

Pledge of Allegiance

Present:

Present at the meeting: Ryan Lemke, Robert Mitall, Jayne Hoy, Ed Patrick, James Olszewski and Council Liaison Carl Stepanovich. Also in attendance were Chief Administrator Jim Morrison, Attorney Charles Hergenroeder, Richard Territt and Mr. DeCesare (on behalf of Villa Ciano), Mr. Schroeder, Bruce Conley and Tom Hewitt (4001 Partners LP), _____.

Absent:

Minutes: Ms. Hoy noted that the agenda lists the minutes from the April 18 meeting when, in fact, they were from the April 7 meeting. Ms. Hoy also noted 3 corrections to the minutes and then moved to approve the minutes of the April 7, 2020 meeting, as corrected. Mr. Patrick seconded. All present voted aye. Motion approved.

Public Comment: None.

Old Business:

E.1 Consider approval of SP-2-20 “4001 Partners Site” application proposing improvements to include a used car dealership and in-house service center located at 4001 William Penn Highway, B Zoning, being currently identified as Westmoreland County Tax Parcel 49-14-02-0-057, currently listed under the ownership of “4001 Partners LP”.

Mr. Hewitt advised that everything has been resolved; the application regarding the entrance to the driveway has been submitted to PennDOT. Mr. Morrison advised that the updated submission from Pennsylvania Soil & Rock is in the drop box. Mr. Mitall asked what other issues there are other than the permit from PennDOT. Mr. Morrison discussed the issues: (1) request from the applicant for a waiver on the air quality and acoustical studies. Mr. Mitall asked if there was going to be any body repair or welding done. Mr. Hewitt said it is to be a service center doing mechanical not body work. Mr. Mitall asked if any of the Commission members had any issues with granting those two waivers. They all responded they do not. (2) Mr. Morrison said there is some question about the engineering costs for purposes of bonding; the applicant presented verification of costs from the contractor. Mr. Mitall suggested making a condition of approval to have the Municipality verify the costs. (3) An opinion from FTMSA on the sewage is still outstanding. Mr. Hewitt said that was forwarded confirmation to Mr. Morrison in the Appendix. (4) Mr. Morrison said there was an open discussion concerning the remainder use of the property. Mr. Mitall asked Mr. Conley what he intended to do. Mr. Conley said he has no immediate plans; he purchased the property to develop it and would entertain future development if he or the Municipality found something feasible. Mr. Mitall said the problem is that a site plan has been presented that only governs part of the site so there has to be some way to limit what is being done with the rest of the site.

Mr. Conley said he has spoken to Mr. Morrison about this and he would encourage Planning and Council to put a condition that no vehicles are permitted to be parked on any of the undeveloped lot. Mr. Mitall said that could be a condition or marked on the plan, and/or both. Mr. Conley agreed. Mr. Morrison said the storage area for vehicles (sales area) would be based on the square footage of that area and asked if Mr. Conley knew what they were. Mr. Conley responded that it is 170' across x 209' deep x 219' wide, which is larger than Mr. Roetger's present facility. Mr. Roetger said there are currently 125 cars on the lot and there will be about 12,000 sf of indoor storage to be used to display vehicles. Mr. Mitall said he would like more of a defined area that states no development or no use of the property without prior approval of the Municipality. Mr. Morrison said he is looking at the best way to limit the number of vehicles and he open to the Commission's direction. Mr. Roetger said if the business grows in the future, the plan is to develop the adjacent property for their use and to go through whatever means are necessary to be able to utilize it. As of now, they are only developing a portion of the property they feel is of adequate size for the size of the business they currently have. Mr. Roetger spoke at length about the current plan and possible future development and again said he has no problem coming back to Council if the business grows and the rest of the site needs to be developed.

Mr. Mitall asked if the members had any problem with putting a condition on the plan that no development or use of the area outside the site plan must be done with approval of the Municipality. Mr. Patrick said it seems to him that no one seems to be concerned about the fallow property that will just be sitting there with nothing being done with it. Mr. Conley said 99% of the property is concrete and it wouldn't behoove them to let the property be an eyesore – it would be bad for business. Mr. Roetger said they were recently there spraying the weeds and they plan on maintaining it, cutting the grass, and keeping it in an orderly condition just as if the property was all developed. Mr. Patrick said he has no problem with delineating what they plan to use and go forward; it's just common sense. Mr. Mitall asked if they want that as a condition. Ms. Hoy suggested no use of the land outside of the site plan. Mr. Morrison asked about storage in the out-buildings. Mr. Conley said they own some equipment as well as personal vehicles they would like to park there in the winter.

