

HALFMOON TOWNSHIP
Planning Commission Meeting
September 6, 2011 7:00 p.m.

Present: Danelle Del Corso, Bob Eberhart, Jordan Finkelstein, Lorin Nauman, John Stevens, Joe Tylka
Absent: Larry Fennessey
Others present: Eric Casanave, PennTerra Engineering; Don Franson, Township Engineer; D. J. Liggett, CRPA; Mark Maloney, Halfmoon Land Company; Jim May, CRPA; Dave Piper, Zoning Officer; Amy Smith, Township Secretary; Kathleen Yurchak, Township Solicitor; Tom Zilla, CRPA; Melissa Gartner, recording secretary

1. Call to Order

Chair Ms. Del Corso called the meeting to order at 7:02 p.m.

2. Citizen Comments

None.

3. Approval of August 2, 2011 Minutes

Motion. Mr. Nauman moved to approve the minutes of August 2, 2011 with one correction. Mr. Stevens seconded. Vote: 6-0.

4. Reports

a. BOS Update

Ms. Liggett stated that the BOS will have an annual retreat on Monday, September 12, to discuss upcoming work program items.

b. Zoning Officer's Report

No report because Mr. Piper was not yet present.

c. CRPC Update

Ms. Del Corso reported that there was a Comprehensive Plan update. Another major item of discussion concerned a property in Harris Township. The owner is submitting a DRI application to expand the Regional Growth Boundary/Sewer Service Area. This was the second time the CRPC was asked to review this application. Comments from the CRPC were forwarded to the General Forum and the topic will be revisited at the September 26 General Forum meeting.

5. Centre Region Comprehensive Plan Presentation

Mr. Jim May, CRPA, presented an overall update on the Comprehensive Plan, a report on the community survey, and a new concept to designate growth areas, future growth areas, and rural resource areas.

They are working on preliminary drafts of the Land Use element, Transportation element, Open Space, Conservation and Recreation element, Community Services and Facilities element, and the Sustainability element. Work has also begun on the

Natural, Environmental, Cultural and Historic Resources, and Housing elements. They are approximately one month behind with a goal to complete a draft Comprehensive Plan by the end of the year.

The CRPA also conducted a residents' survey over the summer. Results are being tabulated now and preliminary results will be ready by September 19. The survey was sent to 2,000 randomly selected addresses (out of 39,000), and 459 surveys were returned (23%). Sixty surveys were sent to Halfmoon Township and 23 were returned (38%...highest participation rate!). They also conducted a drop-in survey, and received 150 completed surveys. This allowed for a return rate of approximately 30%.

Mr. May then summarized his PowerPoint presentation on Planning for Long Term Growth in the Centre Region. The current approach to growth in the region is encourage more intensive development inside the RGB. Property owners outside the RGB can still apply for a DRI to rezone or expand the RGB. Growth outside the RGB is currently allowed if it can be supported by individual on-lot or community on-lot septic systems. This system does not target areas for future growth inside and outside the RGB, and it does not identify rural areas that need to be protected.

In 2000, the Pennsylvania Municipalities Planning Code was amended to allow for three classifications:

- *growth areas* – inside the existing RGB where growth is encouraged for the next 20 years
- *future growth areas* – areas outside the RGB that are planned for urban development in more than 20 years
- *rural resource areas* – areas outside the RGB that should not be considered for urban development for at least 40 years

This should help with the long-range planning to determine where future growth *should not* occur and where it *should* occur inside and outside the RGB. If residents wish to maintain a 'rural' quality, this should help to protect the Township. Halfmoon is in a unique position, since it has no Township land located inside the RGB.

Mr. Eberhart asked how growth could be encouraged at some locations and not at others inside the RGB. Mr. May explained that everything inside the RGB is considered eligible for growth and development, and the RGB has an estimated 20-year supply of land available.

6. Halfmoon Land Company – Waiver Request

Ms. Liggett reviewed that the PC had seen this "estate lot plan" previously in April 2011 and most recently in June. A recurring concern had been the Township driveway ordinance. The BOS heard this waiver request on August 11, and asked that the PC to provide a recommendation at the next meeting.

