

East Whiteland Township

Planning Commission

Wednesday – April 24, 2019

Minutes

Members Present: Deb Abel, Chair; Jeff Broadbelt, Vice Chair; Dante Bradley; Peter Fixler; Tim Kelly; and Todd Asousa.

Members Absent: John Laumer

Also Present: Zachary Barner, Director Planning & Development; Brittany Bulger, Planning Coordinator; Joe McGrory, Township Solicitor; and Darrell Becker, Township Engineer.

Call to Order:

Ms. Abel called the meeting to order at 7:00 p.m. and led the Pledge of Allegiance.

Minutes:

Approval of the March 27, 2019 meeting minutes.

Mr. Barner stated there should be one modification to the March 27, 2019 meeting minutes. The minutes incorrectly state that the Valley Creek Trunk Sewer System will be regulated by the Public Utility Commission (PUC). The sale of public infrastructure may be regulated by the PUC but this specific transaction was not subject to PUC authorization.

Action: Mr. Asousa made a motion, seconded by Mr. Fixler, to approve the minutes (with revision). The motion carried unanimously **(6-0)**

Mrs. Abel announced there would be a change in the order of the agenda, as published. The first item to be discussed will be Act 537 Special Supplement for the Valley Creek Trunk.

Sewer Planning:

1. **Act 537 Special Study Supplement for Valley Creek Trunk** – The purpose of this Act 537 “Special Study” is to provide documentation requested by the Pennsylvania Department of Environmental Protection (PADEP) in connection with the sale of sanitary sewer facilities within the Valley Creek Trunk Sewer System (VCTS) from Tredyffrin Township Municipal Authority (TTMA) to Aqua Resources, Inc. (Aqua). Since the VCTS serves East Whiteland, the Township is required to adopt the Study as a revision to the Township’s Official Act 537 Sewage Facilities Plan.

Mr. Barner provided a brief overview of the Act 537 Sewage Facilities Planning process in Pennsylvania, including the need for an Official Management Plan. Since East Whiteland is served by a portion of the VCTS, the Township must amend its Official Plan to reflect the contents of the Special Study. He added that Chuck Faulkner from Pennoni (Township Sanitary Sewer Engineer) was present in case the Planning Commission members had technical questions regarding the Study.

Following questions from the Commission regarding potential rate increases in the future, Mr. McGrory stated that the current contract for services within associated Settlement Agreement provides a temporary rate cap and a defined level of rate stabilization over a designated 8-year period.

Mr. Kelly asked if the Township had performed a future build-out analysis to ensure that there is adequate capacity in the system (and allocated to the Township) to accommodate future growth. Mr. McGrory confirmed that the Township's Director of Public Works and previous Sanitary Sewer Engineer had performed calculations to determine future needs.

Mr. Bradley questioned whether the sale of the system was due to Tredyffrin Township not maintaining the sewer system properly. He also asked how the rates were determined and how would they would be determined in the future. Mr. McGrory explained that the rates are uniformed and reasonable for the five partner municipalities, as outlined in the Study and the Settlement Agreement. He added that partner municipalities may be subject to rate increases after 8 years, but that the increases could be subject to arbitration if the increases are believed to be unreasonable.

Action: Mr. Asousa made a motion, seconded by Mr. Broadbelt, to recommend the adoption of the Act 537 Special Study. The motion carried **(5-1)** with Mr. Bradley opposed.

Development Applications:

2. [2019-08-SD for "891 King Road"](#) (Mark & Judith Matthews) – Preliminary / Final Subdivision (or Lot Line Revision) to modify an existing property boundary between two residential properties. The properties, located at 891 & 903 King Road, are within the R-2 (Residential) District.

Mark Matthews explained the reasoning for the lot line changed, which stemmed from his wife wanting to plant a border of hedges around their property. When they had a surveyor come out, the property lines were not where they believed them to be and now the Matthews, along with their neighbor, want to straighten out the property line.

Action: Mr. Bradley made a motion, seconded by Mr. Asousa, to recommend Preliminary / Final Subdivision approval to the Board of Supervisors, subject to the following:

- Compliance with the Township review letters

The motion carried unanimously **(6-0)**.

