

**MINUTES  
PLANNING COMMISSION  
JULY 13, 2021**

**Attendees/Participants:** Dave Shula, Sherri Glantz Patchen, Bob Dambman, Patrick Doran, Aaron Kostyk, Scott Quitel, Charlie Guttenplan, AICP, Director of Planning & Zoning, Krista Heinrich (Township Engineer), Vince Manuele (BOS Liaison), and John Walko (Township Solicitor's office)

**1. CALL TO ORDER:** 7:03 PM by Chair Doran

**2. ANNOUNCEMENTS & CORRESPONDENCE**

- An update was given on the Ridge Pike meeting. The section from Plymouth to Crescent Avenue is in preliminary engineering and is moving along. The section from Crescent Avenue to the City Line, if staying on target, will be put out to bid late this year and construction would start next spring and would span two construction seasons. The next meeting is scheduled for September.
- The Miracle Nature Trail walk was rescheduled to July 20, 2021; registration is required.

**3. APPROVAL OF MINUTES**

- On a motion by Mr. Shula seconded by Ms. Patchen, the Planning Commission moved to approve the June 22, 2021 meeting minutes. Vote 4-0-2 (Mr. Dambman & Mr. Doran abstained, not present at that meeting)

**4. ZONING HEARING BOARD APPEALS:**

- Review ZHB #2021-31 Brixmor Property Group/10 Ridge Pike Special Exception; Restaurant (Use)

Mr. Guttenplan briefly explained the applicant is proposing to add a 1600-square foot restaurant at the Whitmarsh Shopping Center (10 Ridge Pike). The restaurant would fill the last remaining space in the three-tenant building constructed last year. The Shopping Center is in the CR-H Commercial Retail District which allows restaurants by special exception under Section 116-104.A.(6)(a).

Marc Kaplin, Esquire, the applicant's attorney, explained that this proposal is consistent with the most recent land development plan when this building was added, as well as the Zoning Hearing Board decision associated with that land development. Mr. Kaplin stated this is a Mediterranean Grill with over 30 restaurants in several different states and one just opening in King of Prussia.

Planning Commission members asked several questions about hours of operation (unknown), number of proposed seats (unknown), parking requirements (accounted for during the land development process), and discussed conditions associated with the special exception granted in April 2020 for the urgent care facility in the same building. Mr. Kaplin indicated that they will comply with general hours for deliveries, etc. for the overall shopping center but couldn't agree to any conditions that differ from those of other restaurants in the shopping center. Outdoor seating was questioned and it was confirmed that this is not permitted in the CR-H District. Question about the electric charging stations raised; the manufacturer pulled out; waiting for new one. Question also asked if employees parking in the rear as previously agreed upon; Mr. Kaplin indicated what he had observed that day with some cars in the rear but not knowing whose they were. Correspondence was received by Sydelle Zove and summarized by Chair Doran. The issues were related to the shopping center but not relevant to the special exception (sums in escrow for tree replacement, traffic circulation and curb cuts in the narrow islands between parallel and perpendicular parking).

Motion: Mr. Dambman made a motion to recommend that the Zoning Hearing Board grant the special exception subject to any conditions that the Zoning Hearing Board determines to be appropriate; seconded by Mr. Kotsyk. Vote: 6-0

**5. CONDITIONAL USE APPLICATIONS:**

- Review CU #02-21 Osaka Hibachi Japanese, LLC/551 Germantown Pike (Store #2)  
Conditional Use; Restaurant in VC-1 Village Commercial District, Sub-district 1

Sharon Harvey, Esquire, the applicant's representative, stated the subject property is located in the "New World Shopping Center". The applicant proposes to have an authentic hibachi restaurant, mainly takeout service with a maximum of 21 seats available but no table service. The proposed hours of operation are Monday through Thursday 11:00 AM - 9:30 PM; Friday and Saturday 11:00 AM – 10:00 PM; and Sunday 12:00 PM – 9:00 PM. The restaurant shares the parking lot with the other tenants in the shopping center; all of the parking conforms with the Fire Marshal requirements. The shopping center provides ample space for short term parking for take-out service, and deliveries will be in the rear. Ms. Harvey walked through the layout of the floor plan. Ms. Harvey mentioned the lease in the packet and letter of permission from the owner to allow the application. Ms. Harvey indicated that the restaurant will be good for the Township's tax base and will have local employees.