Mr. Stevens asked why a waiver was being requested. Ms. Liggett explained that the waiver request is required because the Township's Driveway Ordinance states a shared driveway can serve no more than 4 lots or residences; the applicant is requesting for a waiver to allow a fifth lot to access a shared driveway. Ms. Yurchak added that Halfmoon Township allows for waivers to be requested if a subdivision plan does not meet every ordinance. She said that the issue was to balance the Township's reasons for having the requirement for no more than four

lots on a shared driveway with the burden on the developer to meet the requirement. The important question to consider was, 'Does the waiver make sense when you balance the opposing needs?'

Mr. Casanave requested a subdivision waiver because there was an existing residence on the property being subdivided. Mr. Maloney reviewed that in October 2010, the original design showed 23 lots, but they redesigned the plan to use 4 larger estate lots in addition to the existing stone cottage (1145 Halfmoon Valley Road).

Mr. Casanave addressed the issue of approving waivers while avoiding setting an undesirable precedent. The driveway already exists, and residents are used to this driveway. The residual tract already has a house. The developer plans to add an easement and a shared driveway agreement for the residents. The access would also service an historic cottage.

Mr. Casanave added that the new dwellings would have sprinkler systems, and fire truck pull-offs and a turn-around would be created on the driveway. The cottage would receive better fire service because of these improvements. These are unique circumstances and would improve the health, safety, and welfare of the cottage residents. This driveway could not be widened into a private street because it is surrounded by wetlands. He also added that they have received their PennDOT Highway Occupancy approval for 5 lots.

Mr. Maloney said that there is no practical way to barricade or isolate this property to prevent vehicular access if he were held to 4 lots, since there are 100 acres farther up the mountain to be developed.

Mr. Nauman reviewed Mr. Fennessey's previous comment that this was a self-made hardship, because the developer knew of the ordinance's existence. He added that if the adjacent land on the north side was developed in the future, the fifth lot could be developed at that time and included with that new road access. He also reported that in a similar situation a while back, the Township required the property owner to put in a second driveway. This would be inconsistent with that decision. Mr. Tylka agreed that this was not a unique circumstance and did not merit a waiver.

Mr. Piper reviewed the plans, and in a memo to the BOS in August, he supported giving a conditional approval if the future development to the east was created and secondary emergency access could be given to the four estate lot residents.

Mr. Franson reviewed his August 31 memo. He went out to the site, and said it was a straight driveway with good sight distance. He recommended that several spots on the driveway needed to be improved, and Mr. Casanave said that was planned. Mr. Franson's main concern was fire access. The sprinkler note was already on the plan, and the dry hydrant would be an improvement to the existing structure. After evaluating these criteria, Mr. Franson would support granting the waiver request.

Mr. Stevens said that while he did not support setting precedents, the adequate sight distances and fire access would help. He would have preferred seeing the ordinance itself changed before this point, but he would recommend approving the waiver with certain conditions added.

Ms. Yurchak said that from a legal perspective, a waiver had an easier test than a zoning variance. Did it protect health, safety, and welfare? Did the exceptions

make sense? She cautioned that it was not a problem to create a precedent, because the waiver process allowed for it.

Ms. Liggett said from a planning perspective adding more than 4 lots blurred the line between a shared driveway and a private road. The PC and the Township Manager have identified on-going problems with private road and private drives related to maintenance and conflicts between neighbors. As written, the Driveway Ordinance protects the interests of future property owners by limiting the number of lots that have access to a private driveway. Conflicts could be avoided by changing the plan from 4 lots to 3 lots. As a planner, she did not see a compelling reason for the waiver and did not recommend approval of this waiver request.

Mr. Casanave responded that the Township would get calls if it were 4 lots or 5 lots. Ms. Liggett agreed, but she stated that the PC's action would make an undesirable situation worse.

Mr. Eberhart read from the proposed shared driveway agreement that the driveway costs would be shared equally, and thought the property owner nearest Route 550 would not be pleased with this. Mr. Casanave and Mr. Maloney said that a newer agreement would include prorating for location.

Mr. Maloney added that he could afford to do the upgrades recommended by Mr. Franson under a 5-lot plan; he would be less inclined to do them with a 4-lot plan.

Ms. Yurchak said that courts look at 'unreasonableness.' Is Mr. Maloney affecting the environment negatively by having 4 lots, as opposed to 5 lots? Is the situation safer with 4 or 5? Meanwhile, the Township is asking why a 4-lot limit was more beneficial than 5. She summarized that Mr. Maloney planned to build 4 lots under either plan; his waiver request would merely add access to the stone cottage. Denying his request would shut off access to the stone cottage, not prevent a fourth lot from being developed.

