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FRANKLIN TOWNSHIP PLANNING COMMISSION MEETING MINUTES AUGUST 6, 2009

Call to Order: Planning Commission Chairman Ralph Olivier called the meeting to order at 7:11 p.m. Present were Mr. Brindle and Dr. Harris. Dr. Hoffman arrived at 7:14 p.m. Mr. Squadron was not in attendance. Others present included Township Secretary Sharon Norris, Township Engineers John Theisen and Scott Allen, Twp. Solicitor Bob McClintock and Assistant Township Mgr. Jeff Eastburn. Fourteen members of the public were in attendance, including all five members of the Board of Supervisors.

Public Comment: No public comment.

Approval of Minutes – June 4, 2009: On motion by Mr. Brindle, seconded by Dr. Harris, the Minutes of the Planning Commission Meeting of June 4, 2009 were approved as submitted. Motion carried unanimously.

Planning & Zoning:

- a. **Contractor's License – Ordinance 2009-04:** Mr. Eastburn explained that Ordinance 2009-04 is intended to bring the Township into compliance with the Home Improvement Consumer Protection Act (HICPA). The purpose of HICPA is to protect consumers who enter into a contract for services that are considered "home improvements" as defined in the Act. Mr. Olivier asked for clarification regarding the definition of a building contractor that is covered by the Act and a general contractor, who does home improvement work, but is not covered by the Act. Mr. McClintock provided those definitions and further explained that if a contractor is covered under the Act, he must be licensed by the state of Pennsylvania and provide that license, along with proof of insurance, to the Township prior to doing work in the Township. Building contractors who do not meet the definition of a contractor under the Act, have to be licensed by the Township. In essence, all contractors, except those covered by HICPA, must be licensed by the Township.

Mr. Brindle moved, seconded by Dr. Hoffman, that the Planning Commission recommends that the Board of Supervisors adopt Ordinance 2009-04, an Ordinance of Franklin Township, Chester County, concerning Licensing of building contractors. Motion passed unanimously.

- b. **Charlton Final Plan:** Mr. James Fritsch and Mr. Vaughn Charlton were present on behalf of the applicant. Mr. Fritsch identified the location of the 2-acre parcel, #72-6-81.3, where they propose to construct a motor vehicle service building. The Preliminary Plan was conditionally approved by the Board of Supervisors at their June 17, 2009 meeting. Since that time the Plan has been revised twice, first on 7/13/09 and again on 8/4/09. Based on these revisions, Mr. Fritsch states that all of the Township consultants' issues have been addressed. The PennDOT plan has

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also been revised. Mr. Fritsch requested a recommendation for approval from the Planning Commission.

Mr. Olivier went through the Township consultants' review letters and identified the following items that need to be addressed prior to final plan approval by the Board of Supervisors:

- Based on PennDOT's recommendation, the radius of the driveway has been increased. That change shall be reflected on the revised plan.
- In conformance with the SALDO dated 11/19/08, the following note be added to the Plan: "Note 41: Right-of-way dedicated to and reserved for Franklin Township and/or PennDOT".
- The Stormwater Mgmt. Agreement, and all other agreements shall be properly executed.
- Sheets 3-7 and 9-11 of the Environmental Impact Assessment Report shall be included in the final plan.
- In conformance with the Zoning Ordinance, Sheet 3 should show all grades and slopes of the parking space and sidewalk and Sheet 7 should show all details.
- In compliance with the Americans with Disabilities Act (ADA), proper handicap signage at the head of the handicap parking spaces shall be shown on the Plan.
- Also in compliance with the ADA, the accessible route from the public way to the accessible entrance shall be shown on the Plan.
- The Improvements Agreement shall be prepared and executed.

