

MINUTES
PLANNING COMMISSION MEETING JANUARY 23, 2018

Attendees: Peter Cornog, Robert Dambman, Patrick Doran, Vince Manuele, Sherri Glantz Patchen, Scott Quitel, Dave Shula, Amy Grossman (BOS Liaison), Charles L. Guttenplan, AICP, Director of Planning & Zoning, Jim Sullivan, Township Engineer, T&M Associates

1. Call to order: 7:00 PM by Chair Manuele

2. Announcements & Correspondence

Announcements

- E-mail correspondence that was received after the packets were sent out were given to each member.

Correspondence

- None

3. Approval of Minutes:

- Mr. Cornog moved to approve the meeting minutes from January 9, 2018, seconded by Mr. Doran. Vote 7-0

4. Zoning Hearing Board Appeals:

- None

5. Subdivision & Land Development Applications:

- CU#06-17: K. Hovnanian Pennsylvania Acquisitions, LLC, 4006 & 4046 Butler Pike, Plymouth Meeting, PA; Townhome Use; site zoned VC-2. Julie Von Spreckelsen, Esquire, Eastburn & Gray, PC was present representing the applicant along with Tom Smith and Jonathan Fisher, representatives of the applicant developer; Greg Elko, Civil Engineer, Langan Engineering and Environmental Services; and Greg Richardson, Traffic Engineer, Traffic Planning and Design. Ms. Von Spreckelsen stated the Commission last saw this application two years ago as a Sketch Plan. Since that time, they considered all comments and concerns from the Township and residents to make the plans satisfactory to everybody. At that time, only 4006 Butler Pike was under agreement by the applicant and recently put the additional property at 4046 Butler Pike under agreement. The total area now proposed for development is approximately 13 acres. The applicant is proposing to consolidate the two parcels and subdivide into 3 lots. Lot 1 (approximately 1.4 acres) would contain the two major historic resources on the property, Abolition Hall and the Hovenden House. Lot 2 (approximately 11.2 acres) would contain the 67 townhomes and the other lot (approximately 0.4 acre) would contain an existing single-family home and garage; these front onto Marple Lane. The current proposal is a Conditional Use application in which the applicant must demonstrate compliance with all of the applicable criteria for this use. Detailed land development applications, with full engineering, will be submitted if the conditional use for the townhomes is approved. Mr. Elko showed an aerial plan of the existing conditions and the proposed plan showing the development of the property and features of the plan. The townhomes will be buffered from the historic buildings; the development meets/exceeds the Village Commercial requirements; the density (5.6 acres) is below the maximum density allowed (8 acres); building coverage (13%) is less than the (40%) permitted; and impervious ground coverage is approximately 38% when 65% is allowed. The applicant is working with the Montgomery County Planning Commission on the (Cross County) trail through the site and an exact location will be determined at the land development stage. The development is in accordance with recommendations of the Open Space Plan and the Comprehensive Plan as well as meeting Zoning Ordinance, specifically Section 116-291 (requirements for all VC uses) and Section 116-292 (requirements for all VC Conditional Uses). Mr.

