

MINUTES

PLANNING COMMISSION

LOWER ALLEN TOWNSHIP

REGULAR MEETING

May 15, 2007

The following were in ATTENDANCE:

PLANNING COMMISSION

TOWNSHIP PERSONNEL

Brett McCreary
Richard Jones
Geir Magnusson
Donald Dentler
Dr. Jean Dyszel

Dan Flint, Township Planning and Zoning
Coordinator
Peddrick Young, Liaison
Jennifer Nolan-Straub, Cumberland
County Planning Commission
Trudy Metzel, Recording Secretary

Mr. McCreary called to order the May 15, 2007 meeting of the Lower Allen Township Planning Commission.

APPROVAL OF MINUTES

Approval of April 17, 2007 Regular Meeting Minutes

Mr. Magnusson moved to approve Minutes of the April 17, 2007 Regular Meeting of the Planning Commission as corrected. Dr. Dyszel seconded the motion. Motion carried 5-0.

OLD BUSINESS

SLD #2006-09 – Revised Final Land Development Plan for Westport Lot #11

John Madden, Madden Engineering, identified himself to the Board.

Mr. Madden advised the Board that this plan is a proposed three-story, 33,000-square-foot office building on approximately 2.6 acres. Previous review comments have been addressed, with the exception of the post-approval type items. The Applicant agreed to reduce the size of the building in order to address parking lot issues.

Staff Comments

Mr. Eby advised the Board that the four comments Mr. Maddens referenced are:

1. Erosion and Sediment Pollution Control.
2. Sewage Planning or Exemption from PA DEP and Lower Allen Township Authority.
3. Developers Agreement and Financial Security for improvements.
4. Stormwater Facilities and BMP Maintenance and Monitoring Agreement.

County Comments

Ms. Nolan-Straub had no further comments.

Board Comments

Mr. Magnusson inquired regarding the stormwater pond. Mr. Madden advised that it is a typical embankment; however, they put it in cut by excavating the bottom of the pond rather than in fill so the material that has been there is stable. In addition, Mr. Flint required an under-drain so it would de-water over time. ARM has done soil borings resulting in Applicant having a geo-technical report.

Mr. Jones inquired if the E and S Plan has been submitted. Mr. Madden advised that it has been and they are awaiting a response.

Mr. Jones inquired if the Sewage Planning module has been submitted. Mr. Madden advised that the letter has been submitted.

Mr. Jones inquired if there was any problem with the Developers Agreement and Financial Security.

Mr. Madden advised there is not.

Mr. Jones inquired if there was any problem with the Stormwater Facilities and BMP Maintenance and Monitoring Agreement. Mr. Madden advised there is not.

Mr. Jones moved to recommend approval of SLD #2006-09, the Revised Final Land Development Plan for Westport Lot #11 contingent upon the four outstanding comments being accepted and approved.

Dr. Dyszel seconded the motion. Motion carried 5-0.

NEW BUSINESS

Zoning Ordinance Amendment Application #2007-01: Proposed Amendment to the C-3 Planned Business Center District Regulations

Mr. Eby advised the Board that the people appearing before the Board initiated this Amendment Application. Mr. Bob Walker drafted the amendment and represents the property owner, High Properties.

High Properties appeared before the Board of Commissioners at their regular meeting on March 23, 2007 to make a presentation regarding property in Rossmoyne Business Park that High Properties still owns. It was a 10-acre campus plan in the central Lot B. Homewood Suites is on the end toward Issacs. A plan was approved for a freestanding restaurant from the time when the regulations allowed same. The Commissioners later narrowed the Ordinance by allowing a freestanding restaurant only with benefit of being within a permitted-use building. Provided protection against the adverse change in zoning has expired. The Applicant had difficulty find a restaurant tenant. Now that one has been found, they have returned to the Board of Commissioners inquiring if the Commissioners would be interested in amending the Ordinance. The Commissioners requested an Amendment Application, which was presented to the Board of Commissioners at their April 23 meeting. The Commissioners agreed that the Amendment Application should be dispersed to the planning agencies.

Mr. Bob Walker, Johnson Duffy in Lemoyne, identified himself to the Board. He introduced Dary Young of High Properties and Tom Gray of CEEG, the engineer for the project.

Mr. Walker explained that current restaurants are allowed in the C-3 zoning district only when they are a part of or within an existing permitted-use building. The Applicant is seeking to construct a restaurant in its own building on the subject lot. The restaurant would be operated in conjunction with the existing Homewood Suites Hotel. The restaurant will be a themed-italian restaurant with a microbrewery. The restaurant would have a "Host" liquor license, a benefit from the Hotel and would be a partnership between the Hotel, which is part of High Properties, and the restaurant. The proprietor of the restaurant is the Hoss' Organization. This is a new concept for that organization. This would be their second location. Beer will not be brewed on the premises but will be brewed for the restaurant, which is named Marzoni's, and will feature a mock-up of brewing equipment.

The Amendment to the Ordinance was drafter with input from Mr. Eby and as well as the Board of Commissioners to specifically allow freestanding restaurants in the C-3 business district but only in a very limited way. The three ways freestanding restaurants would be permitted in the C-3 business district are:

1. Must be part of the campus plan.
2. Must be existing C-3 use of at least 400,000-square-feet within the given area. The idea being to limit restaurants to only those areas where there are users directly in the vicinity of the restaurant that would patronize the restaurant.