Mr. Hammer, the engineer, asked how this was different from any other development site that might have areas that are undeveloped. Mr. Mitall said if something would happen to Mr. Conley and Mr. Roetger and the property is sold, the new owner wouldn't know about the limitation on the property; the Municipality would have an enforcement issue. Mr. Mitall asked if the members were in agreement to add a condition limiting storage of vehicles in the shed(s) to personal and business vehicles and not inventory. All were in agreement.

Mr. Morrison continued going over the outstanding issues: (5) Traffic control based on PennDOT's recommendation; (6) comments from the landscape architect; (7) Conservation District approval. Mr. Roetger said he thought they had the Conservation District approval. Mr. Conley said it was for the erosion plan, not the storm water plan.

Regarding the requested waiver on the glass, Mr. Conley said they re-did the calculations and the last time it was 16.9; it is now 17.4. Ms. Hoy said that's close enough for her. None of the members had any problems with that.

Ms. Hoy moved that SP-2-20, 4001 Partners Site, be passed to Council and recommend approval with the following conditions: waivers requested for the air quality study, waiver for the acoustical study, waiving the 20% requirement for glazing; engineering costs for bonding purposes be acceptable to the Municipality; no use of the land that's outside of the site plan as presented with the exception of storage of vehicles for personal and maintenance use items; landscaping comments needed; PennDOT approval; approval of the Conservation District for storm water; improvements related to PennDOT recommendation (sign). Mr. Patrick seconded the motion. All in attendance voted aye. Motion approved.

E.2 Consider approval of FPRD 1-19, CU-6-09, R-1 Zoning, for Villa Ciano, a proposed subdivision of a 31.68 acre tract of land into a 23 lot Planned Residential style subdivision located along Cline Hollow Road and is currently identified as Westmoreland County Tax Parcel 49-15-00-0-057, is currently owned by "Patrisa Corporation" since November 2003.

Richard Territt said they have addressed all the comments brought forward at the last meeting,, the ideas from KU Resources. They are asking for approval with the conditions the applicant was asking for. Storm water and Conservation all have been approved-everything was done. Mr. Morrison asked what the date of the plan was that the Conservation District had approved and if there have been any changes made to the storm water or EMS on subsequent plans since then. Mr. Territt said there have been no changes but comments were not totally clear (garbled). Mr. Mitall asked if a final review letter had been received; Mr. Morrison said it was received late that afternoon and noted the following: applicant agreed to a fee-in-lieu regarding recreation facilities; the trail system has been revised and found to be accessible; landscaping plan needs to be addressed; lighting information has been provided; planning module needs to be done; bonding needs to updated; confirm that the Conservation District has signed off on the most recent erosion sedimentation plan; permits and restrictions are being worked on by the attorneys. Mr. Territt said the planning module has been submitted; Mr. Morrison said it has to be approved by Council. Mr. Hergenroeder said the permits and restrictions have been completed and Mr. Kotjarapoglus has reviewed them; the only way they will be amended is if the storm water process is amended to a pond. He said he and Mr. Kotjarapoglus have had numerous discussions over the language and documentation for the storm water management system which is, for the most part, on lots (80% done, 20% to finalize). Mr. Mitall asked if he was referring to restrictive covenants; Mr. Hergenroeder explained that the restrictive covenants have, for the most part, been finished; he is referring to the on-lot chambers, swales, etc. and how to control their maintenance. He believes he and Mr. Kotjarapoglus have a plan to do that and provide the Municipality the protection it needs. He said the concept and most of the language has been completed.