Mr. Brindle moved, seconded by Dr. Hoffman, that the Planning Commission recommend that the Board of Supervisors approve the Vaughn Charlton Final Land Development Plan dated 12/12/08, last revised 08/04/09, as well as the PennDOT Low Volume Permit Plan dated 04/04/09, last revised 07/07/09 with the condition that all necessary Final Plan approval items, including but not limited to the following, be addressed to the satisfaction of the Township:

Conditions of Approval:

1. Compliance with all outstanding conditions and comments as set forth in the Township consulting engineers' review letters, including but not limited to:
 - LTL Review letter dated July 22, 2009.
 - McCormick Taylor's review letter of July 23, 2009.
 - URS's review letter of July 30, 2009.
 - Tetrahedron's review letter of July 30, 2009.
2. A fee-in-lieu of recreational land dedication of \$2,688 to be paid to the Township in two installments, one-half at the issuance of a building permit and one-half at the issuance of a certificate of occupancy.
3. Payment of an impact fee pursuant to the Township's Traffic Impact Fee Ordinance in the total amount of \$38,616.60 (based on 11 peak hour trips at \$3,510.60/trip) to be paid as specified by the appropriate ordinance at such time as a building permit is issued.

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4. Payment of outstanding and expected legal/consultant review expenses and funding of the appropriate escrow account in accordance with Township policies, prior to issuance of a building permit.
5. Completion and execution of all appropriate legal documents (and payment of any associated fees) in a form acceptable to the Township Solicitor and Township Engineers (and in a form acceptable for recording where appropriate), including but not limited to the following:
 - Declaration of Covenants
 - Subdivision and Land Development Agreement
 - Subdivision and Financial Security Agreement (in accordance with construction cost estimates agreed to by the Township Engineer).
 - Stormwater Management Facilities Maintenance Agreement.
 - Sewage Holding Tank O & M Agreement.
6. Receipt by the Township of an approved PennDOT Highway Occupancy Permit.
7. Note 41 of the Plan shall be replaced with the following Note: "Right-of-Way dedicated to and reserved for Franklin Township and/or Pennsylvania Department of Transportation."

Mr. Olivier made the following friendly amendment:

8. The Plan be revised to show the accessible route from the public way to the accessible entrance in conformance with the Americans with Disabilities Act and subject to the review of the Township Engineer.

The friendly amendment was seconded by Mr. Hoffman. The motion passed unanimously.

c. *Energy Endeavors (aka Property Endeavors) – Preliminary Plan*: Mr. Ken Crossan addressed the Planning Commission on behalf of the applicant. The plan is a proposal for an expansion of the building located on the south side of Rt. 896 at 1619 New London Rd., previously known as The Kitchen Design Shoppe. The plan also proposes supplementing the parking facilities and driveway access to the site. By default, it requires modification of the stormwater management area which is to the rear of the property. Mr. Crossan referenced the review letters received from the various Township consultants and advised that they have begun to respond to those reviews. In general he doesn't see any insurmountable issues in those reviews. The applicants have met several times with members of the staff and are well on the way toward resolutions of the issues raised. The purpose of tonight's discussion is to consult with the Planning Commission regarding three major subjects as follows:

1. **The Landscaping Plan**: The applicant has engaged Ms. Martha Straus of Straus Associates Landscape Architecture, to assist in this area. Ms. Straus presented the Landscape Plan. She referenced comments in LTL's review letter dated July 13, 2009 regarding labeling and some graphic discrepancies and indicated that she and John Theisen will work through those issues. The main issue she wanted to discuss is the perimeter buffer of the stormwater management area located at the rear/southern portion of

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the property and whether the existing plantings will provide a satisfactory buffer. Ms. Straus created a map of the existing locations of the native saplings in this area and progressed them by 5 years. The plantings are very rich and include species such as apple, crabapple, cherry, hawthorn, black walnut and cottonwood trees. There is also one dogwood, one juniper and a large number of pear, red maple, mulberry, sassafras and willow trees. At a minimum she has counted 170 trees measuring a thickness of approximately 1-1 ½". A strict interpretation of the Township ordinance would require approximately 120 plants, 50% of which would be shrubs. From a visual standpoint there's no doubt that within 5-10 years these plants will serve as a visual buffer. From an environmental standpoint, because all the material is native and already established, there's a benefit to wildlife and certainly a benefit in terms of stormwater recharge. Regarding the stormwater basin, the plan is to deepen it by removing material from the bottom of the basin, increasing the depth by approximately 6" and then using some or all of the removed topsoil as a seed bank, since it contains exactly the material needed for the intended reforestation. The grasses, cattails and willows in the area are substantial. Ms. Straus indicated that it would be difficult to replace them with anything that would function as well. The applicant is asking for approval to replace a formal line of plants with a long term management program to allow a reforestation in this 1.25 acre portion of the property. This would allow the creation of informal pathways that would be maintained for the benefit of the employees and provide access into the basin for ongoing maintenance. Such access is necessary to continually remove the invasive plant materials that exist in this geographical area. There were several questions from members of the Commission which Ms. Straus answered to their satisfaction. Mr. Olivier suggested that she take photographs of the stormwater area for the record to show the opacity that currently exists so that it can be demonstrated that the existing plant materials are more than adequate. There was consensus among the Planning Commission members that the Landscape Plan is an acceptable path forward.