Planning Commission members asked if the restaurant is a chain or independent (independent no affiliation with Osaka on Germantown Avenue); they suggested looking into the history of why that restaurant closed and may want to re-think the name; thinks this is a great addition to the shopping center and would like to see them succeed.

Motion: Mr. Quitel made a motion to recommend that the Board of Supervisors approve the Conditional Use application; seconded by Ms. Patchen. Vote: 6-0

## 6. SUBDIVISION &/OR LAND DEVELOPMENT APPLICATIONS:

- Continued Review SLD #01-21 Robbins Gulph Holdings, LLC/27 E. Germantown Pike  
Preliminary/Final Plan – Building Expansion; Parking Improvements

Attendees: Ed Hughes, Esquire, applicant's attorney; Tom Robbins, applicant and property owner; and Joshua Castillo, P.E. with Wilkinson & Associates, Inc.

The Planning Commission reviewed this application at the May 11<sup>th</sup> meeting at which time action was only taken on several of the requested waivers. There were others that dealt with landscaping for which the Commission wanted the input from the Shade Tree Commission. The applicant met with the STC on June 1<sup>st</sup> and on July 6<sup>th</sup>. At the June 1<sup>st</sup> meeting, the STC requested some additional species, the inclusion of some columnar trees in the buffer and understory trees in at the back of the site. At the July 6<sup>th</sup> meeting, the STC recommended approval of the most recent landscape plan. The STC believes this is the best that the applicant is able to do, given the various constraints. The applicant is back in front of the Planning to discuss the changes made to the landscape plan and to get a recommendation on additional waiver requests and on the plan. Mr. Hughes confirmed that waivers 1-3 were recommended for approval at the May 11<sup>th</sup> meeting and 4-8 were tabled (these had to do with landscaping issues). Waivers 9, 10 & 11 are new waivers (9 is redundant of what was discussed before regarding driveway width and width at the street line and 10 & 11 are waivers from the park and recreational fee and traffic impact fee). The Planning Commission did not want to make a recommendation on 10 & 11; they will defer them to the Board of Supervisors.

Mr. Castillo spoke about the updated landscaping plan. The previous plan showed a total of 9 trees, now the plan shows 24 columnar trees, 2 canopy trees and 40 shrubs which are equivalent to 1 tree; these items were found to meet the request of the STC and the ordinance requirements. In addition to the trees and shrubs, they included 5 rain barrels on the site which will help irrigate the landscaping. The STC was happy with all the species that were chosen.

Planning Commission members asked about the landscaping buffer on the property line (the neighbor will need to agree on installation of the columnar trees along the property line or they will need to go back to the STC; the neighbor needs to see the space once it is cleared; he does not want an encroachment or to have to provide an easement).

Mr. Guttenplan stated that based on the STC's recommendation for approval of this plan and the comment that this is the best that can be done on the site, he suggested the Planning Commission

consider recommending waivers on any of the landscaping provisions because there is nothing else they can do.

Motion: Mr. Shula made a motion to recommend granting the requested waivers 4-9; seconded by Mr. Dambman. Vote 5-1

Public Comment: Roy Wilson, 4006 Butler Pike, objects to the stormwater treatment. They are putting way more on the site than can fit. He stated what is important to him is that all the stormwater from this property will dump onto his property; it is not about how stormwater is being managed, it is about how the volume is being managed. He has no objection to the applicant or the use, but he does object to letting the applicant dump all his water onto his property. Mr. Hughes stated they comply with the code for stormwater management.