Mr. DeCesare asked how this differs from Bela Molise, for example, where the pond is going to be owned by the HOA and there are also on-site controls that are on individual peoples' lots; there is not a physical chamber, but there are areas that control storm water on those lots. Mr. Hergenroeder that in this case there is no pond. He said they are agreeable to putting in a pond if the Conservation District goes along with it. There was discussion on the on-lot

systems. Mr. Mitall said this is a subject that Mr. Hergenroeder and Mr. Kotjarapoglus are working on and which is subject to Mr. Morrison's and Council's approval. Ms. Hoy said that is a condition. Mr. Hergenroeder said the difference is that when an individual buys a lot, that individual will own the system and the question becomes how to ensure that the system is maintained, which is what he and Mr. Kotjarapoglus are working on.

Ms. Hoy said that she believes the location of the storm water facility on lot is on the plan so that if the homeowner comes to the Municipality with a request to build a shed in the back yard, the building inspector/zoning officer will deny it because the facility can't be compromised and asked if she was correct in that assumption. Mr. Hergenroeder said that is partially true. The problem is that the homeowner buys the shed or swing set and takes out the swale without asking or telling anyone. He and Mr. Kotjarapoglus are working on that issue and how to control it. Ms. Hoy said that her point is that when someone goes to buy a lot in that plan, he/she is going to see the storm water facility and it will be clear to the purchaser that he/she is responsible to maintain it.

Mr. Morrison said he has received 4 calls in the last 2 weeks from Lyons Run; they have similar covenants where they can't put sheds on their property and where second or third owners are not aware of that because it was not relayed during the sale, so now it's the Municipality's fault because the HOA won't permit them put a shed on their property. He trusts that Mr. Hergenroeder and Mr. Kotjarapoglus will take care of that. Mr. Patrick said his concern is that when you have something with more moving parts, that's just more things that can go wrong and it sounds like the pond solution will be the best all the way around as long as approval to do that could be received. He asked if the developer is more in favor of a pond solution than the individual on-lot management. Mr. Morrison said that, based on the information he recently received, he will probably not be in favor of it. According to the Conservation District he would have to get his NPDS amended. Mr. Hergenroeder said that will change everything. Mr. DeCesare said he is aware of that and Mr. Territt has met with them. Mr. Territt said all the retention trenches and easements are on the recorded plan, so they can't just put a shed on the property on top of any easements. Ms. Hoy asked if that is clear in the covenants and restrictions. Mr. Hergenroeder said it will be clear on the deed to the homeowner, on the covenants and restrictions and on the recorded plan.

Mr. Morrison continued enumerating certain items still needed: developer's agreement with the sewer system, planning authority permitting through the DEP (which will be submitted as part of the developer's agreement), utility service letters need to be updated (Mr. Territt has the agreements from the sewer and water authorities), engineering estimates for the bonding need to be updated, a waiver on the emergency spillway is being requested (Mr. Territt said there's no pond-there's no spillway. Mr. Morrison said he would like to leave that issue open – it didn't have anything to do with ponds), construction encroaching on wetland area C needs a permit (Mr. Territt said he provided a letter from the Conservation District saying a permit is not required; Mr. DeCesare said the letter from the Conservation District quoted verbatim text from the DEP manual that states a permit isn't required). Mr. Mitall asked if the Conservation District signs off, and an NPDS permit has already been obtained (it has), can someone confirm that the letter from the Conservation District that they are on the same page

as the copy of the regulations sent. Mr. DeCesare said that what Mr. Morrison read from the comments is exactly what was sent from the Conservation District to Mr. Territt.

Mr. DeCesare asked about the comment from Parks & Rec about the trail and asked why they are putting in a trail if they don't want a dedicated trail. Mr. Morrison said the trail was part of the recommendation of approval of the preliminary plan. Mr. DeCesare said that it is noted on the current plan that "plan not to develop any parts for dedication for trail development due to its location." There were additional comments and discussion regarding the trail (private for HOA or public). Mr. Morrison asked Mr. Hergenroeder if he was familiar with the background on this and the preliminary approval. He replied that they are there for final approval after preliminary approval of the plan, which was 10 years ago, and he hasn't looked at the preliminary approval that was given in that detail to see what was determined on the trail. What has happened in 10 years is that the Parks Commission said they don't want a trail. However, at this point in time, for a final approval of this, he thinks the trail has to be left in, and when it goes to be taxed ask to have the trail abandoned or removed.

