

**Birmingham Township Planning Commission (BTPC)**  
**Minutes of the meeting February 14, 2023**

The regular meeting of the BTPC was called to order by Ms. McCarthy at 7:00pm.

PRESENT: Eric Hawkins, MaryPat McCarthy, David Shields, Brendan Murphy  
ABSENT: Scott Garrison

Also present: Kim Venzie, Esq., Dave Schlott Jr, PE, Alyson Zarro, Esq, Stephen Sauselein, PE, Jim Oeste, Braden Garrison, PE

Mr. Shields made a motion to approve the January 10, 2023 minutes. Motion was seconded by Mr. Murphy and it passed unanimously.

**1305 Wilmington Pike/Penn Oaks Ent. – Preliminary/Final Land Development Plan**  
**(Time Clock ends: March 10, 2023)**

Alyson Zarro is in attendance tonight on behalf of Penn Oaks Enterprises LLP to discuss the updated review letters as they are seeking a preliminary/final recommendation for the land development project. This property is located on the corner of Wilmington Pike and Penn Oaks Drive.

When they were here several months ago to discuss the review letters, there were several people in attendance who made comments and had questions. Since that time, they have made changes, resubmitted plans, worked with the consultants and now have much cleaner review letters to discuss this evening. Another thing they did after that meeting, was complete a full traffic impact study which was submitted and reviewed by the township's traffic consultant.

There are three review letters for this evening: (1) ARRO letter dated February 10, 2023 – this is the regular land development civil engineering comments; (2) Traffic Planning and Design, Inc., dated February 13, 2023 – this is the traffic review letter; and (3) ARRO letter dated February 13, 2023 which is specific to the sanitary sewer review for Bucks County Water and Sewer Authority (BCWSA).

She wants to work backwards with the letters - starting with the sanitary sewer letter first. As everyone knows, the sewer system was sold to BCWSA and the applicant had been working with ARRO to see if this project was something that could qualify for a planning module exemption or if it would need to go through a full planning module process. Since there is still a corrective action plan on the treatment plant itself, DEP has confirmed that the applicant will need to go through the full planning module process and get sewer approval. As far as the letter goes, all the general engineering comments are "will comply" from the applicant and the rest of the letter is regarding the Sewage Facility Planning Module (SFPM) process.

The next letter referenced is the TPD review letter – it reviews the full traffic impact study that was submitted. TPD found the traffic study to be acceptable. In case there are additional questions or an overview of the study is desired by the Planning Commission, the applicant's traffic engineer (Braden Garrison, PE) is in attendance this evening and this topic will be open for discussion after the Arro letter items are addressed, since Ms. Zarro believes this will be the topic of most concern.

The last review letter is the Arro general civil engineering review letter. In general, the outstanding items in this letter are "will comply". The applicant did request two waivers that are listed in the review letter and on the plan, however, one of the waivers is formally being withdrawn right now. The withdrawn waiver is referenced under Subdivision and Land Development (SALDO) #6 – they are withdrawing the waiver to not plant all of the required replacement trees as they have determined that they can fit all of the trees.

There are three other specific items in the letter Ms. Zarro feels should be addressed with the Planning Commission.

Zoning #10 – this is not a waiver as this is in your Zoning Ordinance, but the section that relates to perimeter buffer references the fact that the BOS in their discretion can make changes to the perimeter buffer requirements. They are proposing a perimeter buffer on all four sides and they are compliant with the number of plantings, but on the southwestern side (adjacent to CJs Tire) the perimeter narrows down to less than the 20 feet referenced in the Zoning ordinance and thus they are requesting that the BOS approve a lesser width on that side.

SALDO #19 – if you recall, the applicant sought relief on this project for steep slopes throughout the site predominantly in the center of the parcel but also extend up to the eastern part of the site. If you look at the grading plan, they are requesting a waiver from the 3:1 slopes and instead plan to meet a 2:1 slope in the rear portion of the lot. This will allow them to create a bypass conveyance channel that will ultimately be accepted through the proposed conveyance. It is generally acceptable in this type of situation because it is a cut area and they will be landscaping it with replacement vegetation. Mr. Shields asked if there will be a retaining wall back there? Mr. Sauselein stated yes. Ms. McCarthy asked if Dave Schlott is ok with this waiver. He replied in the affirmative.

