

Planning & Zoning Meeting
Meeting Minutes
June 17, 2020

The Orwigsburg Planning & Zoning Commission met on Wednesday, June 17, 2020 in Council Chambers. Chairman Darin Brensinger called the meeting to order at 7:00 pm and the Pledge of Allegiance was recited.

Attendance: Chairman Darin Brensinger; Vice Chairman Paul Bedway; Members: Jeromy Guistwite, Tim Wilhelm, Bill Knecht, and Larry Dagna. Solicitor Paul Datte; Planning Consultant Chris Bentz, Borough Manager Randy Miller, and Borough Secretary Sherry Edwards.

Visitors: Attorney Gretchen Sterns of P O Box 345, Pottsville.

Minutes

A motion to approve the November 20, 2019 meeting minutes as presented was made by Larry Dagna, second by Paul Bedway. Unanimous.

Public Comment

Bill Knecht addressed the Commission:

I call attention to the need to Revise and Update the Orwigsburg Comprehensive Plan, last done in December 2007.

Kay Jones, while a member of this body, brought this to the attention of the P & Z and the Borough that municipalities are required to do this every 10 years. Her comments were made in April of 2016.

That started a process review and the need to create a meaningful town survey of residents, property owners, business owners, and visitors to lend direction.

An extensive survey was taken during the Fall of 2017 with an Executive Summary created by Benesch Engineering and published in May 2018.

I reminded the previous Borough Council and previous Borough Manager in January 2019 that the survey was completed, and work needed to begin on the update of the Comprehensive Plan. Again, in January 2020, I reminded the current Borough Council and current Borough Manager to put the Comprehensive Plan work on its "to do" list since it is now more than 12 years old.

Tonight, the Borough is asking the P & Z to review and recommend what could be a sweeping change in the future development of this community without having updated the Plan.

This is not how it should be done.

Bill Knecht
204 S Warren St.

Chris Bentz responded: There are two parts to updating a Comprehensive Plan:

1. Do inventory of your existing housing stock, public water and sewer, recreation, zoning regulations, etc. Update census data which is a large portion of the plan
2. Public input – majority of this portion was done in the 2017 Town Survey

Typically, 10 years is the recommend time frame for updating a Comprehensive Plan

Estimate cost to Borough - \$20,000

A motion that the Planning and Zoning Commission recommend to Borough Council to pursue a review and update of the Comprehensive Plan to be completed in a year was made by Bill Knecht, second by Larry Dagna. Unanimous.

Old Business

BLQ Properties LLC Land Development Plan Extensions granted

BLQ Properties LLC has requested an extension that was granted by Council. Extension runs out August 4, 2020. Mike Brinkash's offices were closed due to COVID; Mike will get something to Council for July.

New Business

Rhodes Settlement Agreement

Solicitor Datte gave a brief background on the Rhodes property:

- Property is located at the edge of Borough on E Market St and is owned by the Rhodes Organization;
- Property had been the subject of to 2 previously submitted plans – Pine Creek Retirement Community submitted over 10 years ago. Plan received both preliminary and final approval.
- Large scale development purposed on a 30-acre site at Breezy Acre Rd and E Market St.
- After plan approval submission of settlement agreement, bonding, etc. for the improvements purposed was required
- Several years ago, when developments statewide were lagging because of adverse economic conditions – State legislature adopted the Permit Extension Act. Act extended all approvals for several years.
- The Pine Creek plan sat, legally it was approved, legally the owner and developer had to produce financial security and development agreement
- Permit Extension Act expired and the Borough came to the understanding with the developer the date at which the financial security and development agreement had to be submitted
- The agreed upon date was extended by Borough Council on at least one occasion; time came and went with no submission of financial security and development agreement.
- Council took the position under the Municipal Planning Code that the plan had expired of its own right. No action was taken by Council and the developer was informed

- The Owner/Developer appealed Council's determination to the Schuylkill County Court of Common Pleas
 - Court of Common Pleas found in favor of the Borough on the position
 - The Owner/Developer appealed that decision to the PA Commonwealth Court where it currently sits
 - During this time period the developer submitted a new plan - Blue Mountain Retirement Community Plan
 - In the course of the initial review of the BMRC plan the Borough's Zoning Officer identified four or five problematic items with the plan
 - The Owner/Developer appealed the Zoning Officer determination to the Borough's Zoning Hearing Board
 - Zoning Hearing Board found in favor of the Borough, upholding the determination of the Zoning Officer
 - The Owner/Developer appealed the ZHB determination to the Schuylkill County Court of Common Pleas.
 - Schuylkill County Court of Common Pleas upheld the ZHB determination
 - Owner/Developer appealed the Court of Common Pleas to the PA Commonwealth Court which is where the plan sits currently
 - There has been extensive discussion with the owner/developer over the last several months in an effort to resolve the outstanding litigation
 - Throughout discussions the Borough raised a number of issues in terms of what would be appropriate on the site
- Purposed by developer: 400 Units – all apartment type units not individually owned
Very little with esthetics, not controlled by borough