2. **Section 404.2 of the Stormwater Ordinance requires that the basin be 50 ft. from any property line:** Mr. Ragan explained that the applicant is trying to salvage as much of the existing stormwater basin as possible. Currently at its closest point, the berm is 25 ft. from the back property line. The applicant believes this was a legal distance at the time it was installed as part of The Kitchen Design Shoppe's approved plan. Since that time the ordinance has been changed to make it more stringent. The applicant needs to expand the existing basin to handle the stormwater which will be created by the increase in impervious surface. The berm will not be moved closer to the property line. The basin will be deepened and expanded a little on the eastern end of the basin where it will be moved away from the property line toward the interior of the property. The applicant is requesting that it be interpreted as an expansion of an existing basin or that a waiver be granted which would be justified by the fact that

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if the applicant has to remove the existing basin and install a new one, most of the landscaping concept will be destroyed by the disturbance.

Mr. Olivier suggested that the applicant create a paper trail showing that the existing basin was legally conforming at the time it was constructed. If this is adequately shown then the Planning Commission would allow it to be expanded from an existing conforming structure. The other members of the Commission agreed with this approach.

Mr. Ragan stated that such a history would be included in the resubmission.

3. **Waiver request from SALDO §22-401.3.B requiring a preliminary and final plan review process:** Mr. Ragan requested a waiver based on the uniqueness of the plan and to expedite his client being able to move into the facility. Applicant's attorney has formally requested the waiver in his letter of August 3, 2009.

Mr. Olivier explained that historically that kind of request has only been granted when no construction is proposed. It's typically used in cases where it is a simple lot line readjustment or something of that nature. Mr. Ragan suggested if a waiver is not possible perhaps a conditional approval of the preliminary plan is a possibility in order to go quickly to final approval.

Mr. Olivier stated that conditional approval is typically recommended when the conditions are financial and legal and would be handled by the Board of Supervisors. The Planning Commission does not give conditional approval when the issue is related to compliance with the Zoning or Subdivision and Land Development Ordinances. He suggested that the way to speed up the process is to quickly respond and comply with the consultants' review letters and the Township's ordinances. The other members of the Commission agreed with Mr. Olivier.

Mr. Olivier reminded the applicant that before going to final plan approval to be sure that the accessible route from the public road to the building be shown on the plan in conformance with the ADA.

- d. **Hess Mill Lots 6 & 8:** Mr. Randy Fisher from Stantec Consultants was present on behalf of the applicants. He advised that this is a minor lot line adjustment for Hess Mill Lots 6 & 8. The plan proposes to exchange land between lot 6 and lot 8 of the Hess Mill Run Phase II subdivision as well as consolidate a 50 ft. wide parcel extending along Lot 8. There was an issue regarding a utility easement which was affecting lot 7, however Mr. Stantec said that issue has been resolved. Mr. McClintock said that a Note should be placed on the plan and the owner of lot 7 should sign the plan. Mr. Olivier asked if the applicant would mind waiting until next month for approval so that the correct language can be drafted. The applicant did not have a problem with waiting.

Public Comment: There was no public comment.

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Adjourn: Mr. Olivier adjourned the meeting at 8:35 p.m.

Respectfully submitted,

Richard J. Squadron
Planning Commission Secretary

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