

**BETHEL TOWNSHIP  
PLANNING COMMISSION**

**July 5, 2012**

**RECORD OF MINUTES**

The Regular Meeting of the BETHEL TOWNSHIP DELAWARE COUNTY PLANNING COMMISSION was held on Thursday, July 5, 2012, in the John L. Myers Jr. Memorial Township Building, 1082 Bethel Road, Garnet Valley, PA 19060

**PRESENT:**

Kenneth Laaken, Jr.-Chairman	Louis Torrieri-Vice Chairman
Judith McCleary	Jean Stoyer
Rajesh Shah	David Tustin

**IN ATTENDANCE:**

Lynn Mahoney-Secretary  
John Camero-Liaison, Township Supervisor  
Matthew Houtmann, P.E.-Township Engineer  
Laurence L. Smith, Esquire-Planning Commission Solicitor

**APOLOGIES:**

L. Theodore Hoppe, Jr.

**OBSERVERS:**

**MEMBERS OF THE PUBLIC (20)**

The regular meeting was called to order by Kenneth Laaken, Chairman at 7:30 p.m., followed by the Pledge of Allegiance.

The chairman requested everyone to please silence all electronic equipment and announce the presence of a recording device for the purpose of minute taking.

## **APPROVAL OF MINUTES:**

Ken asked for a motion to accept the June 6, 2012 meeting minutes as prepared by our secretary.

**Motion:** Moved by Lou Torrieri that the minutes of June 6, 2012, being no additional comments or adjustments, be approved as written, seconded by Raj Shah. **Motion carried**, unanimous.

**CORRESPONDENCE:** Covered during old business

## **REPORTS:**

### **1. SEWER AUTHORITY: Laurence Smith -**

Sewer Authority next regular meeting has been changed from this evening to next Wednesday, July 11, 2012, 7:00 p.m., at the Authority Office.

The developers are meeting dedication requirements for the following subdivisions, Foxfield, Creekside Run, and several phases of Northbrook.

## **OLD BUSINESS:**

### **Independence Towns- Plan #PC-2012-1**

**Matt Houtmann-** For the benefit of the new members on the Planning Commission and new members of the audience, Matt Houtmann gave a synopsis of how the plan has evolved through the approval process since it was first introduced. The plan was conditionally approved by Bethel Township Board of Supervisors in early 2010, the plans were not signed and recorded since it did not go to the final step of posting development agreement, or other HOA agreements that needed to be signed and recorded. Since then, the original applicant lost control of the property and Baker Residential, who Mr. Tim Smith is representing tonight, assumed ownership of the tract and are making one notable change to the plan. The plan that was conditionally approved, had the primary access off of State Line Rd., through the Green Property and an emergency access through the adjacent lands owned by the applicant to East Fulton Rd, the new plan was submitted as an amended final plan, to make a switch where by the primary access is off East Fulton Rd. with the emergency access through the Green Property right off State Line Rd.

The first plan that Bethel Township saw was a sketch plan in April 2006. It was submitted to the Township in June 2006, and first reviewed by Matt in June 2006. That plan included 58 townhouses with access through the Green Property and an emergency access through East Fulton Rd. which is how the plan was ultimately conditionally approved. With the first submission of the plan, there were some issues discussed right up front with the Planning Commission. They included possible impacts to wetlands and waterways in the United States, configuration of open space, access to the property, which was a concern the first minute the township, saw the plan, and other issues concerning configuration of lots, such as the

arrangement of the lots with respect to the road system.

Between June 2006 and July 2007, the applicant explored options for site access, something other than State Line Rd as well as developing preliminary engineered plans. July 2007, was the first full submittal of an engineered preliminary plan. Threshold issues were identified by Matt and the Planning Commission concerning the access, wetlands, commune ownership versus fee simple ownership, pipelines that run through the property, open space configuration, active versus passive, and deck use. Concerning the access, some of the issues that were brought up in review letters were the number of homes on a single access entering the Pennsylvania site through the state of Delaware, whether there were any possible use restrictions already on the roads in Delaware. Also, there were concerns of the residents of Trotters Lea, Chartwell and residents of the State of Delaware who attended the meetings. With the May 15, 2007 submission, the accesses were switched back to where the main access was off of East Fulton Rd and the emergency access was to State Line Rd., through the Green property. There were 60 comments on the plan that dealt with layout issues and use issues.

