

APPROVED

FRANKLIN TOWNSHIP BOARD OF SUPERVISORS MINUTES JULY 16, 2008

Call to Order:

Chairman Richard Whipple called the meeting to order at 7:07 p.m. Present were Supervisors Nan Latimer, Noman Hughes, Paul Overton and Eric Brindle. Also present were Solicitor Steven Soles, Engineer Grant Hitchens from the firm of Kohli and Associates, Engineer Sandi Morgan from URS, Engineer John Theisen from LTL Consultants, Jeff Eastburn, Assistant to the Township Manager, Ralph Olivier, Chairman of the Planning Commission and Stephen Ross, Interim Township Manager. There were 5 members of the public and 1 member of the press in attendance.

Public Comment: No public Comment

Approval of Minutes – June 18, 2008:

On a motion by Mr. Whipple, seconded by Ms Latimer, the Minutes of June 18, 2008 were approved as submitted. Motion carried by a vote of 5-0.

Reports:

- A. Treasurer's Report: Mr. Ross presented a summary of the June Treasurer's Report. The total sum of the balances for June 2007 was \$2,865,425.71 and for the same period in 2008 the amount was \$2,435,563.41. It was explained that the report includes other financial information including fund balances, budget to expense/revenue for all funds, deposit detail, check detail and disbursement detail. Mr. Whipple moved, seconded by Mr. Brindle, to approve the June 2008 Treasurer's Report. Motion carried by a vote of 5-0.
- B. Manager's Report: Mr. Ross provided highlights of his report including computer networking, Intergovernmental, Avon Grove Charter School, Activities at the Park, 2008/09 sodium chloride purchase, Chester Water Authority meeting on Auburn Road, and reimbursement for Act 537 which will be filed within the next week.
- C. Solicitor's Report: Mr. Soles advised that his monthly report was distributed to the Board and he had nothing further to add.
- D. Zoning Officer/Building Inspector Report: Mr. Ross provided summary comments from the report that included the issuance of 14 permits, 54 inspections, 10 zoning tasks and 3 zoning site visits.

Planning and Zoning:

- A. Planning Commission Report: Mr. Olivier provided the monthly report of activities of the Township Planning Commission and summarized the items covered at the July 3, 2008 PC meeting.
- B. Extensions: The following extensions were considered by the Board of Supervisors:

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1. Brothers to November 21, 2008: On motion by Mr. Whipple, seconded by Mr. Overton, the extension of the Brothers Subdivision Plan to November 21, 2008 was approved. Motion carried by a vote of 5-0.
 2. Woods Edge Financial Security Extension: The applicant, Mr. John Panizza, submitted a letter dated June 19, 2008 requesting Board consideration to extend the time for GenTerra to submit an executed improvements agreement and posting the financial security. On May 14, 2008 the Board provided a 90-day extension to August 18, 2008 to submit the required improvements agreement and posting the financial security. Subsequently, Mr. Panizza submitted a letter dated July 14, 2008 requesting that he be removed from the July 16 agenda and be placed on the August 20 agenda. Therefore, he provided a further extension request to August 25, 2008. On motion by Mr. Whipple, seconded by Mr. Hughes, the Board approved an extension for the Woods Edge Development to August 25, 2008 in order to allow time for discussion of the Financial Security Extension at the August 20, 2008 BOS meeting. Motion carried by a vote of 5-0.
- C. Insinga Preliminary Plan Approval: The Insinga Plan is a 14.10 acre parcel located on the west side of Appleton Road and extends west to Peacedale Road. The plan includes the creation of three new lots and reconfiguration of two existing lots within the C-Commercial, V-Village and LDR- Low Density Residential Zoning Districts. Single family homes are a use by right in the V and LDR Districts, and are permitted by Conditional Use in the C District. The site was the subject of a Conditional Use Decision and Order dated January 31, 2006. The conditions were written in the context of a previous plan. Mr. Barry Stingel, Hillcrest Associates, presented the plan to the Board. On motion by Mr. Whipple, seconded by Mr. Brindle, the Insinga Preliminary Subdivision Plan dated September 10, 2007 and last revised May 21, 2008 is conditionally approved as outlined hereafter:
1. Recommendation to approve the following eight SALDO waivers and one Stormwater Management Ordinance provision:
 - a. SALDO Section 610.B.2.c requiring landscape screening. The PC favored planting the riparian buffer along the stream instead of screening along the northern boundary where the existing vegetation is very dense.
 - b. SALDO Section 502.L.14 in regard to locating existing septic facilities within 100' of the outbound boundary lines of the property. The PC is in favor of this waiver because the applicant has located the majority of these systems and the ones that are not located could not possibly interfere with the applicant's proposed well and septic locations since they are not within 100' of the property line.
 - c. SALDO Section 604.D regarding the use of radial (right angle) side lot lines. Because of the narrowness of the property, the PC is in favor of the waiver.
 - d. SALDO Section 604.F regarding excessively deep lots with a depth to width ratio of no more than 2.5:1. Due to the long, narrow configuration of the parcel, the PC is in favor of this waiver.
 - e. SALDO Section 604.G prohibiting the use of flag lots. Due to the long, narrow configuration of the parcel, the PC is in favor of the waiver.
 - f. SALDO 604.I limiting the number of flag lots to one. Due to the long, narrow configuration of the parcel, the PC is in favor of the waiver.

