

TYRONE TOWNSHIP PLANNING COMMISSION

Approved Meeting Minutes
January 27, 2009 7:00 p.m.

PRESENT: Gary Butler, Dave Hanoute, Steve Hasbrouck, Ed Kempisty, Mark Meisel, Laurie Radcliffe

ABSENT: Joe Fumich

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

PLEDGE OF ALLEGIANCE:

CALL TO THE PUBLIC:

APPROVAL OF THE AGENDA:

APPROVAL OF THE MINUTES:

1) January 13, 2009 - Regular Meeting

Moved by Radcliffe, seconded by Butler to approve the January 13, 2009 Regular Meeting Minutes as corrected. Motion carried by unanimous voice vote.

Page 2, Line 22: (..get that much **feedback**...)

Page 2, Line 45: (...to the use **as** a dance hall)

Page 6, Line 27: **Mr. Meisel said the Board had reluctantly approved retention of a second accessory structure at Lake Tyrone based in the circumstance that the owner's contractor didn't get permits for the accessory building but told the appellant he had, and permits were secured for later home renovation during which time the accessory structure in question was not cited for being illegally constructed. Lake Tyrone has a Lake Association, but doesn't have an Architectural Control Committee. Another problem with enforcement is that part of Lake Tyrone is located in Hartland Township where they don't appear to limit accessory buildings.**

Page 2, Line 41: (They were informed...)

2) January 13, 2009 - PUD Planned Unit Development and PCS - Planned Commercial Services Public Hearing Minutes

Moved by Butler, seconded by Kempisty, to approve the January 13, 2008 Public Hearing Minutes as corrected. Motion carried by unanimous voice vote.

Page 3, Line 5: (...the term **outlot** ~~out-let~~ was defined.)

Page 4, Line 15: (...Section **16.02.P** referred to Township Roads

Page 4, Line 31: (...would relate **it** to a series...)

Page 4, Line 2: (...would have to ~~to~~ follow...)

Page 6, Line 3: (appeals on a PUD. ~~approval oversight.~~

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Page 6, Line 23: (on the final plan, ~~and~~ they must provide...)
Page 6, Line 46: (...it is a major change and that ~~it~~ will require...)
Page 7, Line 7: (...was allowed to approve minor changes...)
Page 7, Line 35: (...30 feet was the ~~minimum~~)
Page 8, Line 33: (...~~paperwork~~ ~~paperwork~~ associated with the plan.)
Page 9, Line 39: (~~He is~~ reiterated his concern...)
Page 9, Line 45: (...in the presence ~~of~~ if a major change...)
Page 11, Line 22: (...make sure the uses are ~~are~~ addressed...)
Page 11, Line 26: (...in the PCS District. ~~Is District:~~)
Page 12, Line 8: (~~be~~ required for all PCS sites.)
Page 12, Line 24: (...referred ~~to~~ 12A.04.H.6...)
Page 12, Line 28: (...Ms. Hodges ~~stated~~...)
Page 13, Line 18: (...they can put conditions ~~on~~...)
Page 13, Line 24: (...happen later on ~~if id~~ a business...)
Page 14, Line 6: (...there is ~~there is~~ commercial zoning...)

CORRESPONDENCE:

January 19, 2009 - E-mail from Attorney John Harris to Clerk Keith Kremer related to the definition of "yards" and "setbacks"

Mr. Van Hecke said the e-mail was related to a fence violation. The Zoning Ordinance limits the height of a front yard fence to 42 inches and permits a 6 foot high fence in the side and rear yards. It was the Township Attorney's interpretation that the Ordinance as written limits the 42 inch height to the Zoning District's required front yard setback, in this case 50 feet. The rest of the fence could be built to a height of 6 feet between the setback and the front of the building. If the Ordinance language referenced "front yard" only, then anything going forward from the house to the road right-of-way would have to be 42 inches.

The Planning Commission reviewed the Ordinance definitions of "Setback" (p. 2-22) and "Front Yard" (p. 2-24). Mr. Van Hecke said that the Schedule of Regulations requirement for a Front Yard Setback in the R-1 Zoning District is 50 feet (Table 20.01). The members of the Planning Commission commented that 50 feet is the minimum yard setback requirement, the "yard" definition was added to the Ordinance to make sure that front yards were kept free of accessory structures, and removing the reference to "setback" from Section 21.13 would solve the problem.

Township Planner, Sally Hodges of McKenna Associates, said that the present wording of Section 21.13 provides the potential for a no man's land in front of a house if the front yard length is greater than the front yard setback. The definition of "setback" and "front yard" should be reworked to make them less ambiguous.