After agreement was reached: 324 Units – Combination of 36 town homes and the rest
condos individually owned
Façade treatments with natural features

- In order to accommodate the developer, changes need to be made to the Zoning Ordinance to accomplish what the Borough wants done on the site
- Create a Village Overlay District – Biggest single provision only includes properties located in the R1 District with 25+ acres. Only three properties in the Borough where this can be done.
- Homeowners Association will be developed
- Commission received architectural renderings
- Village Overlay District will need to be approved by Borough Council and was also forwarded to the Schuylkill County Planning Commission for their comment
- Scheduled for the July 8th Council meeting for Council's consideration
- Buildings set back is 100' – Property is residential which adjoins residential properties
- Still required to submit a Subdivision Land Development Plan; update the NPDES, HOP update; Stormwater Management.
- Public Water and Sewer to be reviewed by Entech Engineering
- Vegetation buffer between development and Kimmels Rd properties
- Once plan is approved the appeals at the Commonwealth Court are withdrawn
- No restriction on an owner of a unit leasing out that unit

- Development will be utilizing Breezy Acre Road which is a Township road as one of two access points
- Fire Chief will have the opportunity to review the plan
- Streets throughout the development will be maintained by the Homeowners Association
- Not determined at this time who will be responsible for maintaining water and sewer lines; either provide bulk water or Borough will take over lines
- Borough will have the opportunity to review the HOA
- Settlement Agreement remains in place until plans are approved by Council
- A \$10,000 escrow account will be set up to cover Borough review costs

The Bottom (B5K-K46, LP) – No Development Agreement or Financial Security posted. Developer filed suit against Borough; that case by agreement is stayed. As far as the borough is concerned there are no approved plans for that property. Suit is pending.

Zoning Overlay District ordinance

Public Hearing is scheduled for July 8th, Council consider adoption at the July 8th Council meeting following Public Hearing.

Chris Bentz reviewed each item of Section 5.20 of the purposed Overlay District Ordinance 441: Section 5.20 is also Exhibit B of the Settlement Agreement – (attached to minutes)

A motion to recommend Borough Council adopt the Village Overlay District Ordinance was made by Tim Wilhelm, second by Larry Dagna. Bill Knecht objected to the process but approves the recommendation. Unanimous.

A motion to adjourn at 8:24 pm was made by Bill Knecht, second by Jeromy Guistwite. Unanimous.

Respectfully submitted,

Sherry M. Edwards
Borough Secretary

EXHIBIT "B"
ZONING AMENDMENT

- (1) Zoning Amendments shall be prepared and adopted for Village Overlay District
- (2) Village Overlay District shall be permitted by right within R-1 Zoning District.
- (3) Area: Minimum lot size shall be 25 gross acres of contiguous land area.
- (4) Lot Coverage: Maximum of 30 percent
- (5) Permitted Uses: Townhouses and Condominiums. All dwelling units shall be for single-family occupancy that is owned by: individual or multiple landowners; investments groups; partnership; corporations; and/or any individual person (sole proprietor).
- (6) Density: The maximum residential density shall be 11 dwelling units per gross acre
- (7) Setback Requirements: Principal Buildings shall be located at least: 100 feet from all exterior property lines; 100 feet from all local street right-of-way lines; and 80 feet from all state street right-of-way lines. All accessory buildings, solid waste disposal facilities, storage areas, and/or off-street parking areas shall be located at least: 50 feet from all exterior property lines; 50 feet from all local street right-of-way lines; and 30 feet from all state street right-of-way lines.
- (8) Building Height: All buildings shall not exceed 45 feet in height, or maximum of 3 floors.
- (9) Common Open Space: An area designated as common open space shall be established within the development, which shall contain a minimum of 50 percent of the total land area regardless of the size and shape. No more than 60 percent of the total area designated as common open space shall contain storm water management facilities, floodplains, wetlands or steep slopes (over 25 percent in grade). Not over 1/3 of which may be used for storm water management areas.
- (10) Buffer Area: A buffer area shall be established along the perimeter of the property, which shall be designed as follows: a 30 foot wide buffer area shall be established along the perimeter of adjacent residential uses; a 20 foot wide buffer area shall be established along the perimeter of a street; and a 20 foot wide buffer area shall be established along all other uses. The buffer area shall be initially planted with a combination of deciduous trees (minimum caliper of 2 inches) and evergreen trees (minimum height of 6 feet) that have the capabilities to grow into an effective buffer area over time.
- (11) Internal Roads: All internal roads shall be designed as a private marginal access street containing: a minimum width of 24 feet with no on-street parking; 32 feet with parking along one side of the road; or 40 feet with parking on both sides of the road. The internal private road system shall be designed with: a maximum grade of 5 percent within 50 feet of an intersection with a public street; a maximum centerline grade of 10 percent along all other road segments; and a horizontal and vertical alignment that provides safe sight distance and visibility at a 25 MPH design speed. Streets or Roads capable of accommodating emergency management vehicles and 2-way traffic patterns.