Ms. Heinrich commented that a formal review of this current plan has not been done. She stated it appears they have added a level spreader instead of the point discharge that was there at the prior submission and if they can't meet all the requirements and comments from the review letter, it will not get approved. The numbers have not been presented to them yet and once they are, they will be reviewed against the code. The applicant was asked to look at this in a more conservation manner which they did and they found that all the rates still work perfectly. Mr. Doran asked if any of the stormwater gets evaporated or is it all discharged elsewhere (there is some evaporation but they account for none of it, it cannot be considered; there is no way to account for evaporation). They will look at reducing the volume via evapotranspiration now that they have a landscape plan. Mr. Quitel doesn't see the herbaceous aspects of the landscape plan; does not understand the selection of the dry and wet species; stated plugs are better for slowing down water especially on this site; suggested a rich array on the ground will make a difference in stormwater and will make a difference with habitat and still look good and be less to mow.

Mr. Manuele wanted to know if this project is constructed as designed with the rate of runoff leaving the site being equal, the same or less than is currently leaving the site. (Ms. Heinrich commented the volume will increase because they can not infiltrate due to the geology, but the rate will be no greater). Ms. Heinrich stated there are two ways stormwater runoff is evaluated, runoff rate and volume.

Ms. Heinrich explained the capture/reuse option and stated that available options for managing stormwater volume (besides infiltration) include rain barrels and reuse as irrigation.

Motion: Mr. Dambman made a motion that no position be taken on waivers 10 & 11; seconded by Mr. Kostyk. Vote 5-1

Motion: Mr. Kostyk made a motion to recommend approval of the preliminary/final plan; no second. Motion failed.

Mr. Quitel made a motion not to approve the preliminary/final plan; no second. Motion failed.

Mr. Dambman made a motion to take no position on the preliminary/final plan; seconded by Mr. Kostyk. Vote 3-3. Based on the tie vote, the Planning Commission took no position.

Mr. Doran commented that he would have preferred being able to recommend approval of the preliminary/final plan as the applicant has gotten as far as they need to be at this stage and the stormwater details diverge between compliance with the code and our aspirations on trying to reduce or minimize the increasing volume. They can only hold them to a legal standard.

Mr. Walko stated if there are issues that the Planning Commission is hung up on, this should be communicated to the Board of Supervisors so they know why there was not a position taken. Mr. Doran commented that at this stage there remain open questions about specifics (rate & volume) on stormwater management. There are concerns on volume and there will be additional calculations and additional communication with the Township Engineer. That was a chief concern on why they were not able to make a recommendation.

## **7. OLD BUSINESS: None**

**8. NEW BUSINESS:** None

**9. PLANNING COMMISSION MEMBERS COMMENTS:**

Ms. Patchen commented that she prefers to hear the public comments before motions are made. Other members agreed. The consensus is to revert as before; to have public comment and Planning Commission comment before making a motion. Dave Sander has previously said this is acceptable.

**10. PUBLIC COMMENT FOR NON AGENDA ITEMS:**

Tom Robbins thanked the Chair for reminding the public that comments have to have some degree of civility. He has attended two ZOOM meetings where his Engineer and his professional credentials and integrity were questioned. He stated as a member of this community and as a landowner and hopefully a businessowner occupying space, this process has been extremely difficult for him. He wanted to stress the damage and the personal anguish that has been caused by this process.

Mr. Shula commented that he works in land development and when he hears negative comments, it is very unsettling. He works with professionals daily and they take their work very seriously day in and day out as Ms. Heinrich does. Mr. Doran commented someone can certainly be angry, frustrated, concerned and upset about something, but the ad hominem clouds the message and hurts everybody and he will make sure this does not happen again.

**11. ADJOURNMENT**

- On a motion made by Mr. Kostyk; seconded by Mr. Shula, the meeting was adjourned at 9:36 PM.

Respectfully submitted,

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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 Whitemarsh 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.