Mr. Murphy asked if the water will be coming from another property upslope? Mr. Sauselein states that is correct, but that is part of the grading they will construct there allowing them to use the bypass conveyance channel to be able to handle this water. Ms. McCarthy asked if the outcome will be deflecting the water out toward Penn Oaks Drive? Mr. Sauselein stated that the water will ultimately end up where it goes currently, but because it's offsite run-off they are not overcompensating for it in the stormwater management basin. The post-development system will be better than the pre-development situation.

SALDO #12 – Ms. Zarro also wanted to clarify that they are proposing curbing. She stated that the comment does not make it clear that the applicant is already planning to provide such curbing.

Ms. Zarro stated that they know that they need three external permits: (1) The applicant is currently in the NPDS process and that is ongoing.; (2) PennDot permit as it relates to the intersection and the pedestrian crossing; and (3) the Sewage Facilities Planning Module as already discussed.

Ms. Venzie asked if they are compliant with stormwater management and Mr. Sauselein confirmed they are.

Ms. Venzie asked about GENERAL #13 referencing the discrepancy on the plan and the parking tabulation regarding parking spaces. Ms. Zarro stated that is a typo and it will be corrected to be 111 parking spaces.

GENERAL #7 is also an item that needs to be cleaned up to be consistent on the plan and the report/worksheet. In the stormwater management system, the number needs to be added into the programming, but ultimately will not affect the net pre and post stormwater management.

Ms. McCarthy asked for clarification that the Fire Marshall has reviewed the plan, the parking and such. Mr. Sauselein confirmed that the Fire Marshall has reviewed and had an issue with the no parking along the perimeter. They have added signage to address that issue.

Ms. McCarthy asked for clarification on the lighting and the signage that will be on the building. Mr. Oeste noted that they did discuss this at the previous meeting and the lighting will only be on during certain hours. Ms. Zarro noted that there are two lighting issues that were addressed as part of the conditional use approval: (1) the lighting must be LED or similar modern high efficiency lighting devices for the outdoor lighting fixtures, and (2) the outdoor lighting must be dimmed to 50% capacity at 11pm and full shut-off at midnight at which time only security lighting will be on.

Ms. Venzie confirmed that any conditions that were part of the conditional use or variances that have been granted must be written directly on the plan to assure compliance. Mr. Sauselien confirmed that they are.

Mr. Hawkins asked if the variances are included on the plan now? Mr. Sauselien confirmed that they are. Mr. Hawkins noted that July 19<sup>th</sup> is the end of the variance provided by the Zoning Hearing Board. Is the applicant comfortable with that date or will they need to reapply? Ms. Zarro replied that it will be dependent on the Sewer Planning and how fast that goes. They plan to start that application process immediately now that they know they are not able to get the exemption. Mr. Schlott noted that will require review and signatures from the Birmingham Township Planning Commission,

the Chester County Planning Commission, the Health Department and the Board of Supervisors.

Mr. Hawkins noted that on the actual plan pages state the engineer plans were updated on January 12, 2022 – should be 2023. Additionally, there is a place where the word “of” should be “or”. Mr. Sauselein noted that was a good catch and he will make those corrections.

Mr. Braden Garrison, PE is in attendance to discuss the traffic impact study that they performed based on the scope that was provided in the Township’s Conditional Use order. He stated that they specifically studied the weekday morning and weekday afternoon peak hours as well as the Saturday midday peak hours (11am to 2pm) as they relate to retail.

The study looked at the existing conditions of the intersection, the future without development and the future with development (which includes our project). They took into account intersection turn counts from Rt 202 to Penn Oaks Drive and also into the BMW dealership off of Penn Oaks Drive. They took these turns counts and projected them into the future using PennDot approved growth rates for the area as well as background developments that were provided by the township – Shoppes at Ridge Road, SpringLake development, and the relocated Mercedes dealership.

