

**Minutes - Board of Commissioners
Upper Pottsgrove Township**

April 5, 2010

A meeting of the Board of Commissioners was held on Monday, April 5, 2010, at the Upper Pottsgrove Township Administrative Office, 1409 Farmington Avenue, with Commissioners Dolan, Miller, Noll, Spaide and Taylor present. Also present were Township Solicitor Charles D. Garner, Jr., Township Manager Jack P. Layne, Jr., Township Engineer John Theisen, Public Works Director Frank Quinter and Township Secretary Cynthia Saylor. Mr. Taylor called the meeting to order at 7:00 P.M. There were 20 people in the audience.

MOMENT OF SILENCE - Mr. Taylor requested a moment of silence in honor of the men and women who have served and are currently serving our county in the armed forces.

PLEDGE OF ALLEGIANCE - Those assembled pledged allegiance to the flag.

PUBLIC HEARING TO CONSIDER BY RESOLUTION OF THE TWO AMENDMENTS TO THE FUTURE LAND USE MAP OF THE POTTSTOWN METROPOLITAN REGIONAL COMPREHENSIVE PLAN AND ADOPTION BY ORDINANCE TEXT AMENDMENTS TO THE INTERGOVERNMENTAL COOPERATIVE IMPLEMENTATION AGREEMENT -

Attorney Chuck Garner reported that the Regional Planning Committee has been reviewing some minor map changes to the Regional Plan which involves requests from both Upper Pottsgrove and West Pottsgrove with respect to changing the Future Land Use Map. He further reported that this matter has been before the Regional Planning Committee and they have recommended approval of the proposed map changes. Attorney Garner explained the proposed changes include two relatively small pieces of property. The first is in Upper Pottsgrove Township and is located on the west side of Route 100; across from the Upland Square Shopping Center and is presently designated as Suburban Residential under the Future Land Use Map the proposed change is to Regional Commerce. The second amendment is located in West Pottsgrove Township and is presently designated as Rural Resource Area under the Comprehensive Plan and the proposed change is to Regional Retail. Attorney Garner explained that as part of the public hearing is a proposal to modify the Pottstown Metropolitan Regional Intergovernmental Cooperative Implementation Agreement.

JOHN WEST, 1611 Applegate Lane, requested clarification as to the exact location of the proposed changes. There being no further public comment; the public hearing was closed at 7:05 P.M. **RESOLUTION #576** - A Resolution approving map amendments to the Pottstown Metropolitan Regional Comprehensive Plan - A motion by Miller, seconded by Spaide, to approve Resolution #576. All aye votes.

OLD BUSINESS

DISCUSSION AND POSSIBLE APPROVAL OF THE CONDITIONAL USE APPLICATION FOR THE COMMERCE CORNER PROJECT -

Attorney Garner reported as a result of the Conditional Use Hearing held on Monday, March 29, 2010, there were four (4) conditions that were requested by the applicant. These conditions are as follows: assurance of direct access (ingress) to Commerce Drive directly for the use of the businesses subject to the review and approval by PennDot and the Township's Traffic Engineer; adequate signage to be approved by PennDot and the Township to direct vehicles to businesses located on the existing portion of Commerce Drive; the

DISCUSSION AND POSSIBLE APPROVAL OF THE CONDITIONAL USE APPLICATION FOR THE COMMERCE CORNER PROJECT CONT'D

- Applicant dedicating to the Township the proposed road (Commerce Drive) that bisects the proposed shopping center that will connect to the existing portion of Commerce Drive so that there remains a continuous public roadway. The Applicant shall execute a Maintenance Agreement providing repair and maintenance, including snow plowing, in a form acceptable to the Township, for the entire length of Commerce Drive and the Applicant's proposed stormwater improvements as they relate to pooling on existing Commerce Drive. Attorney Garner suggested that the applicant obtain final unappealable land development approval from the Board of Commissioners. A motion by Spaide, seconded by Dolan, to approve the Conditional Use Application for the Commerce Corner Project with the conditions outlined in the Decision and Order. All aye votes.