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- g. SALDO Section 610.B.5.a and c regarding the requirement of buffering along Appleton Road. The PC is in favor of this waiver because it is undesirable to screen and buffer the existing house in the Village District from the street, therefore the applicant will plant ornamental shrubs in lieu of screening along Appleton Road.
 - h. SALDO Section 611.B in regard to distance between access points. As it is impossible for the applicant to move the common driveway for Lots 3 and 4 one hundred or more feet from the intersection of Route 896 and the turn off from Appleton Road, and since the applicant is eliminating a more dangerous driveway that is currently closer to this intersection, the PC is in favor of this waiver.
 - i. Stormwater Management Ordinance (SMO), Section 401.A.2 provides that a further reduction in the peak rate of flow below the pre-development peak flow rate. Since the goals of Section 719 of the SMO have been met, the PC has no objection to recommending waiving the additional peak rate reduction required by Section 401.A.2.
2. Provide an asphalt trail as currently shown on the plan from the common driveway at the boundary between Lots 1 and 2 to Appleton Road, the common driveway itself providing trail access back to Peacedale Road. A separate trail entrance is to be provided from Peacedale Road that ties into the common driveway. Also, provide access to the Charter School Property with a woodchip trail from the common driveway portion of the trail as was shown to the PC at the 7/3/08 meeting. In addition, provide trail marking signs. The portions of the trail that are not part of the common driveway shall be delineated and constructed prior to the issuance of building permits. The portion of the trail that is part of the common driveway is to be completed and marked upon final paving of the common driveway.
 3. SALDO Section 714.E provides that the Board of Supervisors shall have the authority to approve common driveways. The PC recommends that the Supervisors approve a common driveway for Lots 1, 2 and 5, and an additional common driveway for Lots 3 and 4.
 4. SALDO Section 710.A provides that the Board of Supervisors have the discretion to require sidewalks. The Planning Commission recommends that a sidewalk be installed along Appleton Road.
 5. Drawing 5A, Erosion and Sedimentation Control Plan should be revised to indicate placement of orange construction fencing consistent with the revised sewage system layouts for lot 3.
 6. Lot 3 replacement sewage system area designations should be revised to include the extent of berm for the elevated sand mound, as depicted on the planning module plan dated November 29, 2007 and last revised June 20, 2008. The berm area must remain undisturbed to preserve viability of this area in accordance with Plan Note 20 and Section 722.K.4 of the SALDO.
 7. The applicant should add the new well for lot 4 that was shown on the SFPM plan (last revised June 20, 2008) onto the final subdivision plan.
 8. The applicant should add a note specifying that the existing well on lot 4 will be abandoned in accordance with all Chester County Health Department requirements.
 9. The applicant should add the septic locations that were shown on the SFPM plan (last revised June 20, 2008) onto the final subdivision plan.