3. [2019-09-SD for "400 Three Tun Road"](#) (DeMarco Real Estate Holding, LLC) – Preliminary / Final Subdivision (or Lot Consolidation) to combine three existing parcels (Lots 9, 10, and 11) in the Three Tun Business Park into two (2) modified parcels (Lots 9 & 10). This subdivision is associated Conditional Use Application 2019-10-CU (for disturbance of steep slopes) as well as a pending Land Development Application to construct a new flex / warehouse building on Lot 9. The properties, located at 400, 415, and 420 Three Tun Road, are within the I (Industrial District).

Charlie Gerbron, Attorney for the Applicant, presented the lot consolidation plan. The lot line change will split the center lot (#10) in half, thereby lending its acreage to the neighboring lots to the north and south (#11 and #9, respectively). There will also be a Conditional Use application presented at the Planning Commission's May meeting. Both applications are required in order to move forward with the corresponding Land Development plan.

Mr. Asousa asked whether the steep slopes delineated on the plan were natural or manmade. Chris Daily, Engineer for the Applicant, advised that the steep slopes are naturally occurring and that a steep slopes narrative was submitted. Mr. Barner advised that the narrative is currently under review by the Township Engineer.

Mr. Gerbron stated that, per the request of the Township, the Applicant would offer additional right-of-way between two lots in order to provide access to the neighboring lot to the east. This right-of-way could be used to accommodate the future extension of Three Tun Road, which was examined as part of a feasibility study by McMahon Associate.

Mr. Broadbelt asked if any zoning relief for this project was needed. Mr. Gerbron confirmed that the applicant has already been granted a variance by the Zoning Hearing Board for relief of the perimeter setback.

Action: Mr. Broadbelt made a motion, seconded by Mr. Bradley, to recommend Preliminary / Final Subdivision approval to the board of Supervisors, subject to the following:

- Compliance with the Township review letters
- Additional right-of-way to accommodate future extension of Three Tun Road

The motion carried unanimously **(6-0)**.

Conditional Use Applications:

4. [2019-05-CU for “Rock Gym”](#) (Haly Associates, Inc.) – Conditional Use application to permit a “for-profit recreation” use where existing office and warehouse uses currently exist. A portion of the existing warehouse space will be demolished for the construction of a new ±7,000 s.f. building addition, which will house a rock-climbing gym. The property, located at 57 Lancaster Avenue, is within the O/BPS (Office Businesses Park Service) District.

Wendy McLean, Attorney for the Applicant provided a brief update on the project – which was before the Planning Commission for discussion in March. She added that both the property owner and business operator were present to answer any questions the Planning Commission members may have.

A representative for the Philadelphia Rock Gym stated that there is currently a total of 5 Philadelphia Rock Gyms, the first was opened in Oaks. The Philadelphia Rock Gym is considered alternative fitness, and much of their revenue is generated by memberships. The peak hours are weekdays between 5:00 pm and 6:00 pm. The representative also explained that the average climber is in the gym for 60-90 minutes.

Mr. Kelly asked the property owner to identify the adjacent properties and their current uses. Mr. Haly, the property owner, advised that to the west of the property is Vishay; to the east of the property is a storage facility; and to the north of the property is a PECO right of. The existing use of the property to the south, between the subject tract and Lancaster Avenue, is a retail fireplace store.

Jack Robinson, Engineer for the Applicant, explained that his office had prepared a parking study comparing local ordinance requirements with ITE Parking manual standards. The parking calculations from ITE are based on a gym similar to LA Fitness or Planet Fitness, which sees a much higher volume of traffic. In this sense, the estimates should be considered fairly conservative. Mr. Asousa asked how many new spaces were created on the revised plan. Mr. Robinson explained the original plan showed 42 spaces while the new plan shows 68 spaces.

Mr. Becker asked Mr. Robinson if he thought the Applicant would consider consolidating the driveways to better manage access to/from the site. He advised that the Applicant sees the benefits in consolidating the driveways, and while it’s not a part of the current plan, that concept may be explored in the future.

Action: Mr. Fixler made a motion seconded by Mr. Broadbelt to recommend conditional use approval to the Board of Supervisors, subject to the following:

- Compliance with the Township review letters

The motion carried unanimously **(6-0)**.