DISCUSSION AND POSSIBLE ACTION REGARDING PROPOSED PRELIMINARY PLAN APPROVAL FOR THE COMMERCE CORNER PROJECT

- Attorney Garner reported the Preliminary Plan depicts ten (10) building totaling 182,159 square feet on a 37.59 acre parcel, located at the northeast corner of Route 100 and State Street to be used as a shopping center. He further reported the Upper Pottsgrove Township Planning Commission reviewed the Preliminary Plan and recommended approval subject to the Applicant satisfying the following conditions: compliance with or resolution of all conditions and comments set forth in the LTL Consultants, Ltd., letter dated March 10, 2010; compliance with all applicable comments contained in the Montgomery County Planning Commission letter dated March 11, 2010; compliance with all comments and conditions contained in the LTL Consultants, Ltd., letter of January 4, 2010, relating to sewer and water issues; compliance with all comments and conditions set forth in the McMahan Associates, Inc., letter of March 12, 2010; receipt of permits and/or approvals of all outside agencies, including but not limited, to Pennsylvania DEP, PennDot, Montgomery County Conservation District, and Pottstown Borough Authority; approval of Upper Pottsgrove Township Fire Marshall to ensure access to and through the site by emergency vehicles; the applicant satisfying all conditions imposed through the Upper Pottsgrove Township Conditional Use Order and Decision dated April 5, 2010; the preparation and execution of an Easement and Maintenance Agreement in a form acceptable to the Township, which shall provide the Township any and all required utility easements. The Applicant shall be required to maintain and repair the entire length of Commerce Drive, from Wilson Street through to the terminus of the existing Commerce Drive, as well as, maintain and repair all roads dedicated and non-dedicated within the shopping center facility; the Applicant/developer providing public water and public sewer to the proposed development at the Applicant's sole cost and expense; the Applicant constructing additional road improvements, as determined by PennDot, Upper Pottsgrove Township and McMahan Associates, Inc.; the Applicant's submission of a Master Plan acceptable to Upper Pottsgrove Township along with any required approval by the Pottstown Metropolitan Regional Planning Committee; the Applicant vacating, at its sole cost and expense, any portion of existing Commerce Drive that will not be utilized, along with executing an agreement to indemnify Township for any loss, damage or claims associated with said vacation; the Applicant, within 30 days, paying all Township consultant review fees and replenishing the future escrow review in the amount of Twenty Thousand Dollars (\$20,000.00);

DISCUSSION AND POSSIBLE ACTION REGARDING PROPOSED PRELIMINARY PLAN APPROVAL FOR THE COMMERCE CORNER PROJECT CONT'D

– Execution by the Applicant of this Resolution noting acceptance of the conditions as stated herein within ten (10) days of date of the approval of this Resolution. Mr. Garner stated the Applicant has requested 15 waivers from certain provisions of the Township Subdivision and Land Development Ordinance and the Township Stormwater Management Ordinance, as more specifically described in a letter dated March 9, 2010, from Nave Newell, Inc. The waivers are as follows: SALDO 310-11.A(7) – Requires profiles of the proposed utilities as part of preliminary plan submission; SALDO 310-26.D.(1)(d) – Waiver for the purpose of calculating the post-development cover (CN), areas disturbed during construction are to be reduced one hydrologic soil group; SALDO 310-26.E.(2)(a) – Waiver limiting the maximum basin side slope to 25% (four units horizontal to one unit vertical); SALDO 310-26.E.(2)(f) – Requires the use of architecturally treated concrete, stucco, painted surface or stone façade treatment for enhancing the outlet structure; SALDO 310-26.E.(2)(h) – Requires a minimum of two feet of freeboard through the emergency spillway during the design storm; SALDO 310-37.C.(1)(e) – Requires that each mature tree (8" DBH or more), tree mass or woodland is to be designated "to remain" or "to be removed"; SALDO 310-37.F.(3)(a)&(b) – Requires all parking lots to be screened from public roads and from adjacent properties – PARTIAL; Stormwater Management Ordinance 301-15.A. (1) & (2) – Requires detention basins to be setback a minimum of 50 feet from buildings, property boundaries, and/or right-of-way; Stormwater Management Ordinance 301-15.B – The height of the riser structure shall be designed such that no flow enters the top of the riser for the 100-year frequency event – PARTIAL; Stormwater Ordinance No. 409, Section 408.A. – Development sites must control proposed conditions runoff rates to 50% of the existing conditions runoff rates for the 2-year, 5-year, 10-year, 25-year, 50-year and 100-year storm events – PARTIAL; Stormwater Ordinance No. 409, Section 410.I.1. – Limits the maximum permitted water depth to six feet (6'); Stormwater Ordinance No. 409, Section 410.I.3 – Limits the interior slopes of the basin at 5:1. It was noted that LTL Consultants, recommends approval of the waivers as requested. Attorney Garner noted that if for any reason the Applicant fails to acknowledge the acceptance of the conditions contained in this Resolution within ten (10) days from the date of this Resolution or if the Applicant fails to obtain Final Plan approval within 18 months of the date of this Resolution, then the Preliminary Plan approval granted herein shall become void, the waivers requested shall be deemed denied, and the Plan shall be denied for the reasons set forth in the LTL Consultants, Ltd., letter of March 10, 2010. A motion by Spaide, seconded by Dolan, to enact **Resolution # 577**. All aye votes.

