

The regular meeting of the Middle Smithfield Township Planning Commission was held on Thursday, May 16, 2013 at 7:00 p.m. at the Schoonover Municipal Building with Mark Oney presiding.

Members present: Mark Oney, Bob Early, Carrie Wetherbee and Wayne Bolt. (Gary Summers and Parin Shah were absent). Also in attendance, Planning Commission Solicitor Todd Weitzman, Esq., Township Engineer Fred Courtright, P.E. and Township Solicitor Michael Gaul, Esq. (alternate PC solicitor for the CCP III, Section 5 Subdivision)

Interested parties attending: Frank J. Smith Jr., P.L.S., Charlie Vogt, Esq., and Christine Himmler as well as members of the public and Township Supervisor Annette Atkinson.

### **Approval of Minutes**

Carrie Wetherbee made a motion to approve the April 18, 2013 minutes. Bob Early seconded the motion. Motion passed 4-0.

### **Plan Reviews and Unfinished Business**

Monroe Pike Land LLC CCP Phase 3 Section 5 PRD Plan – Representing the developer, Bob Brown, Attorney Vogt stated that the project is getting very close and hope to finalize the agreements with the CCP North Association by June 13, 2013.

Attorney Vogt stated that the intended agreement will make the residents of phase 3 section 5 part of the North Association.

There was discussion regarding some of the common elements, which would be the roads and limited common elements would be the driveways. The two recreation areas are still under discussion.

Attorney Gaul asked if the expected agreement between the North Association and the developer was structured such that the North Association was responsible for maintenance of the common elements in the event that the Section 5 property owners failed to perform the required maintenance. In other words, the Township would expect to only deal with the North Association if there was a problem with maintenance, and would not be limited in its enforcement ability against the North Association because of agreements between the North Association and any sub-association. Attorney Vogt could not answer definitely as to current structure that the North Association and the developer had discussed, but said these are the things that are still being worked out between the parties.

Bob Early stated that the planning commission has been requesting a representative be present to provide updates, and although an agreement has to be done, the entire project should not have been stalled as it's not fair for the township. Attorney Vogt stated that they have been talking to the North Association since before Mr. Brown purchased the property.

Bob Early stated that in reviewing the PRD decision, there is a 50 foot buffer and a 100 foot building set back requirement. He asked if the stormwater management has been pulled out. Attorney Vogt stated that one plan was approved, but Bob Early stated that it's not the same plan. Bob Early showed Attorney Gaul the 1988 PRD Decision.

Bob Early stated that the planning commission cannot provide relief on this as it is probably a zoning issue. Attorney Vogt asked how it was done for Toll Bros.

Attorney Vogt discussed having Brick Linder, P.E. to do the changes to the plans and hopefully they will be the final plans.

Bob Early asked if there is a deeded yard. Attorney Vogt said no, that only the townhouses will have the footprint. Carrie Wetherbee asked if that meant that decks and patios would be outside of the deeded property area, and within a common area. Attorney Vogt answered yes. Ms. Wetherbee asked who would be responsible for maintenance and liability for the deck and patio. Attorney Vogt stated that was expected to be something handled by the organizational documents of the pertinent Section 5 property owners association. Attorney Gaul also asked whether roof over-hangs would also be expected to be handled in the same way, since they would be outside of the deeded foot print, to which Attorney Vogt indicated yes. Attorney Gaul asked whether it made more sense to simply deed an area that also contained a yard for each unit. It would be clearer, and presumably not cost materially more from a surveying standpoint than preparing deeds for the footprint of the building.

Mark Oney stated that all the discussion has to do with legal issues between the developer and the north association and they will have to work this out.

Carrie Wetherbee asked if this would be done by September 15, 2013 and Attorney Vogt stated that he would hope so.

Bob Early made a motion to table action on the Monroe Pike Land LLC CCP Phase 3 Section 5 PRD Plan. Carrie Wetherbee seconded the motion. Motion passed 4-0.

Parking Lot Project for Fairway Villas – Christine Himmler of Reilly Associates presented the plan.

Fred Courtright stated that the planning commission members have his review letter dated May 16, 2013.

Ms. Himmler stated that access to and from the parking lot is through Fairway Vilas and not Route 209.

There are 77 proposed spaces and the pavement to be used is porous. Comments from the Monroe County Conservation District have been addressed and the plan was sent to the Monroe County Planning Commission.

Ms. Himmler stated that she has addressed Mr. Courtright's comments from his May 16, 2013 letter and stormwater issues will be addressed by Chris McDermott.

Mr. Courtright stated that Met-Ed electric should be contacted regarding the overhead utilities.

Request for modification of regulations were reviewed.