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10. In a July 9, 2008 letter from Walt Leis of Tetrahedron Consultants, Inc. the Township was advised that “the Insinga property is beneath the threshold for hydrogeological studies and is, therefore, in compliance with Ordinance 2002-07.”
11. Upon obtaining preliminary approval, the Applicant shall withdraw all previously existing conditional use approvals and/or plans for uses on the property.
12. Regarding the Peacedale and Franklin Road Improvements, the Township and Developer shall decide on the type and level of road improvements prior to receiving final plan approval.
13. Regarding the existing house at 3323 Appleton Rd., the Township and Developer shall decide on what improvements are to be made at the existing house prior to receiving final plan approval.
14. The applicant’s final plan shall comply with all of the conditions as noted in the Conditional Use Decision of January 31, 2006, or as amended and agreed upon by the applicant and the Township.
15. The final plans shall include a note on the plan indicating a deed restriction to the effect that any future subdivision and development of all individual lots and designated open space areas created by development, shall be approved by the Township and filed with the County of Chester at the time, and before the issuance of building permits for the development.
16. The applicant agreed to design the new house closest to Appleton Road in conformance with the historical context of the surrounding homes.
17. At the time of final approval the Traffic Impact Fee and Fee-in-Lieu will be determined.

After discussion Mr. Whipple amended the original motion relating to the construction of the trail as noted in Item 2 and the conditions referenced in Item 14 above. Further discussion included Mr. Overton's question regarding the creation of a cross block pedestrian link between the residential areas west of Kemblesville and the village, as noted by the Chester County Planning Commission. Mr. Hitchens provided an explanation regarding how this comment was satisfied at the Planning Commission meeting. The Board indicated a preference for a sidewalk along Appleton Road, with the PC to discuss exact placement when reviewing the final plans. Motion carried by a vote of 5-0.

- D. Downs Property Preliminary/Final Plan: The Downs (Goodwin) Final Subdivision Plan being reviewed is dated April 12, 2008, last revised June 13, 2008. The 89.763 acre property is located on both sides of Rt. 841 and portrays a total of five lots. The Planning Commission reviewed the plans at the July 3, 2008 meeting and approved a recommendation to the Board that the plan be accepted including the waivers as noted. Mr. Barry Stingel of Hillcrest Associates presented the plan to the Board. On motion by Mr. Whipple, seconded by Mr. Brindle, the final plan dated April 21, 2008, revised June 13, 2008, was approved with waivers and conditions as noted below:
1. SALDO Section 404.A requires a two-step process for preliminary and final plan approval. Since no development is being proposed, the Planning Commission supports this waiver to allow a combined preliminary/final plan process.
 2. SALDO Section 502.Q requires submission of an erosion and sedimentation control plan. Since no development is being proposed, the Planning Commission supports this waiver so the applicant would not have to provide an erosion and sedimentation control plan.

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3. SALDO Section 503.C requires that the final plan show all preliminary plan information. Since no development is being proposed, the Planning Commission supports this waiver so the applicant would not have to show all preliminary plan information.
4. SALDO Section 610 to provide limited landscaping and buffering along the property frontage (fronting Rt. 841) with the exception of the frontage of the existing Goodwin buildings being approximately 150 feet near the berm.
5. SALDO Section 702.E requires additional right-of-way along Wickerton Road. The applicant is offering a 40 foot ultimate right-of-way from the center line, but not to be dedicated until such time as requested by PennDOT. The Planning Commission supported this waiver at their June 5, 2008, meeting.
6. SALDO Section 710 requires construction of sidewalks at the discretion of the Board of Supervisors. The Planning Commission believes that sidewalks are not appropriate in this rural setting where the applicant is working with the Open Space Committee to provide a trail system on the property and would recommend to the Board of Supervisors that it not require sidewalks.
7. Recording of the final plan within 90 days of approval by the Board of Supervisors.
8. The applicant's engineer must seal the plans and provide a statement that the "Zoning and Subdivision and Land Development Ordinances have been reviewed and that to the best of this preparer's knowledge, the plans are in conformance."
9. The owner's certification must be signed and notarized.
10. The applicant is responsible for contacting the County Tax Assessment Office relative to the Act 319 status.
11. Any future development of proposed lots 1, 2, and 5 be preceded by a sketch plan to show potential development of the parcel.