Manuele asked if they also met requirements of Section 116-37 (requirements for any Conditional Use); Ms. Von Spreckelsen indicated that they did. Mr. Richardson stated he has met with the County and the Township over the past 2 ½ years and is in the process of completing a traffic study, which is not finalized due to the number of units changing. Mr. Richardson agreed to have a new traffic study based on the increased number of units prior to the next Planning Commission meeting. After recessing for 10 minutes to allow the applicant to review the County Planning Commission's review, Ms. Von Spreckelsen stated they would like time to review the county letter in more detail and requested to continue their presentation at the next meeting. Public Comment: Sydelle Zove, 644 Harts Ridge Road, representing Friends of Abolition Hall; Steve Guerra, 7 Marple Lane; David Miller, Trustee, Elder Quaker Meeting; Ann Dougherty, 25 Laurence Place; Frank Scarpello, 6326 Arlingham Road; Richard Abraham, 670 Bethlehem Pike; Celine Childs, 53 E. Germantown Pike; Ellen Miramontes, Plymouth Meeting; David Contosta, 109 Ridge Pike; Steve Kaufman, 644 Harts Ridge Road; Anita Thallmayer, 16 Marple Lane; Debra Harris, 4005 Pilgrim Road; Charlie Roeder (?), owner of building across Germantown Pike from site; Lisa Dunleavy, 107 E. Germantown Pike; Lee Sheppard, grew up on the Widener Farm now Dickson Farm now lives in Bucks County; Carol Corson, 125 Fox Hound Drive; and Myles Pettengill, 414 Flourtown Road all spoke. Sydelle Zove presented prepared comments suggesting a density 'buy down', concerns about the historic resources, ordinance compliance and other issues (comments attached) ; others raised similar concerns as well as additional concerns about the potential wildlife loss; sinkholes on the property; location/impact of wetlands; concern for the Quaker Friends School, buses and safety of the students walking to the school; traffic congestion and potential for left turns out of the site; the fact that this property has great historical value at a local and national level; suggestions to encourage a welcome park not a detention basin (on the open space closest to the historic buildings); suggestions to encourage an easement for county trail; to encourage bike and pedestrian accessible development; comments that not enough parking is provided for the historic buildings, depending upon their re-use; questioning the shared parking at Abolition Hall; the need to respect the values of diversity; concern of additional flooding with raising the ground. Mr. Manuel thanked the public for coming out and their thoughtful comments will be taken into consideration and announced the meeting will be continued until February 13, 2018.

6. Conditional Use Applications: None

7. Old Business: None

8. New Business: None

9. Public Comment: None

10. Adjournment:

- There being no further business, meeting was adjourned at 9:06PM.

Respectfully submitted,

Charles L. Guttenplan, AICP, Director of Planning & Zoning

The Planning Commission is appointed as an advisory group to the Board of Supervisors and the Zoning Hearing Board with respect to comprehensive land use planning, existing land use, and various land use and zoning applications in Whitmarsh Township. No formal decisions are rendered by the Planning Commission. Formal decisions are rendered by the Board of Supervisors or Zoning Hearing Board, as prescribed by law, based on the type of application.

Whitemarsh Township Planning Commission Meeting, January 23, 2018
Hovnanian Conditional Use Application

Comments prepared and presented by Sydelle Zove, concerned resident

I want to open by acknowledging that I have been part of a group of concerned residents that met with the K. Hovnanian team on two occasions. At that first meeting, we introduced the Friends of Abolition Hall Alternative Site Plan, and I have copies for each of you. That plan eliminated the Butler Pike right-of-way, reduced the density (from the 48 units as shown on an earlier plan, down to 38), and called for the creation of a Welcome Park on available open space. Of particular note is that the density reduction was to be achieved through a buy-down that made use of Township Open Space funds.

During the first meeting, we were pleased to learn that K. Hovnanian shared our interest in eliminating the Butler Pike right-of-way. The team asked for some time to digest our plan, and invited us to return for a second meeting. It was at the second meeting that the developer's team told us that with the addition of the 2.7-acre Haub parcel, the number of units would jump from 48 to 63, and ultimately, that number increased to 67. And where our plan showed a Welcome Park that would pay homage to the legacy of the Corson and Hovenden families, and to the site's well documented role in the Underground Railroad, the developer's plan shows a large storm water basin—one of several such basins—and no promise of public access.

The current townhouse plan is not only disappointing, it is insulting, and this nationally recognized homestead deserves a far better plan that also addresses the marketing and reuse of the historic structures. The plan is contrary to the spirit, intent, and in several instances, specific standards established by Township planning documents, such as the Open Space Plan, the Comprehensive Plan, and the Local Historic District Guidelines. Here I want to quote for the record from a letter submitted by the Pennsylvania Historical and Museum Commission.