5. [2019-07-CU for “Frame Avenue Apartment”](#) (EW Frame Partners) – Conditional Use application to convert two existing office buildings into approx. twelve (12) multifamily residential dwelling units. The existing office buildings will be joined by two (2) building additions, which will connect and expand the footprint of the existing structures.

The Applicant, represented by Steve Schmidt, began by disclosing that he is on the Pension Committee along with Planning Commission member Dante Bradley.

Mr. Schmidt explained that the plan has been revised in response to the ARRO review letter and that a traffic study has been provided. Mr. Schmidt also advised that, following the last Planning Commission meeting, he attended the subsequent Historic Commission meeting to discuss his plans for the property. The Historic Commission expressed their support for the project and requested that the Applicant return for a follow-up review once the architectural plans (with specific exterior finishes) have been developed.

Mrs. Abel asked Mr. Schmidt if he had an estimate for the size of the proposed apartment units. Mr. Schmidt responded that they will mostly be 900 square feet with a few units smaller than 900 square feet. Mr. Schmidt also acknowledged that he will be adding a sidewalk inside of the tree line. Mr. Barner suggested that the Planning Commission members might include a new sidewalk and corresponding ADA ramps as a condition of their recommendation to the Board of Supervisors.

Since, Mr. Schmid referred to the project as proposed “12 to 15” units throughout his presentation, Mr. Barner suggested that he update the plans denote the 15 units and demonstrate compliance with the zoning standards for parking; area-bulk- height; and floor-area-ratio requirements.

Action: Mr. Broadbelt made a motion, seconded by Mr. Fixler, to recommend Conditional Use approval to the Board of Supervisors, subject to the following:

- Compliance with the Township review letters
- Stipulation that the plan be updated to reflect the 15 units (and corresponding zoning requirements)
- Recommended condition that the Applicant install new sidewalk and ADA ramps along the frontage of the property.

The motion carried unanimously **(6-0)**.

Ordinances:

6. Consider [repeal](#) of Township Ordinance #307 (regarding §200-29 of the Zoning Ordinance) which provided for building standards and requirements for retail businesses selling firearms.

Mr. McGrory explained that, following its adoption, the Board received a challenge to the ordinance which questioned the Township’s ability to regulate retail firearms locations. Following the challenge, the Township’s insurance provider advised that the challenge may be difficult to defend.

In addition, the Solicitor explained to the Planning Commission members that the Pennsylvania State Police possess preemption rights over safety inspection of such establishments.

Following a lengthy discussion regarding existing case law and liability insurance, Mr. Bradley stated that he would defer to the Solicitor. He urged the Board of Supervisors to reexamine the Township's options for gun safety and personal liability insurance. He also suggested that the Township review, Act 192, the Ortiz case, and the Gun Range vs. Philadelphia case as relevant examples of case law.

Action: Mr. Asousa made a motion seconded by Mr. Broadbelt to recommend the repeal of Township Ordinance #307 to the Board of Supervisors. The motion carried unanimously **(6-0)**.

Other Business:

Chester County recently adopted an updated Comprehensive Plan ("[Landscapes3](#)") to guide growth and preservation efforts throughout the County. The County has requested that the Township Planning Commission review and make a recommendation to the Board of Supervisors to *endorse* the Plan (via resolution) at a future meeting.

Mr. Barner asked that the Commission review the recently adopted plan in advance of the next meeting and consider making a recommendation to the Board of Supervisors – who will be asked to endorse the Plan. He added that there are a number of recommendations that apply directly to "Suburban" and Suburban Center" municipalities, such as East Whiteland.

Public Comment:

Mr. Barner announced that there will be a joint meeting for the Planning Commission Members and the Park and Recreation Board on Wednesday May 15th at 7:00 pm. The meeting will be to discuss the *draft* Official Map and Bicycle and Pedestrian Ordinance amendments.

Mr. Bradley announced that he will be part of a clean-up initiative along Swedesford Road on Saturday April 28th. For more information or to volunteer, please contact Dante Bradley.

Adjournment:

Mrs. Abel adjourned the meeting at **8:41 p.m.**