

TYRONE TOWNSHIP PLANNING COMMISSION

Approved Meeting Minutes
October 14, 2008 7:00 p.m.

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

ABSENT:

CALL TO ORDER: 7:00 by Chairman Hanoute

PLEDGE OF ALLEGIANCE:

CALL TO THE PUBLIC:

- 1) Merino Bernardi, 11346 Balfour Drive, introduced a document to be placed on record for the Planning Commission to read, understand and act on. He told the Planning Commission of his difficulty with the Master Plan as it is today and referenced letters he had forwarded to the Township requesting certain things to include if property adjacent to Balfour Drive is ever developed. It is six years later and he is negotiating such a request with the developer. He feels very strongly that there should be a wall between the development and Peisner Acres. That should have been noted somewhere.

He has asked the developer to submit a list of his requests to the Planning Commission to put into the preliminary draft of the PUD. The developer hesitated to do that, so Mr. Bernardi decided that he and the developer should meet with Mr. Schmidt next week. In the meantime, he wants the Planning Commission to incorporate everything he has suggested into the Master Plan. Input at Public Hearings is really a problem. He doesn't believe that any serious action has been taken on his comments and the Planning Commission will have to prove it to him if they want to change his mind.

Mr. Bernardi referred to a letter from Supervisor Schmidt stating he had attended numerous Planning Commission meetings and found that Mr. Hanoute is most accommodating to the public. Mr. Bernardi said that wasn't true because he has never heard from the input he gave the Planning Commission six years ago. Another letter was sent to the Planning Commission in 2002 stating that he wanted a wall, a berm, and so forth, and included a sketch about where the wall and the berm should be. He wants it put on record that a letter did exist and it was sent to Mr. Hanoute.

There was an impromptu meeting in this room on October 8, 2008. Probably 14 or 15 people from Peisner Acres were at his meeting, mostly from East Balfour Drive which is at the property line. We talked about all the commitments he has put on paper in the big report he wrote. Mark (Guidobono) waffled on many of the commitments and kept saying we could review them at site approval. That leads to a Public Hearing that he is afraid of.

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The things he put on that piece of paper should have been discussed two weeks ago, but he keeps getting stalled. Some of these things are specific to Gateway Village and some are directed to any PUD. He wants a thoughtful respectful, thorough review of what he has presented and a reply, or at least at a minimum, a personal invitation to the next Planning Commission Meeting, but he won't be here for a week or so. He wants to get these things on record so they become an authority just like the main PUD. They should be a supplemental thing that deals with the unique issues of Peisner Acres and the developer.

Mr. Hanoute thanked Mr. Bernardi for his input and explained that the comments Mr. Bernardi made at the last meeting were premature and would be addressed at Site Plan Review. Right now, we are dealing with general PUD amendments to the Zoning Ordinance and the Master Plan. These regulations will apply to the entire Township. Issues specific to your property will be dealt with at Site Plan Review. He told Mr. Bernardi he doesn't make decisions alone and Mr. Bernardi's comments were passed on to the Planning Commission. They considered his requests whether they were implemented or not.

At the last meeting you were give an opportunity to speak, even though the meeting was not a Public Hearing. The Public Hearing is a forum for personal comments, and you will be given that opportunity when we arrive at a hearing. Mr. Bernardi said he wants it to go on record that he doesn't get a fair shake at a Public Hearing. Hearings are tokens, just a thing that people do. Tokenism is something to check off on a to do list. It is the responsibility of the Planning Commission to see that adjacent property owners get a fair shake on any major decisions. If land is sold, they should be notified.

Mr. Hanoute told him his remarks and suggestions will be given serious consideration. Mr. Bernardi replied that the Planning Commission has the fox watching the henhouse with input from the developer and without property owner input at this time.