Motion carried by a vote of 5-0.

- E. *Lexington Point request for temporary permit*: In a letter dated July 8, 2008 from Greg Hill of Keystone Custom Homes, the builder requested permission to utilize a port-o-potty/temporary toilet at the model home located on Lot 1 at the Lexington Point development. He stated that the model home doesn't require a Use and Occupancy Permit since no one is living there or using it as an office. It will be used to display the product for prospective buyers on a limited basis. Once the permitted waste water treatment facility is constructed and sewage becomes available the port-o-potty would be removed from the property. It was noted that no public water is available at the site. Representing the developer was Greg Adelman, Esq. who explained the developer's hardship and the operational cost of pump and haul. Supervisor Whipple responded to the applicant's representative that, if a hardship existed, the applicant had created it. The applicant made the choice to not do as expected – concurrently construct the pump and haul facility at the same time as the first house was being built. Supervisor Whipple also noted that the Board's focus needed to be on public health, safety and welfare, more so than on what might be more economically favorable for the applicant. Supervisor Whipple then advised the applicant's representative that, upon guidance from the Township's Solicitor and Building Code Inspector he, as one of five, was not in favor of granting a Certificate of Occupancy until the required pump and haul was in place and operational – as had always been understood as the process that would be followed by the applicant. Each Board member provided their view on why they were not in favor of permitting the port-o-potty and in favor of

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having the pump and haul built immediately. The consensus of the Board was to not grant a Certificate of Occupancy until the required pump and haul facility is constructed and operational, as had been expected to occur simultaneously with the construction of the first house.

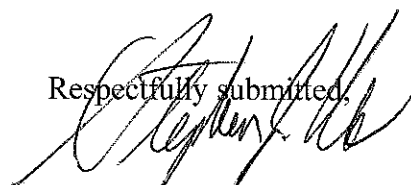
Old Business:

- A. Act 537 Special Study: The Board received a copy of the July 3, 2008 letter from Stan Corbett and the Plan of Study for the Community Sewage System Ownership Evaluation. The letter provides a brief history on why the study is necessary. The proposed study is for the purpose of submitting to DEP a study that effectuates PUC entity ownership of community systems in general and the Lexington Point system in particular. The cost of the study is a number not to exceed \$13,397. Ms. Morgan of URS provided additional information on the process for receiving approval. On motion by Mr. Whipple, seconded by Mr. Hughes, the Board authorized URS to proceed with providing a Special Study for Community Sewage System Ownership for Franklin Township at a cost not to exceed \$13,397. Mr. Adelman questioned whether the Township pursued an amendment of the 537 Plan in lieu of the study. Mrs. Morgan advised that PaDEP recommended the process that is being used. Motion carried by a vote of 5-0.
- B. 2008 Township Road and Maintenance Bid Award: Mr. Eastburn advised that the Staff duly advertised for the contracting of road maintenance on June 25th and June 29th, 2008. The bids were opened and read on July 10, 2008. The only bid received was from Yardworks with a total estimated price of \$70,375 for labor and equipment. The bidder submitted acceptable surety in the form of a bid bond. The Staff reviewed the bid and determined that it was within the budgeted amount set forth in the 2008 budget and the rates that were submitted by Yardworks were very similar to what was bid in 2007. On motion by Mr. Whipple, seconded by Ms. Latimer, the Board awarded the bid to Yardworks, Inc. at the proposed rates as set forth in the standard bid form estimated at \$70,375. Motion carried by a vote of 5-0.

Public Comment: Mr. Adelman advised that his client, Keystone Custom Homes, would encourage the Township to move toward engaging a PUC firm, like Little Washington, to own and manage the community sewer system.

Adjourn: Mr. Whipple moved, seconded by Mr. Hughes, to adjourn at 8:23 pm. Motion carried by a vote of 5-0.

Respectfully submitted,



Stephen J. Ross
Township Mgr./Secretary