zoning for him at that time. Ms. Cassavoy said she wanted to have the special land use Permit history researched. Her parking plan was submitted on time even if it wasn't accurate or correct. Mr. Van House asked if there was a site plan on record.

Mr. Hanoute asked to have a special use research report at the next meeting while the applicants work to develop a site plan which depicts the site as it is. The research will determine whether a hearing is required or not. We could extend the process beyond November 11, 2008 as long as the applicants make progress toward completion of the special land use permit requirements.

Ms. Radcliffe wondered if we should extend the November deadline because the parking drawing was not acceptable. Mr. Hanoute told Ms. Cassavoy that we need a professional site drawing which will guarantee accurate dimensions and show the correct locations for parking bays, parking bumpers, drainage structures, lighting and screening. We will make a determination about the special use public hearing after the Township does some research and Ms. Cassavoy brings back a site plan. Mr. Hanoute asked to schedule review of a revised site plan for the November 14, 2008 meeting

2) Review of the proposed **PIRO Zoning District** text (9/04/08 rev.)

Ms. Hodges said the proposed PIRO District was comprised of three overlay districts. Parcels within the PIRO district would be rezoned to one of three categories---Research and Office, Light Industry, or General Industry.

Mr. Hanoute asked why rezoning would be required if the use areas were designated on the Future Land Use Map. Ms. Hodges said the Master Plan mixed high tech uses with industrial uses in the same location. Mr. Hanoute said he understood that the colors shown on the Future Land Use Map would take care of that. The map indicates where the various uses should be located so they won't have to become separate zoning districts. Ms. Hodges said she had recommended overlays because the PIRO District goes from a Master Plan category to a zoning category---going from concept to law.

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Mr. Meisel thought we should refer to three categories of PIRO. Mr. Hanoute said he isn't convinced that an overlay is the easiest way to designate PIRO uses. Right now, the property is zoned FR unless we rezone it administratively. That might limit what could be done, so we might want to wait for a requests from parcel owners.

Mr. Meisel commented that within the PIRO District we have three uses and the overlay will come into play when we rezone the property to one of the uses. There is a gross category and three sub-categories. Maybe the word "overlay" is the problem. Ms. Hodges said that in the purest form an overly provides an additional set of regulations or restrictions in addition to the basic requirements.

Mr. Hanoute asked if the tax base would change once the property is rezoned from FR to PIRO. Ms Hodges said the taxes are based on use. Mr. Hanoute thought it would be best to wait for a request, as long as it fell within the framework of the PIRO district and the PIRO uses. The concept will be to rezone to one of the three PIRO district uses shown on the Master Plan.

Tim Nelson, 360 Balfour Drive, asked if the plan was to individualize the uses. Mr. Hanoute said that applicants would have to conform to the PIRO Ordinance classifications and requirements based on the Master Plan graphics. Research and Office development would be located around the perimeter of the site. Light Industry would locate behind the Research and Office uses and Heavy Industry would be in the core of the site where it is farthest removed from the highway and residential areas. As long as land is available within a specific section of the PIRO district, you could put two or three heavy uses next to each other. To rezone, the applicant would have to ask for a use that will be allowed in the district where the parcel is located.

Mr. Hanoute said his whole concern about the PIRO development was fragmentation. Over time, individuals will come in and request rezoning for small parcels at the road first. Initially, we discussed doing a preliminary road layout for the various sections to try and attract developers to the location to develop some of the infrastructure. We need to give them some guidelines and direction. Otherwise it will develop with flag lots like many other places.

Mr. Fumich asked how that could be controlled if you don't own the property. Mr. Hanoute thought we should consider a preliminary road layout. Ms. Hodges suggested offering incentives to comply with a preliminary layout by allowing additional density, different setbacks, or financial benefits. Mr. Hanoute said the Township didn't want to spend the money to plan the area, so the Planning Commission had set up a general outline. Now we need to plan out the next step.

Mr. Hanoute asked how the 30% open space requirement was derived (Page10, Item H). Ms. Hodges said it was derived from one of the existing Ordinance districts to help maintain a campus like development. Mr. Meisel suggested including bonus conditions and discretionary statements to allow open space negotiation.

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Mr. Hanoute asked who would be responsible for the purchase or maintenance of open space located away from a development site. Ms. Hodges said that part of the predetermined open space shown in the center of the PIRO district could be attached to parcels adjacent to it. Mr. Hanoute and Mr. Meisel thought there should be some sort of financial plan for contribution to the open space in the protected area on the site. Ms. Hodges asked who would own the open space(s) if the Township accepted a financial contribution in return for open space. Mr. Hanoute said that originally, the PIRO open space area was set off to buffer high intensity uses in the middle of the site as well as protect natural resources.