Mr. Meisel explained to Mr. Bernardi that the PUD Ordinance isn't the only document that will come into play. Many things you mentioned (mass grading, retention of natural features, hours of operation) have restrictions or conditions imposed elsewhere in the Zoning Ordinance and referenced in the PUD Ordinance. The PUD will allow flexibility to negotiate some of those ordinances related to specific concerns. It looks unusual to have a significant developer helping us plan the PUD documents, but we are trying to use this as an additional method to understand a developer's point of view contrasted to the Township's point of view so we can identify what is in the best interest of everybody.

Mr. Bernardi said the adjacent property owners were missing from the discussion. Mr. Meisel replied that the Planning Commission has to have something prepared so we can actually get a proposal to bring to the Public and far enough developed to be worth commenting on. Mr. Bernardi said the Planning Commission still had to prove that public input will be responded to and negotiated if there is an issue. A letter he received from Mr.

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Schmidt told him he would be involved early in the process. So far that hasn't happened. Mr. Hanoute reminded him that he was here and providing comments. Mr. Bernardi said he wanted to be a member of the committee.

Chairman Hanoute recessed the meeting at 7:20 for the Zeller Special Land Use Permit Public Hearing. The regular meeting was reconvened at 8:25.

Continuing with his comments, Mr. Bernardi said he had provided four copies of his PUD recommendation letter and asked that it be read thoroughly, because it may impact what is being done tonight. The Planning Commission may have to catch up with some work that he has already done. He told them to be aware and be prepared because he will be pursuing these things.

APPROVAL OF THE AGENDA:

Moved by Butler, seconded by Fumich, to approve the October 14, 2008 Meeting Agenda as presented. Motion carried by unanimous voice vote.

APPROVAL OF THE MINUTES:

1) September 23, 2008 Meeting Minutes

Moved by Kempisty, seconded by Byerly, to approve the September 23, 2008 Meeting Minutes as corrected. Motion carried by unanimous voice vote.

Page 3, Line 33: (...feel that Silver Lake **Village in Fenton** will be...)
Page 3, Line 41: (...site is bigger ~~than then~~ the site in Green Oak...)
Page 4, Line 3: (...based on 600,000 ~~to and~~ 800,000 square feet...)
Page 4, Line 24: (...to locate ~~on in~~ sites...)
Page 5, Line 16: (statistics **Mr. Guidobono he** submitted...)
Page 5, Line 46: (...Mr. Guidobono has ~~suggested designed~~...)
Page 6, Line 41: (September 4, ~~Forth Fourth~~ Draft)
Page 7, Line 46: (...expenses, ~~as He would also be responsible for~~ connections...)
Page 8, Line 8: (...before the Planning Commission ~~approves reviews~~ them.)
Page 8, Line 30: (...the site could reasonably be...)
Page 8, Line 32: (...per the standards and practical...)
Page 9, Line 22: (**Section K.1**)
Page 9, Line 25: (Mr. Guidobono's recommendations. Mr. Guidobono said...)
Page 9, Line 34: (...addressed in ~~Article Section~~ **K. 2**)

CORRESPONDENCE:

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OLD BUSINESS:

- 1) Comparison of the PUD Ordinance revisions proposed by the Planning Commission and the revisions proposed by Mark Guidobono of Cambridge Companies continued from September 23, 2008

The Planning Commission began the review with Page 11-9 of the Planned Unit Development Text Revisions (7/2/08 - Forth Draft), Section K

Page 11-9

Section K:

Item K.2; Line 6; Tyrone township Planner Sally Hodges of McKenna Associates, said that her last notes involved restoration of the text in Line 6 to read "...buffer areas and green space, **provided they exceed the minimum required by this Ordinance**, active and passive..."

Item K.2, Line 8; Revise to: (...storm water basins which utilize best management practices to provide for an aesthetic site amenity, **at the discretion of the Planning Commission based on review of the specific solution**, and other open spaces...)

Page 11-10

Section f; Revise to: (Non-contiguous open space **may be permitted for both residential and non-residential uses.**)

Section 4: No revisions were recommended for this Section.

Page 11-11

Section O, Line 2; Revise to: (...street lights **and street signage within and adjacent to the PUD and necessary to serve the PUD**, shall be provided...)