Concrete Curbing is also required. Applicant must provide Auto Turn traffic movements for these vehicles documenting above.

- (12) Off-Street Parking: 2.5 spaces for townhouse unit; 2.0 spaces for standard condominium units; and 1.5 parking spaces for age-qualified condominium units. The parking spaces shall be designed with a minimum of 9 feet in width and 19 feet in depth with parking aisle of 24 feet for perpendicular parking. The designated off-street parking spaces may include any required handicapped parking spaces or temporary loading spaces for persons with special needs. Parking spaces must be within a reasonable walking distance to the building they intend to provide spaces for. The developer may designate additional parking areas on non-paved, lawn or pervious surfaces, provided that such spaces are designated for overflow parking conditions within the development.
- (13) Steep Slopes: All slopes over a 25 percent grade in pre-development conditions shall not be occupied by principal buildings (townhouses or condominiums). Earth disturbance activities or encroachments on slopes over 15 percent in pre-development conditions may be permitted provided that the finished elevation is stabilized at a 3:1 side slope ratio or as approved by the Schuylkill County Conservation District. Should retaining walls be desired above 4 feet or with vehicle loading they must have appropriate geotechnical testing performed and a design provided by a licensed PA professional Engineer.
- (14) Sanitary Sewer: The entire project shall be served by public sanitary sewage disposal facilities.
- (15) Water Supply: The entire project shall be served by public water supply and service facilities.
- (16) Sidewalks and Pedestrian Access: Concrete Sidewalks shall be required between the principal buildings and off-street parking areas. Pedestrian paths or trails shall be provided to link other principal buildings, community facilities or common uses within the development. A plan shall be prepared to show sidewalk improvements between the principal buildings and off-street parking areas and pedestrian paths and trails.
- (17) Solid Waste Disposal: The homeowners association or management group shall be responsible for solid waste disposal and recycling of designated materials. All common disposal areas shall be enclosed by a 6 foot high security fence, which shall be located at least 50 feet from all exterior property lines and 30 feet from all street right-of-way lines.
- (18) Homeowners Association: The landowner or developer shall establish a homeowners association for the perpetual ownership, maintenance and occupancy privileges of all common facilities not dedicated to Borough, which includes: the private roads or streets; off-street parking areas; common open space; stormwater management facilities; sanitary sewer facilities; water supply facilities; principal buildings (exterior and internal); accessory buildings or common uses; solid waste disposal facilities; curbs, sidewalks

and pedestrian paths; exterior lighting; signs; line painting and/or other designated common facilities required to facilitate the development.

- (19) Recreation Areas and fees: Section 705 of the Borough of Orwigsburg Subdivision and Land Development ordinance is applicable and remains in full force.
- (20) Improvement and Construction assurances: Section 1201 of the Borough of Orwigsburg Subdivision and Land Development Ordinance is applicable to this district and remains in full force.

Definitions that should be added to OB Zoning Ordinance:

Condominium: Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

Condominium Building: A principal building designed as a multi-family dwelling with internal access to condominium units.

Condominium Unit: An individual dwelling unit designed to occupy a person(s) or a single family, but shall not include a group home or group institutional use.

Townhouse: A building arranged, designed and intended to be occupied exclusively as a residence for one (1) family, which is one (1) of a group of three (3) or more such buildings but not more than Twelve (12), placed side by side and separated by unpierced vertical common walls, each dwelling having at least one (1) separate entrance from the outside.