Mr. Hanoute asked to have the review of the "front yard" and "front yard setback" definitions added to the list of future Planning Commission projects.

SUBCOMMITTEE REPORT:

OLD BUSINESS:

- 1) Review of the PUD Public Hearing Minutes - Zoning Ordinance Section 11.00 PUD - Planned Unit Development

Mr. Hanoute noted that there was a gentleman in attendance, Mike Joynt, who had been at the Public Hearing and informed him that he would be recognized during the discussion if he wanted to comment or ask questions.

The Planning Commission reviewed the text of Article 11 - Planned Unit Development as revised following the Public Hearing and requested the following revisions.

Page 11-1 Revisions:

- Article 11.01 Intent, Paragraph 1: After discussion of the first paragraph of Section 11.01, the Planning Commission agreed to retain the reference to adverse impact in the last sentence.
- Paragraph 2, Line 5 (...preserve common open spaces and natural features **and** ~~or~~ to accomplish...)

Page 11-2 Revisions:

- Paragraph 1, Line 5: (...public health safety and welfare **in** ~~of~~ the area...)
- Item G, Line 2: (...land within the Township **to** ~~for the~~ benefit of property owners...)

Page 11-3 Revisions:

- Line 2: (approved Preliminary PUD plan and all **its** terms and conditions.)
- Item C, Last line: (standards and intent of this **Article** ~~article~~.)

Page 11-4 Revisions:

Ms. Hodges noted that this page would contain some of the revisions recommended by the Township Attorney in terms of reference to the "Township." The Planning Commission agreed that the text should be written to correspond with the approval process---Planning Commission review and Board Approval.

- Item e, Line 2: (subject to a **recommendation** ~~determination of the Planning Commission and approval by the Township Board~~ that adequate...)
- Item e, Line 4: (...and **that** ~~to~~ compliance with all other requirements of this Ordinance **exists**.)

Page 11-5 Revisions:

Ms. Hodges explained that the references to "special use" in this Section have been revised to "special land use" to be consistent with other sections of the Ordinance.

- Item (f): Senior housing development(s), subject to a special use approval, ~~on~~ up to 50%...)
- Item 4, Line 10: (...to begin immediately, **or** ~~and~~ if a special land use...)

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- Item 4, Line 12: (special **land** use proceedings..)
- Item 4, Line 13: (The special **land** use proceedings..)

Page 11-7 Revisions:

- Item G, Line 7: (Any density bonus (see Section 11.02.H) **granted recommended by the Planning Commission subject to approval of the Township Board** will be applied...)
- Item H, Line 3: (at the discretion of the Planning Commission and the **Township Board, in accordance** with the following:
- Item H.1, Line 3: (The specific amount of the bonus shall ~~be at the discretion of the Planning Commission depending on the...~~)
- Item H.2.g, Line 1: (**On-site** storm water management ~~on-site~~ that relies upon...)

Page 11-8 Revisions:

- Item J.1, Line 3: (...the Preliminary **PUD** plan for approval.)
- Item J.2: (Each phase ~~or outlet~~ shall require final PUD review...)

Page 11-9 Revisions:

- Item K.1, Line 2: (...open space at a minimum of 30 percent...)
- Item K.2, Line 2: (...by the **recommendation of the Planning Commission and approval of the Township Board** for the character of...)
- Item K.3.b, Line 2: (developed **within** the PUD.)

Page 11-11 Revisions:

- Item M, Line 7: (~~All sidewalks and pedestrian walkways shall comply with the standards set forth by Township Ordinances.~~)
- Item R, Line 3: (the requirements in ~~Chapter~~ **Article 12-A.**)

Page 11-12 Revisions:

- Add **Item T:**
Ms. Hodges said she would bring back general language to address hours of construction, noise, dust, odors, and other development nuisances which would allow the Township to enforce the standards and require the applicant to specify the limits. Mr. Hanoute suggested that Ms. Hodges e-mail her recommendations for review to the members who could then return their suggestions to her.
- Item 11.03.A, Line 1: ~~In consideration of~~ **For the overall design of the development and its components,** particular attention...)
- Item 11.03.A.1, Line 1: The Township **Planning Commission may recommend, and the Township Board may approve** at its ~~their~~ discretion ~~require~~ sidewalks...)
- Item 11.03.3, Line 1: (through connections to adjacent development(s) **where it positively affects the development.**

Mr. Hanoute reminded the Planning Commission that one of the advantages of PUD development is that the Township and developer can create their own standards as the project develops rather than being tied to existing standards or ZBA variances.