Section Q, Line 4; Revise to: (...obscured by mature landscaping, **and/or a decorative masonry wall**, or may be fully enclosed...)"

Section R: Review Section 11.02.1 to insure that it can work as a blanket statement permitting modification to landscaping, signage, and other PUD design elements

Page 11-12

Section S, Line 9; Revise to: (Additionally, **the Township may approve the developer may chose to land banking of up to 20%....**) and add language as part of an agreement or as terms and conditions in a contract which requires the developer to add parking spaces from the land bank if needed.

Section A.2, Line 4; Revise to: (Architectural ~~Design~~ Standards in Section 23.18...)

Section A.4, Line 1; Revise to: (...recreational areas connected or accessible to **users residents** of...)

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Page 11-13

Section C, Line 1; Revise to (...in **Zoning Ordinance** Article 27- Outdoor Advertising and Sign Regulations, ~~however modifications to this standard can be permitted per 11.02.J~~)

Section 11.04. A, Line 1; Revise to: (... the review of a concept by the **Planning Commission planning staff**).

Mr. Bernardi told the Planning Commission that he has a sore spot and interpretation problem in regard to General Design Items 3 and 4 (Page 11-12) which require an interconnected road and pedestrian connections to adjacent developments. We strongly object to that and have said it in many reports and forever.

Mr. Hanoute said that the exceptions would come up in Site Plan Review. None of the Planning Commission would ever recommend connecting this particular subdivision to a commercial development. The PUD ordinance has to apply to the whole Township and that is why it is included here. It could be within the PUD or within Peisener Acres or between the PUD and Peisner Acres. It could be applied either way, but it is not a mandatory requirement. It is a design consideration. When the development gets to Site Plan Review, residents will have their input and we will listen. He agrees that there is no need for it at this location—perhaps for a pedestrian connection, but not vehicular. Mr. Bernardi replied that we have no record of that.

Mr. Hanoute asked him who “we” represented. Mr. Bernardi said he represented a group from East Balfour Drive. There are about a dozen in his group and there are about 40 homes in Peisner Acres (Balfour Drive). Mr. Hanoute asked if he represented a true reflection of what the residents there wanted and Mr. Bernardi said he did. Mr. Hanoute said he wondered, because Mr. Bernardi is the only resident the Planning Commission sees. He hoped the whole subdivision would attend when the Planning Commission holds the Public Hearing. Mr. Bernadi said he is talking about maybe 20 homes versus 40. He hasn’t contacted those other people because they aren’t on the property line.

Steve Hayward, representing the developer, explained that Mr. Guidobono has met twice with Mr. Bernardi or representatives of the neighborhood. Before there is a Public Hearing, he will want to have a more detailed meeting with the neighborhood to get more input. Mr. Bernardi said that on the record, he doesn’t know one person who wants a connection to the new development. He is more concerned about security than anything. Mr. Guidobono is going to have medium density apartments, condos, and a commercial area. That is a serious consideration and you must make us secure. That is the reason for his concern

He is worried about Item 4, about open space and active recreational areas accessible to residents of the development. If that has been changed to “users” of the development, then Item 3 is the key one. He has objected right from the get go and doesn’t want recreational development. Ms. Hodges asked if he meant the whole township or Mr. Gudiobono’s project. Mr. Meisel informed Mr. Bernardi that recreational use was part of language we were trying to use which allows special consideration for each development. Mr. Bernardi said that is why he wants an exception list. Mr. Guidobono promised not to put recreational

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use in there. Mr. Meisel explained that the ordinance language applies for any development, not just this one.

Ms. Radcliffe asked if "users" was really the correct definition for people who might be allowed there. Mr. Meisel asked if "users" relates to residents, people visiting the site, tenants, onsite residents, or the public at large. Mr. Butler thought that even if it included the "public at large," most people realistically wouldn't go there just to use the open space. Mr. Hayward commented that one of the project goals is to make the space so attractive that people will go there and then spend some money while they are walking around. There would be some form of security if that were the case. We hope the development will be something where neighborhood residents will want to walk there, shop there and feel safe there. People can help police a development just by being there.