But especially significant in the context of the Planning Commission's review tonight is the Conditional Use Site Plan's failure to comply with requirements of the Township's Zoning Code.

I would like to draw your attention to Section 116-37 of the Zoning Code—Conditional use procedures.

The procedure for the granting of conditional uses in **any** zoning district shall be as follows:

- A. The applicant shall file an application for a conditional use permit with the Board of Supervisors. The application **shall** contain the following material:
 - 1. Appropriate design plans and/or specifications, **in conformance with the requirements for a preliminary subdivision or land development plan.**

Conditional use approval represents the granting of an exception, but it is the clear responsibility of this Planning Commission, and ultimately, the Board of Supervisors, to ensure that the intended use will not change or have a harmful effect on adjacent areas. It is precisely because of the exceptional nature of

conditional use that the Code insists that the applicant include with the Conditional Use Application those detailed plans that may otherwise not be required until the subdivision and land development stage.

Let me be perfectly clear—the K. Hovnanian plan before you tonight is a harmful plan. It not only ignores the value and significance of a National Historic Register site, but it imperils a delineated wetland and exacerbates flooding and storm water damage on adjacent parcels. It might even imperil the lives and investment of future townhouse owners who discover that the sinkholes upon which their homes were constructed are devouring their properties. To endorse this plan would represent an abrogation of this Planning Commission’s fiduciary responsibility to the citizens. Furthermore, in authorizing the plan to go forward, Whitmarsh Township, in its role as an agent of the Commonwealth, would be violating the Pennsylvania Environmental Rights Amendment, the scope of which recently withstood a Pennsylvania Supreme Court challenge. Article 1 Section 27 of the Pennsylvania Constitution provides that

“The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment. Pennsylvania’s public natural resources are the common property of all the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people.”

At our own cost, the Friends of Abolition Hall engaged a highly qualified environmental consultant to review the Army Corps of Engineers Preliminary Jurisdictional Determination of the existing wetland. He also reviewed published information on hydric soils and conditions, made observations from nearby properties, and heard comments from the owners of those properties. In his review memo he writes, “it would seem particularly unwise for Whitmarsh Township to approve the proffered conditional use plan. The plan cannot be reviewed in the absence of the ordinance-required information addressing the very real environmental constraints present on the property. The current conditional use plan appears unlikely to be able to comply with applicable township requirements.” His letter cites technical details—geologic, topographic, and hydrologic in nature—that support the need for additional investigation prior to a deliberation on conditional use approval. He also raises questions about the accuracy of the wetland delineation and suggests that the notable “vegetation and ponding continue for at least 100 feet west of the currently flagged wetland limits.” He adds, “The limestone bedrock poses a hazard for additional sinkhole formation, particularly as a result of stormwater management....Offsite as well as onsite structures may be at risk of sinkhole expansion.” [see James Schmid’s letter]

Accurately and fully mapping the boundaries of the wetland is absolutely essential to proceeding with an informed review of K. Hovnanian’s plan, and here is why...

The Conditional Use Site Plan shows proposed road B abutting the wetland, as currently delineated. Townhouses 38 through 41 and/or their sidewalks might very well be sited within land that meets wetland criteria. That also is true of the two parking spaces closest to the wetland boundary. The site

plan also shows a roadway, cul de sac, and townhouses in areas with known sinkholes, as well as significant ponding.

For these reasons, the Township should require the applicant to request that the Army Corps of Engineers return to re-investigate the wetland on the Corson land, and conduct an initial investigation of the Haub parcel. The Corps' personnel must be asked to examine soils and vegetation outside of the currently delineated wetland boundaries, take additional soil samples particularly toward the west, and undertake a comprehensive review of conditions on the Haub land. The Friends of Abolition Hall request that our environmental consultant participate in such site visits and investigations. We will absorb the cost of his doing so.