On October 31, 2007, Matt's office issued correspondence, strictly concerning the site access. They identified all feasible methods of getting access to this property, no matter how remote or possible those access points may be. They looked at an access strip through the open space of the Trotters Lea development, between lots 49 and 50. They also looked at possible connection through open space of the Chartwell Development, the Belmont Development, and possible extending the road through to Winterset Rd, which then accesses Ebright Rd. Matt also looked at alternate accesses through the State of Delaware. All the options were considered. Some were stricken down fairly quickly, others were asked to be investigated a little more thoroughly. One of the primary alternate accesses they felt had a chance was to have the access of the road, the bottom cul-de-sac, all the way out to Winterset Drive and out to Ebright Rd. The applicant and the township corresponded with the Carlyle Group that owned Winterset Mobile Home Park, in order to obtain permission to connect to that road way, Winterset Drive is a private road, owned by the Carlyle Group, not owned by the Township. Bethel Township went as far as offering to accept Winterset Drive as a public road, hoping that it would be an incentive for the Carlyle Group to allow access to that drive, after dedication, the township would be responsible for the maintenance for that road and not the Carlyle Group. After showing initial interest in allowing the connection to Winterset Drive to take place, the Carlyle Group ultimately decided not to give up its private rights to Winterset Drive and wanted to keep it that way, which eliminated the last possible alternate means of access to the site. At that point in time, it became obvious to the Township that access to the property would have to be through State Line Rd., which historically was the access point for this piece of property.

July 2008, a plan was resubmitted, which switched the accesses again, with the primary access back to the Green Property and the emergency access through East Fulton Rd. The plan was reviewed with 72 comments and at that time, Matt started to look for more detail on what improvements were proposed for State Line Rd.

Plans resubmitted in November 2008, the township was still questioning any use restrictions of State Line Rd. and the issues with New Castle County and DeIDOT, and issues and impacts with the adjoining property owners in both states. A Traffic Report was requested by the Township of the applicant and was submitted. That Traffic Report recommended the

construction of a dedicated left turn lane heading south bound on Rt. 202, to make the left turn into State Line Rd. a safer and serviceable entrance. Regarding State Line Rd., the Township initially looked for a public street standard of a 27 foot width of which the applicant said would be extremely difficult. The township reduced their road width request to 25 feet, also requested curbing and drainage improvements and coordination with DeIDOT.

On December 2, 2008, the plans were resubmitted again with 53 new comments, resubmitted on December 16, 2008, with 17 more comments, including some comments with the original 53 which were not completely addressed. With concerns about the tree clearing along State Line Rd., concerns about storm water run-off from a widened road way, legal issues with the awkward classification of State Line Rd. in Delaware, which is a private road opened to public use, the Township reduced its demand from 25 foot wide road to a 22 foot wide road. Still issues discussed during this time frame with improvements to State Line Rd., with resurfacing versus reconstruction and the resulting plans were revised again and resubmitted in July 23, 2009.