Mr. Tylka said the PC needed to take into consideration the probability that the rest of the development would ever occur. Mr. Nauman said that the PC could recommend not developing the fifth lot until the development on the eastern adjacent lot is completed. Mr. Maloney said that was definitely not financially feasible to hold off on the fifth lot.

Mr. Eberhart said the ordinance calls for no more than 4 lots, which was an arbitrary number, and he did not see the harm in allowing one more. Mr. Finkelstein agreed. Ms. Del Corso said that, in her opinion, the improvements to the road outweighed an arbitrary restriction.

Mr. Nauman asked the PC where the line would be if the next developer asked for 6 lots. He also pointed out that if Mr. Maloney had submitted a 3-lot plan with the cottage on the fourth lot originally, this would have been agreed, signed, and done. Mr. Maloney said that he might have gone back to the 23-lot plan with a public road. Mr. Tylka said the PC did not know why the 4-lot limit was decided upon, but it was the ordinance. If the ordinance needed to be fixed, then fix the ordinance. He did not think this was a hardship, since the developer created it himself. Ms. Del Corso said that regardless of the number specified in the ordinance, the PC would still be asked to review waiver requests on a case-by-case basis.

Ms. Liggett asked if the PC wanted to attach any conditions on this recommendation. Members discussed several conditions before making a motion. Motion. The PC recommends approving the Halfmoon Land Company waiver request to access five lots from a shared driveway with the following conditions:

- a. Adding a note to the plan stating that when tax parcel 17-2-4AR is further developed, direct access to the cottage would be provided through the new development.
- b. Submission of a shared driveway agreement, to be reviewed and approved by the Township Solicitor and recorded with the plan.
- c. Adding a note to the plan incorporating all of Mr. Franson's suggested driveway improvements from his August 31 memo.

Vote: Support the waiver request with no conditions: 0; support the waiver request with the three listed conditions: 5; deny the waiver request: 1 (Tylka).

7. Halfmoon Land Company – Final Plan

Ms. Liggett said that the developers are asking for comments and recommendations on two plans, so that they may move forward whether the BOS approves or rejects their waiver request. She also said it was appropriate and legal for the PC to see two different plans for the same property. The developer would have to decide at the BOS meeting which of the two plans he wished to have approved and recorded.

Mr. Casanave said that the PC saw the first plan in April; the second plan, the Modified Alternate Plan No. 2, would deal with the situation if the waiver request was denied by the BOS. He then said they secured the Highway Occupancy Permit from PennDOT for 5 lots and they received approval of the E and S plan (part of NPDES Plan for DEP). He did not have the full NPDES Plan approval, but he did receive an e-mail today with a recommendation for approval of the NPDES Plan and an assigned permit number. DEP did not yet approve the planning module because DEP was waiting on information from Mr. Piper.

Ms. Del Corso summarized that the PC could take action tonight to conditionally approve the Final Plan. Members discussed the issues involved and made the following motions:

The motion to approve the first plan is conditional on the receipt of approval of the Component 1 Planning Module by DEP, the proof of receipt of the NPDES Plan by DEP, approval of the Driveway Ordinance waiver, and receipt of necessary signatures.

Mr. Eberhart made the above motion. Mr. Nauman seconded. Vote: 5-1 (Tylka).

The motion to approve the second plan would be conditional on the receipt of approval of the Component 1 Planning Module by DEP, the proof of receipt of the NPDES Plan by DEP, receipt of necessary signatures, a shared driveway agreement approved by the Township Solicitor, an indication on the plan of how access to the shared driveway will be eliminated for the stone cottage or Lot 17-2-4AR, an alternate access provided for the stone cottage, and a copy of the

agreement that extinguishes the 'easement by prescription' use of the shared driveway by the stone cottage.

Mr. Nauman made the above motion. Mr. Finkelstein seconded. Vote: 6-0.

8. Matter of Record

The next PC meeting will be on September 20.

9. Adjournment

Motion. Mr. Tylka moved to adjourn. Mr. Nauman seconded.

The meeting was adjourned at 9:04 p.m.

Respectfully submitted,
Melissa Gartner
Recording Secretary