

MINUTES
EXETER TOWNSHIP PLANNING COMMISSION MEETING
MAY 6, 2008

The Regular Meeting of the Exeter Township Planning Commission was held on Tuesday, May 6, 2008 at the Township Hall, 4975 DeMoss Road, Berks County, Pennsylvania. Donald R. Wilson, Chairman called the meeting to order at 7:30 p.m. followed by the Pledge to the Flag.

COMMISSION MEMBERS: Donald R. Wilson, Chairman
Richard Littlehales, Vice Chairman
John W. Bittig, Secretary
Paul L. Schwartz
Greg T. Unger
Gregory A. Shantz

ABSENT: Gary L. Shane

OTHERS IN ATTENDANCE: Craig Peifer, GVC Consulting Engineer
Cheryl Franckowiak, Zoning Officer
Linda Cusimano, Recording Secretary

1. MINUTES

MOTION BY Mr. Bittig, seconded by Mr. Shantz, to approve the minutes of the April 1, 2008 Planning Commission Meeting as presented. The motion carried unanimously.

2. AGENDA

MOTION BY Mr. Unger, seconded by Mr. Shantz, to approve the agenda of the May 6, 2008 Planning Commission meeting. The motion carried unanimously.

The following business was discussed:

3. ZONING ORDINANCE & ZONING MAP REVISIONS

The Planning Commission discussed the memo from the Board of Supervisors concerning the re-zoning of the Reading Country Club property. The Board is looking to add another layer of protection for the Township should future Boards not share in the thought to avoid major residential development on the parcel. The Planning Commission felt that Highway Commercial was not how that parcel should be zoned. Mr. Wilson raised the concern that it would change the tax status of the property. The Planning Commission agreed to look into adding a new zone, Public/Recreation/Institutional Land into our Ordinance/Map and would work on that at the next workshop/meeting.

The Planning Commission discussed the steep slope regulations. Mr. Unger stated that he did not want a wall over 10' to be allowed. He felt that anything over that height would be a safety issue. Mr. Peifer replied that he would draft changes to address the concern.

Zoning Ordinance continued

The Planning Commission then discussed the proposed Farmers Market regulations. They agreed that 50% of the produce needed to be grown in counties contiguous to Berks and no more than 25% of produce could be from out of state. Also, parking regulations would need to be specified. Mrs. Franckowiak stated that she would get that information before the workshop/meeting.

Mr. Bittig questioned Section 630.2.E.(4), and asked what happened to the text about using the fee-in-lieu of funds for environmental purposes? Mr. Bittig referenced the 3/24/08 BOS minutes and stated that our lawyer wanted to be able “steal” it for other purposes, and suggested it would then be a tax, not a fee. The EAC and the Planning Commission agreed that the funds from the developers for “raping” the landscape were to be used for environmental protection and preservation. The section for amount of fees should state cost of tree, planting and maintenance. Ms. Cusimano stated that the amount was set in the Improvements Agreement. Mrs. Franckowiak stated that the fees should be established by resolution, not have that in the Zoning Ordinance. Mr. Bittig stated that the “per tree” fee should be in the fee schedule. Mr. Peifer agreed that we did not want to place a dollar amount in the Ordinance, we wanted to say that it was the cost of the tree, cost of planting the tree and the one year maintenance. Mrs. Franckowiak stated that what the money would be used for would not be in the Zoning Ordinance but should be established by resolution. Mr. Bittig felt that was dangerous ground.

Mrs. Franckowiak replied that it should be adopted by resolution, why put that in the Zoning Ordinance? She would have no enforcement over that. Mr. Bittig responded that then the Board would be thieves if they used the funds for non-environmental purposes; we want that in the Ordinance as a reminder to successor Boards that this was what the fees were to be used for. Mrs. Franckowiak responded that the resolution was another piece of law to which we needed to pay attention. She further stated that she did not disagree with what they wanted the money to be used for, just that the Zoning Ordinance was not the place; rather it is a policy by the Board that should be adopted by a separate resolution, much like our fees. Mr. Unger stated that by having it in the Ordinance it brings that up for discussion, if it were set by resolution the Board would not need to bring it back to us for discussion. Mr. Peifer asked where the fee-in-lieu of open space/recreation was listed?

Mrs. Franckowiak replied that it was in the SALDO and was just an equation. Mr. Peifer stated that was adjusted from time to time by resolution. Mr. Littlehales asked if the tree replacement money was to go into the general fund? Mrs. Franckowiak replied that our Solicitor advised the Board to put it into the general fund so they would not be “pigeon holed” into one use. Mr. Littlehales replied that we would never see it again.

