

# WESTTOWN TOWNSHIP PLANNING COMMISSION – SPECIAL MEETING #3 – Toll Bros. CU Application Crebilly Farm II

## MEETING MINUTES

Stetson Middle School  
1060 Wilmington Pike, Westtown Township  
Monday, November 7, 2019 – 7:30PM

### **Present**

Commissioners – Elaine Adler was absent, all other Planning Commission (PC) members were present. Also present were Planning Director, Will Ethridge, PC Solicitor, Kristin Camp., Esq., Township Stormwater Consultant Robert Flinchbaugh, Township Engineering Consultants Sandy Martin and Dylan Drumm, and Township Planning Consultant John Snook.

### **Call to Order and Pledge of Allegiance**

Mr. Pomerantz called the special meeting to order at 7:35 PM. He led those present in the Pledge of Allegiance.

### **New Business**

- 1. Westtown Township Planning Commission** – Mr. Pomerantz and Mr. Hatton provided a brief summary of the planning commission's mandate, structure and role of the PC, planning and development process, conditional use application process, history of applications for the development of the Crebilly Farm, past recommendations provided by the PC, and the rules of conduct for the meeting. Mr. Pomerantz stressed that the role of the PC was to make recommendations on the proposal, including formulating any conditions, to the Board for review and final decision. Mr. Embick reaffirmed his view that the applicant must demonstrate compliance with the conditions and elements noted in the Pennsylvania Constitution and the environmental rights amendment (Article I, Section 27), and that the Township had an independent responsibility to ensure that the rights that were set forth in the Constitution were maintained. Mr. Rodia observed that the proposal had some deficiencies found in the original proposal. Mr. Pomerantz emphasized that the special meeting scheduled for November 21 was rescheduled to November 20 at the Westtown Township Administrative building at 7:30PM.
- 2. Stormwater Management Review** – Bob Flinchbaugh, P.E., Civil Engineer with Cedarville Engineering, summarized the review of the proposal as it pertained to stormwater and stormwater management. He explained that even though Toll Bros. did not need to prepare a complete land development plan at this stage, there were several items that needed to be clarified and addressed to provide an assurance that at a minimum the natural features as shown on the plan would not be disturbed. His main points of discussion included:
  - Recommendation to require a stream restoration or a forested riparian buffer to be implemented as a part of the proposed development to ensure water quality standards had been met for impaired Radley Run watershed.
  - Recommendation to request the storm sewer system to be shown on the proposed plan to verify that the drainage areas to be served by the proposed stormwater management facilities were justified.
  - Recommendation to request additional information from the applicant to ensure that the installation of stormwater management facilities would not encroach into

riparian buffer and sewage disposal areas.

- Concerns with the location of sewage effluent disposal areas in close proximity to several stormwater management facilities as shown on the proposed plan.
- Concerns that a complete grading plan and an erosion and sedimentation control plan were not included as part of the submission.

Kevin Flynn raised a question about stormwater basin maintenance. Mr. Flinchbaugh explained that the applicant must apply for an NPDES permit, which required a post-construction stormwater management plan and operation and maintenance agreement associated with proposed facilities to be developed and implemented.

Kristin Camp emphasized that the township's stormwater management ordinance required any developer with stormwater management facilities to enter into an agreement that identified the stormwater facilities, maintenance requirements, and provided inspection and enforcement rights by the Township if those facilities were not properly maintained. She explained that in this proposal, the developer would initially, and then the homeowners association would later, own the open space where the stormwater facilities were located and would be responsible for maintaining those areas via recorded agreement. PC members had a brief discussion regarding the oversight and enforcement of existing maintenance and operation agreements, and violation and penalty procedures imposed by DEP. Jack Embick recapped that the Clean Streams Law provided a penalty of up to \$25,000 a day per violation and criminal penalties associated with violations of permit standards, rules and regulations or the provisions of the Clean Streams Law.

3. **Engineering Review** - Sandy Martin and Dylan Drumm with McCormick-Taylor, provided a summary of their review as to whether the applicant had met the requirements of the township's zoning ordinance relative to the A/C zoning district and the flexible development process. Sandy Martin explained that most of the review comments were subjective, and restated that they did not find any grounds for denial. Ms. Martin raised several concerns and provided some suggestions:

- The applicant met impervious cover requirements for proposed development for the overall tract; however, the Township should consider implementing individual lot requirements as a condition of approval if they allow the application.
- Recommendation to request the applicant to provide an overflow parking area to meet the required 2.5 parking spaces per dwelling unit as opposed to proposed parking associated with individual lots.
- Recommendation that the applicant confirm the availability of landscaping for the site to ensure seasonal or other restrictions are addressed where applicable.
- Concern about the proximity of the Presbyterian Church to the proposed collector road. Recommendation to request the applicant to provide a 100-foot building setback and additional landscaping.
- Recommendation to require a connection of the proposed trail to the properties on the north side of the proposed development.
- Recommendation that the applicant be required to examine the bridge on South New St. due to the potential impact of stormwater leaving the site and entering Radley Run and the embankment erosion that may result.
- Reminder that the applicant should provide a lighting plan for review.