Mr. Courtright stated that Labor & Industry standards must be met with regard to the relocation of the parking lot next to the building and the trolley stop location.

Fred Courtright stated to Ms. Himmler that as the consultant for the applicant you will address the comments and have no issues on the comments. Ms. Himmler agreed with Mr. Courtright's statement

Modifications presented:

1. The applicant is requesting a modification for providing grid number as the grid numbers are no longer used.

Wayne Bolt made a motion to approve the modification request. Carrie Wetherbee seconded the motion. Motion passed 4-0.

2. The applicant is requesting a modification for the required plan sheet size.

Carrie Wetherbee made a motion to approve the modification request. Wayne Bolt seconded the motion. Motion passed 4-0.

3. The applicant is requesting a modification of tree species/size as to avoid conflict with overhead power lines and to minimize leaf litter in the vicinity of the pervious pave to avoid clogging.

Bob Early made a motion to approve the modification request. Wayne Bolt seconded the motion. Motion passed 4-0.

Bob Early made a motion to table a decision on the Parking Lot Project for Fairway Villas. Carrie Wetherbee seconded the motion. Motion passed 4-0.

Eric Tesche Minor Subdivision Plan; Request for Modifications – Frank Smith of Frank J. Smith, Jr., Inc. presented eight (8) requests for modification, two (2) of which were approved on January 17, 2013. Mr. Smith stated that at the last supervisors meeting the board made a

motion for the planning commission members to provide their recommendations before any action is taken by the supervisors.

1. The applicant is requesting a modification for relief from (SALDO 170-44-C) showing stream/wetland easements due to the wetland easement are noted on the plan in the restrictive covenants, however, not be shown visually on the plan for legibility.

Bob Early made a motion to grant the modification request. Carrie Wetherbee seconded the motion. Motion passed 4-0.

2. The applicant is requesting a modification for relief from (SALDO 170-44-D, 170-53, and 170-100-C6) as the ordinance requires all access easements private access streets, and existing and proposed rights of way and easements to be shown. The restrictive covenant #10 goes into great detail into explain the existing right of way/access for the property. No improvements and/or dedication are proposed.

Carrie Wetherbee made a motion to grant the modification request. Bob Early seconded the motion. Motion passed 4-0.

3. The applicant is requesting a modification for relief from (SALDO 17044-E) as the ordinance requires utility easements to be shown. The applicant states that the utility easements are noted on the plan in the restrictive covenants, however request that they not be shown visually on the plan.

Mark Oney made a motion to grant the modification request. Wayne Bolt seconded the motion. Motion passed 4-0.

4. The applicant is requesting a modification for relief from (SALDO 170-44-A) as the ordinance requires slope easements to be shown on the plan and since slope easements are noted on the plan in the restrictive covenants; however request that they not be shown visually on the plan for legibility.

Wayne Bolt made a motion to grant the modification request. Bob Early seconded the motion. Motion passed 4-0.

5. The applicant is requesting a modification for relief from (SALDO 170-100.C (5) (b) as the ordinance requires wetlands reports performed within three years of the submittal date and since the property is intended to be used "as is" with no improvements, request that the original delineation be accepted.

Bob Early made a motion to grant the modification request. Wayne bolt seconded the motion. Motion passed 4-0.

6. The applicant is requesting a modification for relief from (SALDO 170-63), no improvements be required to existing purported right of way through lot 1 as the

roadway exists to and through lot 1. The owner of lot 1 will be responsible for maintenance on their property. It is also their responsibility to make arrangements with others who use the road concerning maintenance. Middle Smithfield Township is not held responsible in any way.

Mark Oney made a motion to grant the modification request. Carrie Wetherbee seconded the motion. Motion passed 4-0.

### **Reviews and Recommendations**

Proposed Ordinance No. 194; Floodplain Amendment – Fred Courtright stated that this ordinance was approved however after it was circulated the Monroe County Planning Commission questioned some of the definitions and because of changes the ordinance had to go back to everyone. The state did review the final ordinance and once it was reviewed by FEMA they wanted a specific date instead of referencing the date the ordinance was enacted by the supervisors.

Mr. Courtright recommends the planning commission approve the amendments and forward to the board of supervisors.

Carrie Wetherbee made a motion to recommend approval of the amendments and forward to the board of supervisors. Bob Early seconded the motion. Motion passed 4-0.

### **Continuing Education**

Annette Atkinson stated previously viewed webinars can be viewed on YouTube and she will also let everyone know when new webinars come out.

Bob Early made a motion to adjourn the meeting at 8:07 p.m. Wayne Bolt seconded the motion. Motion passed 4-0.

Respectfully submitted,

Michele L. Clewell  
Recording Secretary