Mr. Morrison said that the preliminary plan had to go through three different motions for preliminary approval before Council approved it ten years ago. The only way they got a majority vote on that plan for preliminary approval was through the addition of the trail. Mr. Hergenroeder said if the trail was part of the preliminary approval, it has to be part of the final approval. Mr. Morrison asked if Council has the ability to waive that from preliminary approval to final approval. Mr. Hergenroeder said he believes the Council can, but the Planning Commission can't. Mr. Mitall said he thinks it's a Council matter. Ms. Hoy said she doesn't see why Council can't "undo" something. Mr. Hergenroeder said if Council doesn't want the trail, he's sure it can be abandoned – just like a road but what they are asking is for final approval of a preliminary approval that has a trail in, so the trail has to stay at this stage and be looked at by Council. Mr. Mitall agreed and said it should be left in and then let the applicant request a waiver and, in the meantime, send it to the Parks Commission and let them take a look at it so Council has some fresh information. Mr. DeCesare said the information is fresh from the Parks Commission, which is why it went to fee-in-lieu of instead of the trail. Mr. Mitall said if Parks Commission looked it at recently and made that statement, then it needs to be passed on to Council.

Mr. Lemko said, according to the briefing, it states that "they agree to fee-in-lieu upon mutual agreement with the Municipality, but this item will remain outstanding until approved by Council." Mr. Morrison said it is something for Council and not the Planning Commission at this point. Mr. Mitall asked if the Commission members were in agreement to pass this on to Council with conditions. All agreed.

Ms. Hoy moved to forward this to Council with the Commission's recommendation for approval – FPRD 1-19 and CU-6-09, R-1 zoning for Villa Ciano, with the conditions noted in the briefings of April 27 and May 4. Mr. Patrick seconded. All present voted aye, with the exception of Mr. Lemke, who abstained because he is Mr. Hergenroeder's son-in-law. Motion approved.

E.3 A discussion concerning zoning amendment changes to provide for Senior Independent Living.

Mr. Mitall reminded the members that representatives from Tennessee appeared before the Commission regarding a lot in the Industrial Park at the corner of Sardis and Logan Ferry Roads and Rt. 286. The property is presently zoned Business and they want to build a retirement community, which doesn't fit into the Municipality's ordinances or zoning practices. The whole scheme of senior citizen-type housing has been discussed, which the ordinance doesn't address. There were issues of parking, density, etc. Ordinances from other communities addressing this issue have been provided to the members and staff. He noted a few model ordinances from the State of New York which, while may not seem perfect to the members' eyes, address a number of issues which a local ordinance can be built around. He mentioned that his wife and her friends have discussed this and many want some type of senior housing. He said there are different types of facilities for people as they age. His thoughts are that a small house with a small lot, at a reasonable cost, is pretty hard to do in Murrysville, which all relates to density. He said that, when considering these types of facilities, density doesn't become too much of an issue – in his mind. He noted there are no children, they don't have to leave for work and return at the same time every day, the facility typically doesn't require a lot of police protection, there is a lot less impact on municipal facilities and services than a traditional single-family or apartment-type plan that younger people would live in. He said there are certain rules and regulations and mentioned the Federal Housing Act. He noted several types of facilities: nursing homes, personal care homes, assisted-living facilities, skilled facilities, and said the proposed project is basically a one-dimensional plan – no skilled facilities, meal plans, dining hall, etc. He said the question is whether Murrysville wants to prepare an ordinance addressing these types of buildings and where they will be allowed.

There was discussion on the map that had previously been requested and Mr. Morrison said the map in the drop box has all the subdivisions on it, as well as street lay-out in all the subdivisions, and the areas outlined in yellow consist of 3 acres or more. Ms. Hoy said she thinks this is a subject that definitely needs addressed and cited a personal experience when caring for her mother. She mentioned one ordinance that discussed building a little “cottage” or “tiny home” if needed for an elderly family member – then tearing it down when it was no longer needed. She said she can't imagine spending money to build something for her mother live in only to tear it down. However, if she wanted to build a tiny house for her mother-in-law, she wouldn't be allowed to do it in Murrysville and that needs to be addressed. She said one ordinance referred to it as “aging in place” and that needs to be considered.