Steve Rodia asked Ms. Martin to provide more details associated with the location and design of the proposed collector road and any concerns the PC should be aware of. Ms. Martin pointed out areas where the collector road was in close proximity to the property line as well as where there would typically be a 100-foot buffer from structures.

Mr. Lees asked Ms. Martin to clarify her statement regarding the impervious cover restrictions on individual lots. Ms. Martin recapped that the applicant met impervious coverage requirement for the overall tract, and the area and bulk requirements of individual lots were not a part of the flexible development procedure ordinance. Ms. Camp agreed with Ms. Martin and recommended that the PC include one or more conditions that would apply a maximum allowable impervious cover for each lot. Her suggestion was to require the applicant to include a disclosure statement into the agreement of sale, which carried over into the homeowner's declaration. It would provide an ability for the Township to have a record of those impervious allocations.

Mr. Embick expressed his strong opinion that a development of such magnitude was going to have some impact on the constitutionally protected values: air, water, scenic, aesthetic, historic, and natural. He questioned how those impacts could be assessed, so that the Township could comply with its obligation to protect and maintain the values referenced in the Constitution. Ms. Martin provided an example of environmental impact study that would have included regulatory ways to measure various environment impacts; however, that information was not available in the Township's current zoning.

Mr. Pomerantz raised a question regarding the applicant being compliant with the Leadership and Energy and Environmental Design (LEED) principles referenced in the Code. Ms. Camp responded that it was not enforceable as currently written.

4. **Consistency with the Township's Comprehensive Plan (2019)** - John Snook, Westtown Township Planning and Zoning consultant, presented a summary of items that showed the plan's inconsistency with the Township's Comprehensive Plan. The main discussion points included:

- Original argument regarding the lack of definition of "scenic landscapes" in the Code, which was included in the updated Comprehensive Plan.
- Crebilly farm and Westtown (aka Darlington) Inn at the corner of Rt. 926 and Rt. 202 are eligible for the National Register of Historic Places as has been determined by the Pennsylvania Historical and Museum Commission. The proposal did not indicate any consistency with those designations.
- The future land use map included in the Comprehensive Plan showed more than a third of the western end of Crebilly farm as future open space or greenway corridor along Radley Run. That had not been reflected in the layout of the proposal.
- Recommendation to the PC that applicant did not consider all natural features, historic assets and structures, and similar community assets in its mapping of secondary conservation areas.
- Concern that the proposal included the original historic assessment submitted 3 years ago that concluded that essentially every resource could be removed.
- The applicant did not acknowledge that three quarters of the Crebilly Farm were a part of the Brandywine Battlefield Preservation Planning Area.
- Concern with how the applicant mapped the secondary conservation areas without considering historical significance of the site and scenic landscapes

requirement.

Ms. Camp recapped that unless those items were listed as requirements in the zoning ordinance, the Township could not rely upon the fact that it was stated as a goal in the Comprehensive Plan, because it was just the planning document.

### **Public Comment**

The public raised the following concerns:

- Was the new plan compared to the original application? (No) Mr. Pomerantz emphasized that it was not the role of the PC to compare the proposals, but to review the existing application.
- Several residents expressed their concerns regarding stream erosion and their belief that the proposed development would adversely affect already eroding stream banks. Mr. Flinchbaugh explained that the goal of existing regulations pertaining to land development was to minimize the potential impact.
- Several residents asked who would make sure that stormwater management facilities were functioning. Mr. Flinchbaugh reiterated that an operation and maintenance agreement was required between the homeowners association and the Township to ensure that those facilities would be maintained properly.
- One resident raised a concern about enforcement during the construction. Mr. Flinchbaugh advised that the Chester County Conservation District regulated and enforced activities during construction and that any resident could call CCCD to file a complaint.
- Several residents expressed disbelief as to how stormwater from such a large development could be controlled. Mr. Flinchbaugh responded that based upon the drainage area plans and the information provided, the applicant would convey over 90% of stormwater with proposed facilities. He recapped that the proposal included approximately 13 stormwater management facilities.
- One resident asked if the sidewalks were depicted on the plan and whether or not they were considered in impervious cover calculations. Sandy Martin could not confirm that sidewalks were included in impervious cover calculations.

### **Adjournment**

Meeting was adjourned at 10:35 pm.

Next PC Special Meeting – November 20, 2019, 7:30 pm – Westtown Township Administrative Building

Respectfully submitted,  
William Ethridge, Planning Commission Secretary