Mrs. Franckowiak responded that was not true, the Board felt very strongly about this i.e. they all agreed the money should be used only for environmental issues and they simply acted on the suggestion of our Solicitor who was only trying to give them options. Mr. Littlehales replied that we heard what the Solicitor said and that did not sound promising. Mr. Bittig stated that the Solicitor said to use it for anything and that did not give him a good feeling about the Solicitor. Mrs. Franckowiak stated that the Solicitor stated that in the event of a terrible time we would have that to tap into. Mr. Schwartz stated that you couldn’t do that with the Rec fees, can you? Mrs. Franckowiak replied that it was her understanding that you could not. Mr. Schwartz replied that it was our recommendation from the beginning that we set up a fund similar to the Rec fee fund, but call it a conservation fee fund. Any other uses that they want to include with that would be fine. Mr. Unger asked if the Rec fee funds were doled out by the Recreation Board? Mrs. Franckowiak replied it was the Board of Supervisors.

Mr. Bittig stated that the SALDO has a whole section on the limitation to the use of fees and we were not suggesting going that far. Mr. Bittig read that section of the SALDO. Mrs. Franckowiak replied that those sections came right from the MPC. Mr. Peifer stated that that was mandated by the MPC, the funds must be used that way and if they are not used within a period of time then the money goes back to the developer with interest. Mr. Bittig felt that the scope and the intent should be in the Zoning Ordinance. If some future Board says that they are going to take that money and spend it on “wine, women and song”. Mrs. Franckowiak asked who was going to know?

Zoning Ordinance continued

Mr. Schwartz replied that the auditors would know. Mrs. Franckowiak replied that you could not “save yourself from yourself”; the Boards’ intent was to use the money for environmental stuff and the Planning Commission wanted to put all kinds of restrictions in the Zoning Ordinance; in fact the Board could repeal anything.

Mr. Littlehales replied that they couldn’t repeal the MPC. Mrs. Franckowiak asked to show her where in the MPC it allows for an environmental fund. Mr. Littlehales stated that he did not want to see a 6-figure amount be spent on something other than what the Planning Commission recommended. Mr. Bittig stated it was to be used for environmental protection and restoration, that is what we wanted to have in the Ordinance and someone keeps making it disappear. That was the purpose of the fund. Mrs. Franckowiak asked who would go to the Board to say lets establish the fund before we can even acknowledge the non-existent dream fund in the Zoning Ordinance. Mr. Schwartz replied that he would do that. Mr. Wilson stated that the Board ignored the suggestions that night upon the advice of the Solicitor. Mr. Littlehales stated that we could all go as a force and say, “listen you guys are disobeying our purposes here and this is not right”. We have a camera up there that records the meetings, all you have to get was any one of a number of people, including the Concerned Citizens of Exeter. Mr. Littlehales further stated it was that important to us. Mr. Schwartz stated that we did not need to threaten people to accomplish this. Mr. Bittig stated that we needed the Ordinance to state “for environmental protection and restoration”. Mrs. Franckowiak replied that was fine, but then you would need to define that. She understood what they were looking for, but we needed to get that to the policy makers in order to be correct. Mr. Schwartz stated that the solution to the matter was we take out the section that says we would allow fee-in-lieu of until there is a fund established, so now, they must plant 4,600 trees on that shopping center, too damn bad if they can’t do it. Mr. Bittig stated that would force the issue. Mr. Schwartz stated no fund, no fee-in-lieu of and they won’t get their Ordinance. Mrs. Franckowiak replied that they would get their Ordinance.

Mr. Schwartz replied they would not if we did not submit one. Mr. Littlehales stated that it would go on forever. Mr. Schwartz stated that we made a recommendation that the Board approve plans contingent on them establishing this fund, they have now given their approval and not kept their side of the deal. Mr. Bittig stated that now it was a different game, unethical conduct. Mrs. Franckowiak stated that she disagreed, the Board had every intent to establish the fund and it was based on some advice that they did not necessarily have to do that. Mr. Bittig stated that the Solicitor advised them to put it into some other account. Mrs. Franckowiak replied that he did not advise against it, he just stated that they did not have to do that, you could put that in the general fund, he did not have any bad intent there, he was just keeping their options open. Mr. Littlehales replied that we did not want to keep the options open. Mr. Bittig stated that was always our recommendation as to for what the money was to be used. If you are screwing over the environment, then we need to improve the environment elsewhere in the Township. Mr. Schwartz stated that was the deal we made. Mr. Bittig stated that should be carried back to the Board for their next meeting. Mr. Wilson stated that they already knew that. Mr. Schwartz stated that he was not in favor of permitting a fee-in-lieu of until he knew that money was going where he wanted it to go. Mr. Bittig stated that he wanted to make a recommendation take out the first four lines and put a period behind the Board of Supervisors and strike the other three lines. Mrs. Franckowiak asked why, they should just approach the Board on the 19th and say this is how strongly we feel about this. Mr. Bittig stated that we would meet one more time before the Board meets and give them two options. Mr. Wilson replied that they could change the Zoning without coming back to us. Mr. Bittig stated that they must refer it back to us for information, but they have the “god given” power. Mrs. Franckowiak asked why take that out of the Ordinance, why not just bring it to their attention, we are serious about this fund. Granted Mr. Bellwoar gave you broader ideas as to what you could do with the funds. Mr. Unger asked how much money was that from Exeter Commons? Mr. Wilson replied \$303,000. Mr. Unger stated that we should come up with a project for that money. Mr. Schwartz asked what if the Board said no? Mrs. Franckowiak then reminded the Planning Commission that they are advisory and the Board makes the decision and sets policy, not the Planning