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Page 11-13 Revisions:

- Item B, Line 3: (...in addition to landscaping required in ~~Chapter~~ **Article 21-A...**)
- Section 11.04, Line 2: (...prior to approval of a Preliminary PUD Plan and..)
- Item 11.04.B, Line 1: (...submittal of a Preliminary PUD Plan and information required by...)
- Item 11.04.B., Line 4: (...review the Preliminary PUD Plan...)

Page 11-14 Revisions:

- A, Line 4: (...structure and use in **the** development.) E
- 11.04.E, Line 1: (...used for recreation space; **and** the number of acres)

Page 11-16 Revisions:

- D.1, Line 1: (..approval of a Preliminary PUD **Plan...**)

Page 11-17 Revisions:

- E.1, Paragraph 1, Line 10: (...the extension of the Preliminary PUD **Plan** approval...)
- E.1, Paragraph 2, Line 1: (...approval of the Preliminary PUD **Plan...**)

The Planning Commission asked Ms. Hodges to include language which would require that preliminary phasing plans or PUD plans revised at the request of the Township or applicant would have to follow the same hearing and approval process as the original plan.

Page 11-19 Revisions:

- Item 7, Line 3: (external agencies such as **the** Livingston County...)
- Item 7, Line 9: (...compliance with **the** Preliminary PUD...)

Page 11-21 Revisions:

- Item G, Paragraph 2: Ms. Hodges recommended removal of this section because it duplicates Article 11.11 - Performance Guarantees.

Page 11-22 Revisions:

- Item J, Line 2: (surrounding property, and **the** Township.)
- 11.09, Paragraph 1, Line 2: (...PUD plan or PUD agreement **has have** been violated...)
- 11.09.A, Line 5: (hearing in accordance with **PA 110 of 2006 as amended MGL**)

Page 11-23 Revisions:

- 11.10.B, Paragraph 2: Delete the paragraph.
- 11.10.D: Mr. Meisel prepared a new paragraph to clarify the process related to approval of major or minor changes to a previously approved Final PUD Plan.

"If the Planning Commission or Township Board determines a major amendment to an approved final PUD Plan has been submitted, and they define the change as other than minor or general as defined above, the PUD

Plan must follow the procedures set forth in Section 11.06 - Preliminary PUD Procedures, inclusive of a Public Hearing, to insure that the final PUD Plan remains consistent with the objectives sought to be achieved by the original Final PUD Plan and remains compatible with the existing and planned adjacent developments.

Mr. Hasbrouck asked if it would be a good idea to require a Subcommittee Review of the amended plan to determine if the change is major or minor as stated in Ordinance Section 23.13.B. Following a discussion, the Planning Commission agreed to delete the reference to Article 23.13 in this section and asked Ms. Hodges to remove any other references to Article 23.00 in the PUD text associated with major or minor PUD Plan amendments.

Ms. Hodges said she would make the changes in Article 11 and e-mail suggestions on the other two items.

Chairman Hanoute specifically referred to some of the documents forwarded to the Planning Commission by Merino Bernaradi. Generally, his comments address site specific concerns relative to the property adjacent to Peisner Acres and many of them are not applicable to the PUD document. Without Mr. Bernaradi's attendance, Mr. Hanoute wasn't sure how the Planning Commission could satisfy his concerns. For the most part, his concerns have been addressed in the PUD document. Mr. Joynt said he had no comments from Peisner Acres residents at this time.

Ms. Hodges reminded the Planning Commission that the Schedule of Regulations they were working on prior to the PCS Ordinance needs to be finished, presented at a Public Hearing and recommended for approval. Without a new Schedule of Regulations there will be no minimum PCS parcel sizes or setback requirements. She said she would provide a copy of some proposed PCS standards for discussion at the next meeting.

Mr. Hanoute asked if a revised Schedule of Regulations could be presented when we rezone the Township's existing business parcels. He asked to have a review of the Schedule of Regulations scheduled as soon as possible.

Mr. Meisel said he wanted to address Mr. Bernardi's concern about minor and major site plan changes. The Planning Commission has defined major changes and we have established a process which requires going back to the public for review. He searched the internet for "health, safety, and welfare" references as far as Europe and Australia, They all legally defined the "health safety and welfare" phrase as inclusive of security. From that perspective, we have done everything we can do under statutory definition. We can't put site specific language in the Ordinance regarding security for a development until we know what the development is. The language in the Ordinance does allow us to make recommendations and impose conditions for a specific site.