The Planning Commission and the Board of Supervisors are duty-bound to examine these threats and to safeguard not only existing homes, but also those yet to be built. Section 116-37 of the Zoning Code anticipates the necessity of a prudent and comprehensive review by **unequivocally** requiring the applicant to submit details such as a Soils Map (Section 105-21.B.(2)(h)), and to identify groundwater protection measures (Section 105-21.B.(17)(b)). These documents, and others that would ordinarily be submitted later, must be prepared and submitted at this stage, and must be made available to the Planning Commission, the Board of Supervisors, the Township Engineer, and Pennsylvania DEP staff in advance of a conditional use decision.

In addition to the developer's failure to comply with Section 116-37, this plan does not comply with the legislative intent of the Village Commercial District, especially with regard to compatibility, scale, orientation, shared public spaces, and protection of natural and historical features. It also does not comply with certain conditions of approval for all uses, such as creating a unified site plan between lots. And with regard to maximum building façade width, it is worth noting that on the Zoning Plan, which was reviewed by the Zoning Officer and upheld by the Zoning Hearing Board, the developer cites the maximum allowable width as 100 feet, as noted in Section 116-294, under Conditional Uses (see table). The townhouses in that Zoning Plan were clustered in groups of three and four, with the maximum façade width of 96 feet. The current plan shows clusters of four and five townhouses, and the developer conveniently cites a 150-foot maximum façade width limitation that appears in a section of the code that addresses massing, not façade width. The current plan does rely on the Conditional Use column at Section 116-294 to define maximum residential building footprint, minimum lot width at building setback line, and minimum building separation. This Pollyannaish approach to invoking code requirements is entirely self-serving.

Although typically other design details would ordinarily be addressed during preliminary plan review, in this instance issues such as emergency egress, parking, roadway and sidewalk locations and widths must be examined now. For example, cul-de-sac parking is not allowed under the Township's SALDO, nor is perpendicular parking on interior roadways, and those interior roadways as drawn do not even meet the minimum width requirements. Widening the roads and shifting parking to other areas of the site will be almost impossible in this plan. Why? Because of the constraints of wetland proximity, soil types, ground water levels, and sinkholes. I also want to call attention to the proposed emergency egress via the adjacent office park. The plan notes that the existing detention basin in the location of the proposed

egress road will remain. What the plan does **not** note, however, is that the existing basin routinely overflows, and even when it does not, the outflow causes flooding and erosion on adjacent properties.

Until recently, the Corson land served as a defacto village commons. It had been used that way for decades, perhaps even centuries. Nancy Corson, great-granddaughter of George Corson, who lived on the property until her death in 2012, walked her dogs around the perimeter of the fields—fields that once sheltered runaway slaves hiding from slave catchers. She and her dogs typically wandered into the rear yards of Marple Lane neighbors. Those same neighbors enjoyed unfettered access to the fields, including the land behind the long-abandoned Haub house. In recent years, 8 acres of Corson-owned open space was cultivated by a local farmer who had a handshake agreement with Nancy that dated back to 1978. The land and the structures are precious, and they deserve a better plan.

This Planning Commission should not go down in history as being responsible for endorsing the demise of these resources. Nor should the Board of Supervisors.

In conclusion, the Conditional Use Application under consideration this evening is incomplete, and lacks critical information necessary for commission members and supervisors to make an informed decision.

The bottom line is that this planning commission has the authority to recommend denial of this plan, this planning commission has the legal basis to recommend denial of this plan, and this planning commission should recommend denial of this plan. K. Hovnanian should go back to the drawing board.

The Township can enlist the services of the Montgomery County Planning Commission in collaborating with the developer to assemble a more appropriate plan. Elected officials can agree to invest local Open Space funds and County trail funds to reduce the density, to create a publicly accessible Welcome Park, and to ensure a Plymouth Meeting connection to the planned Cross County Trail.

Abolition Hall deserves better. Let's bring the resources to bear that will make this happen!

Thank you for your thoughtful consideration of these issues.