In order to project traffic for all of these projected developments, as well as the applicant’s project, they used a nationally recognized trip generation data. This data is compiled from hundreds of studies ranging from various land uses – anything from industrial, retail and office. Using both the numbers that were gathered during the actual traffic counts at that intersection and the data from the nationally recognized data base, they were able to calculate projected traffic operations for that intersection. Intersections such as this which are double service, are rated A through F. A through D are considered acceptable, E is considered generally acceptable and F would be considered failing or over capacity. Throughout this process, the study gauges if the development will have an impact on the intersection (this gauge is based on PennDot criteria – which determines if the level of service at the intersection degrades by more than 10 seconds delay for the average vehicle). Through their study they have determined there is a minimal change in delay at the intersection and thus it does not meet the threshold that will require any mitigation per PennDot. Therefore, they are not proposing any capacity improvements at the intersection. They are proposing some new pedestrian connections in order to formalize a crosswalk across Penn Oaks Drive. There is an existing crosswalk there, but no ramp – so they are proposing a new pedestrian connection and ramp.

Ms. McCarthy asked if any of this is in a chart or plan? Mr. Sauselein stated it is all in the traffic study report that was previously shared with the Planning Commission and it is on the plan. Currently the intersection exists with 3 legs of the intersection having crosswalks with handicap ramps and handicap accessible pedestal mounts to affect the turning of the traffic lights. They are basically completing the crosswalk access to the intersection from Penn Oaks and are proposing to have a sidewalk that will pick up

traffic from Penn Oaks above their entrance, the walkway will then come internal to the site, meander along the top of a berm for the stormwater management basin and then come back along the edge of Penn Oaks Drive. They do not own the portion where the walkway will come back to Penn Oaks Drive. They are currently in discussions with Penn Oaks Estate to obtain an easement to allow for the walkway to go through their property to meet the new handicap ramp and access the existing crosswalk. As part of this, they will need a PennDot highway occupancy permit and need to install the appropriate ramp, push button features for controlling the light and timing adjustments. Typically, you would see a walkway totally parallel to Penn Oaks Drive, however, due to the topography of the site and the construction of the basin and berm, along with the existing trees on that portion of the site, they are proposing the walkway be kept internal to the site through that portion (as seen on the plan).

Ms. Venzie asked if there are existing sidewalks above their site on either side of Penn Oaks Drive? Mr. Sauselein stated no – there are no sidewalks.

Mr. Murphy asked for clarification – the traffic study looks for increase in time for the current level of traffic at the intersection? Mr. Garrison confirms that the evaluation is done according to “future without development.” Mr. Murphy stated the logic he is hearing is – so if there isn’t a problem now, and the future projections carry that forward, therefore there isn’t a problem now or in the future projections. By terms of now, that intersection has no traffic issues currently if nothing is built, and when the volume is amped up in the future, there’s still no problem. Mr. Garrison confirmed that the operation of that intersection is considered acceptable.

Ms. Venzie asked for clarification about the BMW Penn Oaks Drive access at that gate. Mr. Sauselein stated that the entrance/exit to BMW there is a gate access, separated by a median.

Ms. McCarthy stated that the people use Penn Oaks to access both BMW and Infiniti which is also located on 202 past BMW. They use this side road, to avoid making the U-turn directly on 202 (which has an expensive fine associated with it). Additionally, the Penn Oaks complex located at the top of Penn Oaks Drive generates a large amount of traffic on its own due to weddings, other events, golf, tennis and other sports lessons – some of these times would be the peak traffic times during the weekdays and especially on Saturdays. Due to all of this additional traffic, Ms. McCarthy commented that the traffic study seemed rather narrow in the times that they studied the traffic, thus they didn’t take into account the various times that are problematic for that intersection currently. A large concern is the lack of adding a deceleration lane on the northbound side of 202, in order to make the right turn onto Penn Oaks Drive.

Mr. Sauselein addressed this concern by commenting that the traffic study was performed in accordance with industry standards. Ms. McCarthy stated she does not feel that is a typical intersection. To which Mr. Sauselein commented that is why the township has its own traffic consultant to check the work that is completed by the applicant’s consultant. Mr. Garrison noted that for the Saturday traffic would not be

affected by any of the office tenants of the building. The retail traffic would be the only impact and that would be tenant specific and currently they do not know who the tenants will be.