During this process, the unit count had been reduced from 58 townhouses to 49 townhouses. The Trotters Lea Homeowners Associations hired an engineer to review the storm water calculations with respect to State Line Rd. The results by the Trotters Lea Homeowners Association engineers agreed with our review of the drainage calculations and found them acceptable. The Trotters Lea Homeowners Association, in a January 20, 2009 letter to the Township, requested that State Line Rd be widened, such that two cars could safely pass each other. Finally, throughout the 2-3 year process, we received a preliminary plan approval, with conditions, a lot of those conditions had to do with State Line Rd., third party permits that were required, PennDot, DEP permits for sewage disposal and erosion sediment control. March-April, 2009, three years after the township first saw the plan, it was conditionally approved as a preliminary plan. Plans were resubmitted August 13, 2009. Matt's office reviewed them in June of 2009. Revisions were made and resubmission December 8, 2009. In early, 2010, after four years of review, 13 plan revisions, nine full reviews by the township engineer, planning commission work sessions concerning these threshold issues, extensive investigations and deliberations, and reviews, the plan received a conditional final approval. This concentrated on threshold issues, notably, State Line Rd., but there were many other issues during this whole review process that had to be discussed and argued between the applicant and the Planning Commission. We got the plans and thought that they met our ordinances, and considering all constraints that the property had, the plan had best represented what the Township was looking for in compliance with the ordinance. The most recently submitted plan was submitted as an amended final. The unit count has been reduced from 49 to 47, when they switched the access back to East Fulton Rd. In summary, this application was the most closely reviewed and deliberated application that has come before the board in recent memory, with all the different issues that needed to be ironed out and ultimately, the Township ended up with the best development possible with the access and physical constraints that were unique to this property. This plan, in terms of its general layout, with the exception of changing the main point of access, is for all intents and purposes, identical to the plan that was approved in 2010.

**Tim Smith- Independence Homes-** Discussed the review letter received by Matt Houtmann, dated June 27, 2010, with a total of 20 comments. Comment one concerned ownership of the

right of way area associated with the new entrance road in Delaware. The entire lot is shown being a road right of way instead of a 50 foot strip. A note has been added to the plan to show the ownership will remain with the HOA until such time as the state of Delaware takes title. The HOA will maintain responsibility for the retaining walls, and the HOA documents reflect this. There is only a one monument requirement for one side of the road. The back of the lots, 1-15, has a 30 foot buffer requirement; there is also a rear yard setback requirement. According to Matt, only a buffer requirement is required. The revised plans show a 10'x10' deck on every unit where it fits. There are four units that do not fit decks. Those owners will be notified that a deck is not available. Tim will provide a name for the road that comes off of East Fulton Rd. Delaware sponsors the name. The revised plans reflect the swale around the rear of lots 42-47. A five foot high retaining wall behind lots 42 and 43, a fence is required. There is a note in the plan. It will be a safety fence that is architecturally compatible with the houses. Adjustments were done to grading on driveway slopes on lots 10, 11, 46 and 47. A question on lot 24, it shows a retaining wall that was adjacent to the house. The wall will be moved to eight feet from the house. Detailed comments on storm water, added a small collection area and infiltration system where the road crosses into Pennsylvania was clarified. Grading and limits of disturbance required for the emergency access road to minimize removal of existing vegetation. Tim pulled the grading in as tight to the side of the road as possible to maintain as much existing vegetation along the Chartwell property line as possible. Evergreen shrubbery will be put along each side of the emergency access. The Fire Marshall will be contacted to discuss restriction of the emergency access and placement of the fire hydrants. No parking signs to be placed in the cul-de-sac. On State Line Rd., after the road is staked, Matt suggested that the Township higher an arborist to see what trees can be saved. The applicant will reimburse the township for the cost of the arborist and supply the township with all approvals from Delaware.

Lighting was mentioned in the cul-de-sac for safety issues. The applicant will look at the plan and see what can be done to enhance lighting in the cul-de-sacs. Street names were discussed and Sanderson and McCormack were agreed upon. Drainage issues were discussed and explained. Matt will review notes concerning the cart way. White vinyl fencing will be used and put on the plan. The construction entrance will come through the main access. The retaining walls will be 9 foot block walls.

Road maintenance will be handled by the HOA. The HOA documents will be reviewed by the solicitor.

**Stan Lucas 150 East Fulton Rd. Wilmington, Delaware-** had concerns with drainage on State Line Rd. and brought in pictures to show drainage problems.