Ms. Radcliffe recalled that the PIRO plan was developed as a concept. There weren't any hard and fast lines, and the use districts could be allowed to overlap each other. Ms. Hodges said she would try to come up with suggestions for open space design and layout without having a controlling entity. Mr. Hanoute thought that any entity which wanted to contribute their open space to the central site, would have to contribute a pro-rata share to maintain it. Mr. Meisel wondered what would happen if green space property isn't available for purchase and eventually becomes worth more than an industrial site. Mr. Fumich suggested not requiring any open space for development parcels, but establishing an account to help purchase and develop the open space shown on the site map. Mr. Hanoute thought some open space percentage should be required for on-site location and another percentage could be required for an off-site location. Ms. Hodges suggested organizing it like a community storm water system, with some sort of entity to run it.

Mr. Hanoute questioned the minimum site requirement (3 acres). Mr. Meisel asked how small parcels would relate to fragmentation of the Master Plan. Maybe we should use larger parcels, but consider flexibility in the plans for open space development.

Referring to Page 10, Item M - Maximum Building Coverage, Ms. Hodges said there would be parking, storm drainage, building coverage and setbacks to consider in addition to the buildings on the site. Mr. Hanoute suggested drawing a schematic layout to see how the site coverage might work. Ms. Hodges thought that the Planning Commission might want to allow additional coverage for heavier uses. Fifty percent is common in heavier use districts, with 40% in the light industry and general industry classifications.

During discussion of the text, the Planning Commission requested the following revisions:

Page 1, Section _01: APPLICABILITY OF ~~OVERLAY~~ ZONING DISTRICT,

Remove "Overlay" from the column headings

The PIRO District is a combination of three ~~overlay~~ districts...

Page 2, E. Summary Table: Use designations, "Permitted," "Not Permitted" or "Special Land Use," were provided for each PIRO classification

Page 8, C.2: Revise to: (...larger buildings shall be made to appear smaller by varying..._

Page 9. E. Utilities: (...service lines, transmission lines, ~~transformers~~ appurtenances and accessories...)

(Utility meters shall **also** be located...)

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- Page 10, Section __.04: Clarify the intent of the District Boundaries Section,
Page 11, Section C.1, Mr. Hanoute recommended a 7 foot sidewalk abutting a parking area to allow for vehicle over-hang.
Page 11, Section D: Delete the item from the General PIRO section and include it in each specific use article with inclusion of parking, loading, and dumpster standards referenced by Ordinance Section
Page 12, Section D.1..b, (...compatible with the character of the adjacent **unlike residential area**)
Page 12, Section D.2.b. (...break up the visual pattern of paving areas)
Page 12, Section D.3. (All setback areas shall be landscaped with...)
Page 14 Section __A. (**Outdoor Storage and Display**. Outdoor storage ~~or display~~ of goods...),
Page 15, D and E: consideration of an area of 5 to 7 acres as a useable site coverage. The Planning Commission estimated the TRW site as 10 acres, with most of it covered by structures. Mr. Hanoute thought there wouldn't be anymore plants like that located in the Township and 5 to 7 acres would be a useable sight.

Mr. Hanoute asked for a final PIRO text review to discuss at the next meeting.

3) **Cambridge Companies** recommendations for amendments to the Township Master Plan

Mr. Hanoute said he met with Mr. Guidobono and Clerk Hod Morton last Friday (Sep 5, 2008). Mr. Guidobono brought copies of the PUD and PCS documents with his revision recommendations. Copies of the corrections have been provided for review. Mr. Hanoute said he asked him to come to our next meeting to discuss his recommendations after we have had time to review them.

Mr. Guidobono reported that he had met with some of the Peisner Acres residents and made them aware of his plans. There are overall issues to discuss, but he isn't ready to move forward until the market is better.

Marino Bernardi, a Peisner Acres resident introduced himself as a coordinator for Peisner Acres and said he had discussed some of their concerns with Mr. Guidobono. They will be willing to work with the developer when the time comes.

4) Comments regarding the PCS and PUD Zoning Ordinance amendments prepared by **Cambridge Companies**

Mr. Hanoute asked the Planning Commission to review all of Mr. Guidobono's comments for discussion at the next meeting.

NEW BUSINESS:

OTHER BUSINESS FROM MEMBERS:

- 1) Mr. Meisel said the the books distributed to the Planning Commission are updated versions of the Ordinance. Each book has a number, so future updates can be tracked after they have been distributed. This is the same copy of the Ordinance that is on the web site. Eventually, it will be compiled in a single document to permit searching.

ZONING ADMINISTRATORS REPORT:

BOARD ACTION:

FUTURE AGENDA ITEMS:

Report on the Van House Special Land Use Permit Records

Discussion of the PIRO and PUD Ordinances with Mr. Guidobono

Establishment of a Public Hearing for Property at 8444 Bennett Lake Road


NEXT MEETINGS:

September 22, 2008

October 13, 2008

October 27, 2008

ADJOURNMENT: 9:20 p.m.



Laurie Radcliffe, Secretary
Tyrone Township Planning Commission



Barbara Burtch, Recording Secretary
Tyrone Township Planning Commission