That is one of the Commissioners concerns as there is land yet to be developed in the Township and they wanted to be certain there would not be a proliferation of these types of restaurants in the zoning district. Limiting restaurants to areas where there are existing C-3 uses would govern that situation.

3. The use can only be by conditional use.

A presentation was made to the Commissioners, who were receptive to the Amendment and directed the Amendment be passed onto the planning agencies. The Ordinance has been advertised in the "Intent to Adopt" format. Ordinance changes were advertised in their entirety. The Amendment Application public hearing will be May 29, 2007 during the Board of Commissioners Regular Meeting.

If the Amendment Application is successful, the next step would be for the Applicant to file a Conditional-Use Application and go back through for review of Conditional-Use requirements. If the Conditional-Use is granted, the Applicant would proceed to plan development.

The hope is to have all approvals in place and be under construction before the end of 2007.

Mr. Jones inquired if the requirement has been met for the square-footage. Mr. Walker stated it has. Currently in the Rossmoyne Business Park there is between 1 million and 1.2 million square-feet in the entire Park. The square-footage is evenly split between Lower Allen Township and Upper Allen Township. There is considerably more warehouse space in the Upper Allen Township portion.

Mr. Walker stated that when he drafted the Ordinance requirements, he took special attention to the fact that in the C-3 district there can be square-footage without people in the form of warehouse type space. In this Amendment, the 400,000-square-footage must specifically be space that is people intensive, with the idea being that there is a restaurant for people not just for big buildings.

Regarding Mr. Walker's statement that this particular facility would be in conjunction with the Homewood Suites, Mr. Jones inquired as to the specific arrangement. Mr. Walker explained that since High Properties is the owner of the real estate where this restaurant would be located as well as the owner of the hotel, it is very easy to put the partnership in place.

Mr. Jones inquired as to what would happen if the restaurant was constructed, in operation and then the owner of the restaurant decides to sell. Mr. Eby responded that the approval would be for the freestanding restaurant. Depending how severely narrow the conditional approval is, if the restaurant is approved for a specific number of seats and parking spaces and the restaurant changes ownership it might not have to go back for conditional-use. If there is a material change in the new owner's proposed use it would have to go back to the Board of Commissioners for another Conditional-Use Hearing. If the partnership with Homewood Suites falls through and the liquor license is lost, the new owner might have to start from scratch for the Liquor License. The Township has no jurisdiction over Liquor License in this case. Jurisdiction falls to the Liquor Control Board.

Dr. Dyszel inquired as to what defines a drive-through freestanding eating establishment. Mr. Eby responded that is one of the items that must to be more fully defined. Dr. Dyszel inquired as to the intent of a freestanding fast food eating establishment. Mr. Walker advised that the intent would be to not allow drive-through facilities as part of a freestanding restaurant. Fast Food restaurants would not be permitted. Mr. Eby advised that “fast-food restaurant” needs to be defined.

Mr. Magnusson inquired if the restaurant is dependent on lunch crowd only. Mr. Gray responded that they expect an evening crowd, but not a late evening crowd, as the bar will close between 10:00 p.m. and 11:00 p.m. Mr. Walker further stated that with Homewood Suites and Hampton Inn there are hotel/motel type occupants that will hopefully patronize the restaurant.

Mr. Magnusson inquired as to that the difference is between this project and spot zoning. Mr. Eby clarified that it is not spot zoning, as a map change is not being made. This available to any owner of any property in any C-3 district.

Mr. Magnusson inquired if this piece of ground is usable for another other purpose. Mr. Gray responded that it is usable for other purposes; however, having a restaurant is very important to Homewood Suites and Hampton Inn. If Marzoni’s walked away tomorrow, Homewood Suites would be pursuing another restaurant.

Mr. Dentler inquired how far from the Day Care would this restaurant be located. Mr. Gray advised that it would be $\frac{1}{4}$ to $\frac{1}{2}$ mile and is close to the Upper Allen Township line.

Mr. Dentler inquired if liquor would be served in Homewood Suites. Mr. Gray stated that he is not certain; they may at this point serve beer and wine at a Happy Hour. Mr. Walker advised that there would not be a sharing of liquor service between the hotel and the restaurant. The hotel may currently have the ability to currently serve liquor on a very limited basis to their guests. Under the Liquor Code, Marzoni’s would be specifically limited to serving liquor at its premises only. Mr. Gray advised that there would not be a bar in a Homewood Suite; it is not part of their franchise.

Mr. Walker advised the only way to do that is to have a separately licensed hotel and there cannot be a licensed hotel with partnership liquor licenses. It has to be one or the other.

In response to Ms. Nolan-Straub’s comment, Mr. Walker stated that special exceptions and conditional uses are identical except for the decision making body. County staff felt six months was a short timeframe to get through all the necessary approvals.

Mr. Jones commented that the phraseology that would be used under the Conditional-Use Application should be somewhat stringent.

Mr. Eby reviewed a number of other items that require clarification in the Ordinance. Mr. Eby advised the Board that County comments, Staff comments and Board comments would become information presented at the public hearing on May 29, 2007.

Mr. Magnusson moved to recommend approval subject to comments of Staff, Board and County as well as Staff's review of the criteria for special exception to determine if it can be made more generic or less specific to Rossmoyne Business Park's situation. Mr. Jones seconded the motion. Motion carried 5-0.

OTHER BUSINESS

There was no other business before the Board.

ADJOURN

The Regular Meeting of the Planning Commission adjourned at 8:30 p.m.