**John Lynch -150 Trotter Lea Lane-** expressed concerns about saving the trees on State Line Rd. and asked for Trotters Lea to be a part of the design plan, also had questions about the road width.

**Russ Cobb- 176 Trotter Lea Lane-** Asked about the inlets and pipes along the Delaware portion of the road. The board suggested that he attend the Delaware board meetings and pose these questions. His concerns were noted.

**Michael Bradley, Esq. Media PA-** Discussed the concerns of the Trotter Lea HOA with respect

to saving the trees and the widening of State Line Rd. Since the portion of his concerns are located in Delaware, the state of Delaware will have to address these issues. His concerns were noted.

This commission can recommend approval or non-approval of the plan based upon the conditions that the State of Delaware have approvals. The plan will not be acted upon or recorded until the requirements are met. The Municipal Planning Code (MPC) requires that this body and the township review plans in accordance with set time frames.

**David Perrino- 157 Trotters Lea Lane-** Had concerns about the physical placement of Trotter Lea homes (on the Trotter Lea development plans) relative to the planned Stateline Road upgrades. He also indicated that he spoke to five homeowners in Delaware about moving the location of the road upgrades to the south side of Stateline Road on the proposed plan. It was pointed out that the Delaware side of the plan needs Newcastle County Planning review and is not within the jurisdiction of the Bethel PC..

**Tom Bradley- 156 Trotters Lea Lane-** Talked about the issues of the plan as it relates to the Delaware portion and expressed his concerns to the board, also asked about construction sequencing. The sequencing will be done at the same time and by the time the development is done.

**Joe Setting- owner of property at the corner of State Line Rd and Concord Pike-** P.O. Box 5, Montchanin, Delaware 19710. Stated the original plan encroached on his property. He filed an appeal of the sub division. The new plan has the road moved from 40 feet to 35 feet. He still believes there is an encroachment. Matt will check the plan. Apex Engineering is the engineer for Mr. Setting.

**John Lynch- 150 Trotters Lea Lane-** asked which ordinances are being used to review the application. The Bethel Township ordinances will be used dating June 10, 2008.

Trotters Lea residents should attend the New Castle County meeting and see if an agreement can be reached with the Delaware land owners to move the road.

## **NEW BUSINESS:**

### **Foulk Manor Estate- plan # PC-2012-2**

**Matt Houtmann-** An updated plan was received and will be reviewed.

**Jack Robinson- Foulk Manor Estate-** presented a preliminary plan. The property is located on Foulk Rd, between Concord Rd and Lorraine Drive. It is zoned R-1 residential. There is an existing mansion on the property. 12 lots are proposed with a cul-de-sac. The road access was adjusted to provide the required site distance. There is a bus stop and light on Foulk Rd. Three basins were reduced to two basins. An easement will be added and put in the plan to provide for emergency and utility service. A sewer easement was discussed and will be reviewed with Walt Fazler. The driveway on Lot 1 will be reviewed. The current entrance will be moved closer to the crest of Foulk Rd to provide for site distance. The trees will be selectively saved where they can be.

**Elizabeth Rakus- 2067 Foulk Rd.** - had questions about the entrance and the dip on Foulk Rd. There will be no gradient changes to Foulk Rd. The bank will be graded back. Inquired if there was going to be a tree buffer on the property line. The area is heavily wooded with no proposed disturbance.

**Janet Goldhahn- 23 Warner Place-** Inquired whether the property was up for bid for demolition of the existing mansion house structure. Applicant indicated it was too early in the process to consider that aspect.

### **PUBLIC COMMENTS AND QUESTIONS:**

No public comments or questions

### **ADJOURNMENT:**

The next scheduled Planning Commission meeting will be held on Wednesday, August 1, 2012, at 7:30 p.m.

There being no further business, the meeting was adjourned at 9:29 p.m. on a motion by Lou Torrieri, seconded by Jean Stoyer. Motion carried, unanimous.

**Lynn Mahoney**

**Secretary**