Mr. Patrick asked what obstacles the applicant faces with the present ordinance – is there no slot for him to fit into – or what prevents him from doing this? Mr. Morrison said that first, it is zoned B, and second is density (the lot isn't large enough to build the number of units that the applicant wants). Ms. Hoy asked the number of acres on the parcel. Mr. Morrison said he believes it is 3.7 acres. Ms. Hoy discussed a project her family did several years ago with several different buildings, which was done as a PRD. She said Murrysville's PRD requires

many more acres and suggested that a PRD variation might be a way to accomplish this and asked for comments from the members. Mr. Morrison said, in the initial discussions, there were alternatives: (1) re-zone existing properties in Murrysville; (2) a text amendment across various zoning districts to identify density, parking, etc. Mr. Morrison said that, interestingly, a similar PRD concept was mentioned in the model ordinances and they were done as overlays, similar to what Murrysville did with the oil and gas district, with regulations provided in that overlay district. He said the members have to decide which road to go down if, in fact, they want to amend the ordinance to accommodate this type of housing. He asked if they would want to provide for an overlay and outline in the various districts density and other requirements; would they want to do it by text amendment; he said he didn't know that they would want to go out and just find parcels and re-zone them. Ms. Hoy said she thinks that's the least favorable and asked what the pros and cons were of each suggestion. She is not familiar with a text amendment and asked for an explanation on how that would work. Mr. Morrison briefly explained it but said he thinks more would be accomplished with an overlay/PRD type of concept.

Mr. Lemke said he believes the overlay would make the most sense; doing a text amendment and change densities in other zoning districts, it would create a nightmare. Mr. Mitall said a text amendment doesn't cover all of the issues; the density and parking aren't the only things that need to be changed, there are a whole slew of other things. Mr. Olszewski asked what Murrysville's Comprehensive Plan calls for with this type of senior living. Ms. Hoy said she doesn't think it's addressed. Mr. Morrison said the plan recognized that the population in Murrysville is getting older and a lot of the residents, if not the majority of them, have the desire to remain in Murrysville and promoted this type of development. Mr. Mitall said nothing was ever done with that. Mr. Olszewski said he believes there is definitely a need for this type of housing and hopes it would be available if he should ever need it. Mr. Stepanovich said that he and his wife, at their ages, would definitely be interested in something like that.

Ms. Hoy asked how the Commission should proceed. Mr. Patrick said if everyone thinks the overlay approach makes the most sense, then maybe they should go down that path and see where it takes them and asked if anyone saw any hurdles or negatives that would prevent them from going that route. Mr. Mitall said he didn't see any problems and it doesn't matter how it's done – it's the details that are put with it. He said the type of audience that will be living there will vary so different categories need to be looked at (landscaping, recreation) as defined under the law. Mr. Morrison said Murrysville has something similar now in the business overlay district with mixed-uses in that district. Ms. Hoy said that if an overlay is created specifically for 55-and-over and is getting "less" – impact, parking, density, etc. - she wonders what would stop another developer from coming in and saying he is being discriminated against and asking for the same perks. Mr. Mitall said the Federal housing rules indicate the specific criteria for an over-55 community and wording can be added to ordinances to further define the criteria. He said he doesn't see how the Municipality can get into any trouble because there are already zoning districts (i.e., you can build a house in the business district). Mr. Lemke said he believes the Fair Housing Act protects Murrysville in this instance, creating an overlay district that applies to individuals that are 55 and older and he doesn't believe there will be a problem as far as discriminatory zoning. Mr. Stepanovich

noted that the HOPA Act focuses on age; the Federal Housing Act doesn't really address age; [it addresses] sex, orientation, race, etc. The HOPA Act does give coverage for safety from lawsuits, and so forth. Ms. Hoy said she thinks the overlay is the way to go.

Mr. Mitall suggested having a special discussion meeting on May 19. All were in favor of that and Mr. Lemke asked if there was anything in particular they should be looking at. Mr Mitall suggested reviewing the HOPA Act and the ordinances provided. Mr. Morrison said he will begin to put an outline together.

New Business: None.

Adjournment::

Ms. Hoy: Moved to adjourn at 8:27 p.m.

Mr. Patrick: Seconded

Motion Approved: 5-0