Ms. Hodges commented that the road interconnection concerns had also been addressed.

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2) Review of the PCS Public Hearing Minutes - Zoning Ordinance Section 12A.00 - PCS Planned Commercial Services Development

Page 12A-2 Revisions:

- Item L: Ms. Hodges said that Item 12A.01.L had been relocated to the Introduction and the first section of the text had been revised to, "Any use listed **below** (~~above~~) with a floor area greater than 20,000 square feet..."
- 12A.03, Line 1: (...review according to **Article 22.00 and** Article 23.00 and issuance...)

Page 12A-3 Revisions:

- Item W: (Single family and multiple family dwellings subject to **Planning Commission recommendation and Township Board approval** ~~determination by the Township that such uses...~~)

Referring to one of the comments discussed at the Public Hearing, Ms. Hodges said she had not addressed the Attorney's adult entertainment questions at this point. Recent court decisions have essentially said that a place needs to be provided where they may be permitted, if not by right, without discretionary criteria or a public hearing. The concern is that once discretionary conditions or a public hearing gets involved, you stifle their freedom of expression or speech and effectively prohibit them from the community. Any regulation placed on them needs to be based on evidence of a secondary impact—all the things that happen around adult bookstores, peep-shows and other similar places. You can document secondary effects, make specific findings, and come up with locations which would protect the Township, but might not be especially desirable for the use. For instance, 1500 foot setbacks or locations in industrial districts. They are usually classified as Special Land Uses rather than uses by right, but the criteria followed must be nondiscretionary.

Mr. Hanoute asked to have a discussion of adult entertainment regulations added to the future projects list as a priority item.

Mr. Meisel said that another question raised by the Attorney was how the Township would differentiate and define automotive uses more specifically, uses like collision and heavy duty repair, gasoline stations, routine maintenance, and so forth. He had a concern that we didn't define the terms well enough in certain areas. Ms. Hodges said the Ordinance seems to have the uses covered as far as service stations.

The Planning Commission asked Ms. Hodges to review the language related to automobile repair, sales and service, of tractors and other heavy equipment, and used vehicle and heavy equipment storage yards as suitable uses for the PCS district.

Page 12A-4 Revisions:

- Item 12A.04.C, Line 1: (...requirements for acceleration and deceleration lanes shall meet **the stanadrds of MDOT and the Livingston County Road Commission as appropriate**, and satisfy the standards of Section 21.54...)

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Page 12A-5 Revisions:

- Item F, Line 4: (Any area of outdoor storage shall be limited to that area delineated on the site plan as **recommended by the Planning Commission** and approved by the Township **Board**.)

The Planning Commission discussed the PUD requirement for large PCS developments (Item H, Page 12A-6) and the possibility of PUD developments which might involve an owner of 20 acres who might want to construct a single building and leave the rest of the property vacant; requiring a PUD plan for a PCS development less than 20 acres in size on a parcel more than 20 acres in area; the type of plans we might require for PCS developments less than 20 acres in area; developments with enough area to add 4 or 5 commercial units in the future; or cases where there were no plans to develop in the future, by an owner couldn't foresee what he might do in the future; and if the PUD requirement would apply to PCS parcels in the corridor or PCS parcels in general.

Other issues discussed involved topography as a PUD consideration, establishing specific conditions for applying the PUD requirement to PCS parcels, and allowing the Planning Commission and Board to determine whether a PUD is required or not.

Ms. Hodges said the Township has the ability to make discretionary requirements under a process like PUD development. The PCS Article, Planned Commercial Services, is a Zoning District with uses by right or other uses that require special approval. The PUD Article, Planned Unit Development, is a discretionary site development process. The PUD is an option.

Mr. Hanoute said in that case, we should take the 20 acre demand out of the PCS Article (Page 12A-6, Item H). Mr. Meisel thought there should be some sort of PUD requirement if we don't use parcel size—maybe complexity or multi-use. Mr. Hasbrouck thought that the PCS development insinuates that there won't be just one building. Mr. Hanoute said if there was mixed use, developers know they will have to use a PUD. We need the PUD to offer developers the option of mixed uses. Mr. Meisel said that was Mr. Nagy's point. He wanted the ability to choose the option that was best for him whether it was a PUD or not. He asked what we would lose by not using H the PUD process to develop a PCS site.