Zoning Ordinance continued

Commission but also stated that she did not feel they would say no to the creation of a fund. Mr. Schwartz asked why hasn't it happened? Mrs. Franckowiak replied that they wanted to do it, but Mr. Bellwoar just wanted to let them know that they had other options. The Board then looked at the Solicitor and said, ok, maybe we will put that in the general fund. She then asked Mr. Wilson to support her attempts at explaining what had happened. Mr. Wilson replied yes. Mrs. Franckowiak stated that the Board was in favor of this. Mr. Schwartz stated that this was the deal breaker for the Shopping Center and we expedited the approval with the understanding that this would happen and it didn't, he felt like he was sold a bill of goods and he would go back to the newspaper (who interviewed him two weeks ago) and he said all these nice things about the trees being gone, but the Township was going to protect us with the money going into a conservation fund. Now he felt like an idiot and he will call and let them know that he wanted to retract that and have another interview.

Mrs. Franckowiak replied that our new solicitor came in at the last minute and he had no idea and he was giving advice without the complete information. Mr. Littlehales replied that someone should have brought it up to him. Mrs. Franckowiak stated that he was not involved with this project and Mr. Hoffert was retained to complete the project. There was just a matter of the fund question and we can get that straightened out. Mr. Schwartz asked how do we get it straightened out? Mrs. Franckowiak replied that she would talk to Troy tomorrow and ask him to send out an email to the Board with specific intent that Mr. Bellwoar gave us some good advice, but this has to be placed in an environmental fund and state all these reasons. Then we could copy you guys with whatever the resolution was. Mr. Littlehales stated that if it does not go our way, we could start the fight again. Mrs. Franckowiak replied that there would not be a fight, they were supportive of this. Mr. Wilson stated that Troy was knee deep in the computer system and to set up another account would have been complicated.

Mr. Schwartz stated that was perfectly understandable.

Mr. Bittig asked if the conditional use to allow conventional development on 10 acres or more should be removed from the Ordinance and only allow open space development. Mrs. Franckowiak asked if we were allowed to do that? Mr. Bittig replied yes. Mr. Shantz asked if we couldn't up the restrictions for the development so a developer would be compelled to do the conservation development. Mr. Peifer replied that it was that way now. Mr. Schwartz stated that we could up it a notch for conventional development. Mr. Bittig replied that it was fairly hard now. Mr. Schwartz stated that with the new Stormwater Regulations it would be even harder. Mr. Peifer stated that with the steep slope regulations the lot sizes would not be 12,000sf. The Planning Commission agreed that no change is needed at this time. .

Public Comment

Jordan Bausher, 391 Ritters Rd., stated that someone wanted to create bike paths, interconnections between developments. If we were mandated by the State or Federal Government then that would have to be done. If we wanted to create one ourselves, how did we go about that? Where would it originate, the Board of Supervisors or the Planning Commission? Mr. Wilson asked if he meant the Township would create one or Mr. Bausher as an individual wanted to create one? Mr. Bausher replied the Township would create an Ordinance to have a bike path and interconnections between developments, etc. Mr. Littlehales stated that "Walk, Bike, Berks" was working on that. Mr. Bittig stated it wasn't so much a problem with new developments, it was with existing properties and how could we force the completion? It was a great idea and kids should be walking to school. Mr. Schwartz stated that we could add to the shoulder of the roads, which our road crew could do, but then we would possibly need to condemn property and that could be a problem. The short answer was to send it to the Board of Supervisors and look at Ordinances. Mr. Schwartz further stated that it was something Mr. Bausher would need to take to the Board.

4. STORMWATER ORDINANCE

GVC's most recent revision to the Stormwater Ordinance was discussed and Mr. Bittig questioned the deletion of natural system of swales, ditches and waterways from Section 308.B. Mr. Peifer explained the reasoning for that deletion and the remaining Planning Commission members agreed to remove that from the text.

5. GENERAL DISCUSSION

Ms. Cusimano stated that the hairdresser next to WAWA wanted to build an addition and she wanted to get the Planning Commissions direction if the applicant would need to come in for Land Development. The Planning Commission looked at the plan and agreed that they should do Land Development.

6. PLANNING COMMISSION WORKSHOP

The Planning Commission agreed to meet on Tuesday, May 13, 2008 at 7:30pm in order to complete the Zoning Ordinance and the Stormwater Ordinance to pass along to the Board of Supervisors for adoption.

ADJOURNMENT

MOTION BY Mr. Schwartz, seconded by Mr. Unger, to adjourn the May 6, 2008 meeting of the Exeter Township Planning Commission at 9:28pm. The motion carried unanimously.

Respectfully Submitted,

John W. Bittig
Planning Commission Secretary

lrc