Mr. Shields commented that the biggest concern is the lack of adding a deceleration lane northbound on 202.

Mr. Hawkins asked if the fire truck lane will accommodate a turning radius for the fire truck. Mr. Sauselein stated that Mr. Nelling found the submitted plans as acceptable.

Ms. Venzie asked which piece of the corner property is not owned by the applicant? Mr. Sauselein showed the area on the plan. She also asked if they considered a deceleration lane for turning right onto Penn Oaks Drive? That was not evaluated at this point as that is fundamentally why a traffic study is completed – is to determine if there is a need for any actual road improvements at an intersection. Mr. Murphy asked if industry standards for traffic studies take into account the turning of traffic onto a side street and speed of traffic travelling before that turn? Mr. Garrison confirmed that PennDot does have guidelines for that situation. Mr. Murphy asked if that intersection is within that guideline? Mr. Garrison said that was not evaluated. If that is evaluated, does the owner of the corner piece, need to be part of that process? Ms. Zarro confirmed that yes, since they don't own that parcel, they would not be able to make decisions about it.

Ms. Venzie asked if the Conditional Use decision outlined the scope of the traffic study. After discussion of the language, Ms. Venzie stated that they will need to have the township traffic engineer weigh in on this issue.

Mr. Drury, Greenbriar Dr (Thornbury Township), is in attendance representing the Penn Oaks HOA Board and wants to go on the record with two comments: one they did not receive notification of this proposed development and two that they polled their homeowners and they received a 100% vote of not in favor of the proposed development. The reasoning provided by their members was traffic. He stated that in traffic studies, the real data does not always represent the real-life situation at an intersection. His concern is that the intersection already has issues and now adding additional cars to it will simply magnify that issue. He invites all members in attendance tonight to travel northbound on 202 and make the right hand turn onto Penn Oaks Drive to understand what he is alluding to. He provided a list of all of the organizations and their members that use Penn Oaks Drive – Penn Oaks Sports Center (indoor and outdoor tennis courts, a workout center and an indoor basketball facility). Penn Oaks Golf Club, a dining facility that accommodates weddings and meetings. All of these facilities will have traffic that does not trickle in and out – it will be large numbers of vehicles entering and exiting Penn Oaks Drive in masses. He respectfully asked on behalf of the 70 Penn Oaks townhome residents that the application be denied. If that is not an option, please consider dramatically reducing the scale of the project. He also noted that the proposed site is currently the home of much wildlife that will be displaced if the site is developed.

Ms. McCarthy addressed his comment about lack of notification – stating that notification letters were sent to the required neighbors as required by the ordinance. Notification was sent to those neighbors within 500 feet of the proposed development.

Mr. Ira Coulter, Manchester Ct. (Thornbury Township) from Penn Oaks HOA Board also commented that he doesn't think that the traffic study took into account the bussing of students in the morning and the afternoon. They are concerned about safety, home values, and the lack of discussion of a right hand turn lane on the northbound side of 202 is a big oversight. He feels that crosswalks are irrelevant as he does not consider that intersection as crosswalk worthy.

Mr. Scott Boorse, 679 Brintons Bridge Rd., asked the what the current grade level was for this intersection during the study? Mr. Garrison replied it was a C. Mr. Boorse asked if the grade was lower at any specific time of day. Mr. Garrison again replied that for the specific peak hour times they studied, C was the worst grade.

Mr. Boorse, does any of the additional traffic identified in your study impact the level of service for that intersection? Mr. Garrison stated that the intersection remains a C – but the grades are based on delays based on seconds for an average vehicle at the intersection. Of course, adding any traffic to an intersection will add delays, but the delays were less than 2 seconds overall per vehicle which still meets the same grade level.

Mr. Boorse asked what uses did the traffic impact study use for the retail portion of the project? Mr. Garrison stated they used a breakdown of fast casual dining and then they applied the uses from the nationally recognized source mentioned earlier with an aggregate of smaller strip mall type commercial retail facilities.

Mr. Boorse, from a typical traffic planning study what would require an intersection to install a deceleration lane? Mr. Garrison stated that there are PennDot standard requirements for both right and left turn lanes which take into account the travel speed of the road and the through traffic volume. Mr. Boorse asked for clarification – so when looking at this intersection, does the impact of additional traffic warrant the installation of a deceleration lane on the northbound side of 202? Mr. Garrison stated that was not looked at during this traffic study; they looked at the traffic on Penn Oaks Drive entering the proposed site.