Mr. Hanoute noted that the PUD requirements would apply to both public and private developments. There would still be users that would visit both. "Users" probably describes the intent of the article best. If you go there, you will use it. If the development is private, the users will be private, if it is a public development, public and private users will be allowed there.

Page 11-3

Section 11.04.B; The Planning Commission decided to retain the density bonus reference in this section.

Page 11-14

Section 11.05, Line 2; Replace the reference to Township Planner review with a reference to the Township Planning Commission, and revise Line 4 to: **(...must contact submit to the Township Clerk a written request that the conference be placed on the Planning Commission Agenda.)**

Page 11-15

Section A.4, Line1; Revise to: (...the residential component of a PUD ~~seeking a density bonus~~, a parallel plan...)

Page 11-16

Item 8, Line 2; Revise to: (...modifications shall be ~~either~~ listed on the plan ~~and in or~~ a table...)

Item C; Line 2; Revise to: (...~~within a reasonable time no later than 45 days~~ after filing...)

Item D, Line1; Revise to: (To ~~recommend grant~~ approval of the preliminary PUD, the ~~Planning Commission Township Board~~ must find:

Page11-17

Item c: Mr. Bernardi said he wanted to bring up a point related to Item c: (public health, safety, and welfare) by adding **security**. He can't find the word "security" referenced

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anywhere in the paper and that is a major impact item. Mr. Hanoute explained that "health, safety and welfare" referred to security.

Mr. Bernardi said that "safety" and "security" were not the same thing. Ms. Hodges noted that "health, safety, and welfare" were words that the courts supported. Mr. Bernardi didn't agree, and wanted "security" added to the text. "Security" could be access, it could be guards, it could be cameras, it could be 24-7 people driving around in a car. It is important to him because security is a byword these days.

Mr. Fumich asked if Mr. Bernardi meant security for the development or for his subdivision. Mr. Meisel commented that the interpretation when you tell somebody you are interested in protecting their health, safety and welfare, means you are literally trying to protect every aspect of their being and property. That includes security which includes police, fire, water and other services. Mr. Bernardi said it was his opinion that "security" is more emphatic.

Mr. Meisel thought it would be redundant, based on the courts. He didn't think there was any harm in adding the word, but then we might have to define what security means. Ms. Hodges wondered if that would create a problem by not adding all the other words for safety to the standard terminology. If we pick on one item, we might have to pick on health and welfare too. Mr. Hanoute commented that he had never seen the term security used in that fashion in any municipal ordinance. Mr. Bernardi said that day was long ago. He told the Planning Commission to do what they wanted, but he wanted to go on record that he asked to have security included.

Mr. Hayward commented that as a Public Planner, he had been called as an expert witness in cases where he has used public testimony on security to overturn planning decisions in court. If you overemphasize something, even in a public hearing, it shows a discriminatory practice. If you put in discriminatory language, it may be enough for another developer trying to develop elsewhere in the Township to use as a reason to sue and overturn a ruling. Security has become a buzz-word for racial and other types of profiling. The Township can request information about security on the site based on the health, safety, and welfare standard. Mr. Bernardi said his document defined security in many ways and he would appreciate its consideration.

Ms. Hodges pointed out that this PUD language specifically mentions people in the development, those immediately next door, and in the community as a whole, which is beyond the usual ordinance language. Mr. Bernardi wanted special language for Gateway Village. Ms. Hodges said that special language for Peisner Acres would be in the development's PUD contract. Mr. Hanoute said you don't modify a general ordinance for a single project. The amendment will be in the form of a PUD contract with the developer. It will be discussed by the Township and there will be a Public Hearing.

Mr. Bernardi was concerned because he had recently had an intruder on his property and one of the gentlemen in his group had his car broken into.

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The Planning Commission decided to leave Page 11-17, Item c:, as it is shown.

Page 11-17

Item E.1, Line 1; Revise to: (...including any phasing plan, shall expire in **three five** years after...)