In response to a concern addressed by **COMMISSIONER MILLER**; Nicholas Rakowski, Nave Newell, assured him that the sediment forebay applies to both basins.

GARY NOVACK - **1433 North Hanover Street** - Requested a clarification pertaining to sidewalks. Commissioner Taylor reported there will be sidewalks leading into the development from Wilson Street and there will be connecting sidewalks throughout the area.

DISCUSSION AND POSSIBLE ACTION REGARDING PROPOSED ROAD IMPROVEMENTS

- Public Works Director Frank Quinter provided a cost estimate in the amount of \$19,000 for repairs to the entrance and the cul-de-sac to Old Orchard Drive. Commissioner Dolan recommended eliminating repairs to the cul-de-sac to Old Orchard Drive. After a brief discussion, a motion by Miller, seconded by Noll, to approve the repairs to the entrance of Old Orchard Drive in addition to the roads previously approved at the March 15, 2010 meeting. All aye votes.

PUBLIC COMMENT:

KEITH KEHL - 1941 Gilbertsville Road - Stated that the “Kulp Field” sign is a disgrace and suggested that Superior Water pay for the damage. Mr. Layne advised the matter has been addressed. Mr. Kehl expressed concern regarding a drainage pipe that was never connected at the Althouse driveway. Mr. Kehl referenced an article in the recent Newsletter pertaining to protecting water resources and stated the Township “needs to practice what we preach.” In another matter, Mr. Kehl expressed concern that when he paid his taxes there was no one available to help him with an issue pertaining to his sewer easement.

JOHN WEST - 1611 Applegate Lane - Expressed his concern that the fire hydrant at the intersection of Fallbrook Lane and Applegate Lane is missing. Mr. Quinter stated that he is expecting a call from Superior Water regarding this matter.

When **JIM PAYNE, 150 Mapleleaf Lane**, questioned whether there is a projected completion date for the sewer project; Attorney Garner stated June 21st; however the weather conditions have pushed it back somewhat. Mr. Payne expressed his concern that we are allowing contractors to “run wild” throughout the Township.

COMMISSIONER MILLER - Expressed his thanks and appreciation to Keith Kehl and Gary Novack for picking up litter around their neighborhood. Commissioner Miller suggested that the Township have Sceptor Signs re-erect the sign at Kulp Fields.

KEITH KEHL - 1941 Gilbertsville Road - Expressed his concern that there are telephone poles in the right of way of Gilbertsville Road.

COMMISSIONER NOLL - Proposed that the Township obtain additional quotes with regards to paving the parking lot at the administrative building.

PAYMENT OF BILLS - A motion by Noll, seconded by Dolan, to approve the Bill List dated April 5, 2010, for General Fund in the amount of \$136,391.35; Fire Fund in the amount of \$7,947.96; Sewer Fund in the amount of \$40,246.37; Capital Fund in the amount of \$53,171.50; State Fund in the amount of \$1,333.31 and Escrow Fund in the amount of \$933.75. Total Disbursements - \$240,024.24. All aye votes.

APPROVAL OF MINUTES - March 15, 2010 - A motion by Spaide, seconded by Dolan, to approve the minutes of the March 15, 2010, meeting as presented. All aye votes.

EXECUTIVE SESSION - At 7:40 P.M. Commissioner Taylor announced there would be an Executive Session to discuss one (1) matter of pending litigation and one (1) matter of possible litigation with no decisions being made. The meeting reconvened at 8:04 P.M.

ADJOURNMENT - There being no further business, a motion by Noll, seconded by Spaide, to adjourn at 8:05 P.M.

Respectfully submitted,

Cynthia H. Saylor
Township Secretary