Ms. Venzie wants to clarify the process for the members of the public that are here. This is the Planning Commission, which is a recommending body. They make a recommendation to the Board of Supervisors who ultimately makes the decision. She noted that one of the members in attendance this evening noted that the Planning Commission should vote no to this project. But she wants to state that from a township perspective, if a property owner complies with the Subdivision and Land Development requirements, complies with our Zoning Ordinance (which might include variances), and goes through the Conditional Use process, there is a comes a point where a project

can't be denied because it might harm bunnies and squirrels. She stated that the Planning Commission has expressed legitimate concerns about traffic and they can voice those concerns to the Board of Supervisors in their recommendation.

Mr. Murphy asked of the Penn Oaks HOA Board members if they are aware of any requests to either to Birmingham township or Thornbury township about adding a deceleration lane. Neither Mr. Drury or Mr. Coulter are not aware of any such requests.

Ms. Zarro stated that she did speak briefly to a colleague about this intersection and he mentioned that PennDot did their own study of the intersection previously and made some changes/improvements several years ago.

Mr. Murphy stated that the existing traffic impact study focused primarily on the level of service of the intersection and the counts and doesn't seem to take into account the full gravity of safety at this intersection. He notes that on the aerial satellite view of this intersection shows hashed/potential deceleration lanes into Freddy's and both the Mercedes and BMW dealerships. He thinks that this is the time to consider this for Penn Oaks Drive, which will require the involvement of the owner of the corner parcel to potentially allow for a shoulder on the northbound side of 202. Ms. Zarro commented that any evaluation that was completed, since that is PennDot right-of-way would still be subject to PennDot approval.

Mr. Hawkins asked if they have already submitted a Penn Dot application? Mr. Sauselein stated it has not been submitted yet as they wanted to include the pedestrian piece of discussion from tonight's meeting. Mr. Hawkins noted that since it is still outstanding, that will have to be a condition of the recommended approval tonight. Ms. Zarro clarified that the application will relate only to the crosswalk, ramp and proposed pedestals – since the proposed development access is off of a township road, they do not need a driveway HOP. She also wants to note that she is hearing that the timing of the crosswalk light is not sufficient and that will definitely be looked at during this permitting process.

Mr. Murphy asked for clarification from Ms. Venzie if the applicant can be asked to relook at the 202 northbound traffic with all of the comments from tonight taken into account. She stated that the applicant can be asked. But they would need to be willing to provide an extension. Ms. McCarthy asked if the PC has issues with any other items in the engineering letters or is the only glaring issue the traffic safety.

Mr. Hawkins asked Mr. Schlott if he is generally satisfied with the outstanding items in the letter being addressed by the applicant. Mr. Schlott confirmed that he is and stated that some of those items left in the letter as placeholders to remind the applicant that they are still outstanding as they are items that don't occur until later in the process (such as financial security, etc).



Mr. Coulter also wanted to note that perhaps signage could be added to Penn Oaks Drive indicating that it is not a throughway. Many people during peak traffic times on 202 use Penn Oaks Drive and William Penn Blvd to bypass the 926 intersection.

Mr. Murphy made a motion to recommend approval of this project with a significant concern for safety and request that the BOS have the township traffic consultants review the issues related to the northbound 202 right hand turn lane onto Penn Oaks Drive to determine if that area should have a deceleration lane prior to the turn and if there are any additional impacts to others aspect of the intersection that should be addressed with regard to safety (i.e. pedestrian walkway). Additional conditions to this recommendation are satisfying the outstanding items in the Arro engineering letters dated Feb 10, 2023 and Feb 13, 2023. Motion was seconded by Mr. Shields and passed unanimously.

**New Business/Public Comment:**

Motion to adjourn the meeting was made at 8:30pm Mr. Shields and seconded by Mr. Murphy and approved unanimously. Next meeting is scheduled for March 14, 2023.

Respectfully submitted,  
Jennifer A. Boorse  
PC Secretary