Item E, Line 4; Revise to: (...any phasing plan may be extended **for one year bi-annually** by the Planning Commission...)

Page 11-18

Line1; Revise to: (...the use of site as allowed under **this Zoning** Ordinance.)

Page 11-19

Item 7; Revise to: (...Proof of preliminary reviews and **compliance with** comments...)

Page 11-20

Item f; Revise to: (Descriptions of any **dedications and required** permits.)

Page 11-21

Item F, Line 1; Revise to: (...shall expire **three (3)** years after the date...) And reinsert (If such construction has commenced, Final PUD plan approval shall continue for a period of five (5) years from that date forward.)

Item F, Line 1; Revise to: (...a period longer than **three five (5)** years.)

Item F, Paragraph 2, Line 4; Add the deleted sentence to read...(if construction lapses for more than **9 months 480 continuous days** during the process...)

Item G, Line 3: Delete the last sentence regarding temporary occupancy.

Page 11-22

Item 2: Delete the sentence

Section 11.08, Item A; Revise to: (...unless a requirement is specifically waived by the ~~Planning commission or the Township Board.~~)

Section 11.08, Item E; Revise to: (Does not **adversely** affect...)

Page 11-23

Section 11.09, Line 1; Revise to: (...rescinded by the Township Board upon **determination that only** if the approved PUD ...)

Section 11.09, Line 4; Revise to: (constructed or maintained in ~~substantial~~ compliance with...)

Item A, Line 5: Revise to: (At the hearing, **the** applicant...)

Section 11.10, Item A; Line 1: Revise to: (The applicant ~~or for~~ the property owner who has ~~have~~ been granted Final PUD approval...)

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Item B, Line 1; Revise to: (...may approve minor changes to a Final PUD plan...) and be consistent with capitalization style, and check for consistent capitalization.

Item B.1, Revise to: (A change in residential floor area **of less than five percent (5%)**).

Item B.2, Revise to: (An increase or decrease of any use by **five percent (5%) ten percent (10%)** or less.

Item B.3, Revise to: A change in proposed use of the development to other uses **by right...**) and review the existing the Zoning Ordinance requirements for major and minor use or site plan changes

Item.B.6: Delete this requirement from the text.

Page 11-23

Item C: Reconsider this text in terms of the need for a Public Hearing related to major changes.

- 2) Comparison of the new PCS Ordinance text proposed by the Planning Commission and revisions proposed by Mark Guidobono of Cambridge Companies

Due to the time, Mr. Hanoute rescheduled th PCS review for the next meeting

- 3) Recommendations from Tyrone Township's Planner, Sally Hodges of McKenna Associates, for additional information to be provided by Mark Guidobono of Cambridge Companies relative to the Master Plan amendment.

Due to the time, Mr. Hanoute rescheduled the Master Plan review for the next meeting.

NEW BUSINESS:

- 1) Recommendation regarding the request of Jeff Zeller for an Agri-Business Special Land Use Permit for property located at 8444 Bennett Lake Road, RE Parcels 06-200-004 and 06-200-005

Mr. Hanoute rescheduled discussion and recommendation regarding the request pending receipt of revised drawings.

OTHER BUSINESS FROM MEMBERS:

ZONING ADMINISTRATORS REPORT:

ZONING BOARD OF APPEALS:

- 1) Mr. Meisel said the ZBA granted a variance for a reconstructed deck on White Lake Road

BOARD ACTION:

FUTURE AGENDA ITEMS:

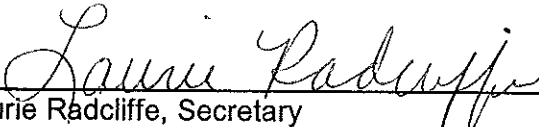
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NEXT MEETINGS:

November 11, 2008 - Holiday Meeting

November 25, 2008 - Meeting

ADJOURNMENT: 10.05. p.m.



Laurie Radcliffe, Secretary
Tyrone Township Planning Commission



Barbara Burtch, Recording Secretary
Tyrone Township Planning Commission