Mr. Hanoute said there would be loss of Township control over PCS development without a PUD contract. Ms. Hodges noted that the PUD Ordinance allows the Planning Commission and Board to modify the Ordinance for a specific project without having to get variances from the Zoning Board of Appeals.

Page 12A-6 Revisions:

- Item H: Following their discussion of requiring the PUD process as a mandatory requirement for PCS developments, the Planning Commission agreed to remove Item H from the text on Page 12A-6.
- Item L.3, Line 3 (cont.)...(additional requirements shall be met by all **buildings or uses projects** having a floor area greater than 20,000 square feet

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Page 12A-17 Revisions:

- Item L.3. Continued, last Sentence: ~~The use of~~ Decorative masonry screening walls, grade changes, and/or berming ~~or a combination thereof is encouraged may be used~~ to enhance the screening effect created by the buffer.

Ms. Hodges explained that a requirement for screening walls had been added to the perimeter buffer requirements to require the use of decorative masonry for screening rather than trees. Mr. Meisel's interpretation was that the text was revised to include a decorative wall as the minimum screening requirement unless the Planning Commission requires a berm or grade change. Mr. Hanoute said the text could be revised allowing walls as an **acceptable** method of enhancing perimeter buffers and Mr. Meisel commented that screening will be a site specific depending on site uses---height, grades, and so forth.

Speaking from the audience, Scot Dietrich asked if the Township had addressed water towers. Mr. Hanoute said those would be reviewed as a site specific item.

Ms. Hodges provided an outline listing the steps for correlation of the Master Plan and Zoning Ordinance. She also provided a Schedule of Regulations to review at the next meeting in terms of PCS requirements. She recommended consultation with the Attorney review in terms of the PCS text. The Planning Commission needs to finish the PCS and PUD revisions, consult with Attorney Harris about the way to process the existing PUD development, footnote the schedule of regulations, and identify the existing Business parcels for a discussion regarding the change to PCS.

Once the Schedule of Regulations has been finalized the information can be forwarded to the County Planning Commission and the Township Board, before holding a Public Hearing on rezoning the Business Parcels.

The same process will have to be followed to complete the PIRO Zoning and determine the status of the EI Zoning District. Two other Zoning Districts, Planned Office and Planned Services will have to be reassigned before any future land use map changes are made.

- 3) Discussion of the Township Ordinances related to yards and the storage of recreational vehicles

Mr. Hanoute asked to have the discussion carried over to another meeting.

NEW BUSINESS:

OTHER BUSINESS FROM MEMBERS:

- 1) Tabled request of the Estate of Helen Bantle for Land Division of property at 9227 Parshallville Road to create Parcel A (approximately 5 acres gross) and remainder Parent Parcel B and to realign the boundaries of proposed Parcel B and property at 9165 Parshallville Road (proposed Parcel X) as shown on the site drawings revised 10/31/08.

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Moved by Meisel, seconded by Radcliffe, to continue to table the request of the Estate of Helen Bantle until the February 24, 2009 meeting. Motion carried by unanimous voice vote.

ZONING ADMINISTRATORS REPORT:

ZONING BOARD OF APPEALS:

BOARD ACTION:

Mr. Hasbrouck said the Board didn't recommend any changes in the Public Notice requirements at this time, but wants the Planning Commission to reexamine the standards in the future.

Mr. Hanoute said that the Board also requested that the Planning Commission members provide monthly copies of their pay vouchers, but present all pay vouchers by March..

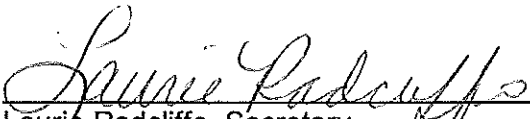
FUTURE AGENDA ITEMS:

Bantle Land Division
Schedule of Regulations
Butts-Duberg Boundary Realignment
revised PUD and PCS Documents,
County Review of proposed PCS and PUD Ordinances
Identification of existing Commercial Zoning
Review of yard and recreational vehicles storage Ordinances

NEXT MEETINGS:

February 10, 2009 - Public Hearings: Heavenly Scent Herb Farm land Use Special Use,
Duberg Rezoning and Special Land Use, and Tri-County Special Land Use
February 24, 2009 - Regular Meeting
March 10, 2009 - Regular Meeting

ADJOURNMENT: 9:20 p.m. by Chairman Hanoute



Laurie Radcliffe, Secretary
Tyrone Township Planning Commission



Barbara Burtch, Recording Secretary
Tyrone Township Planning Commission