

PRESIDING: Woody J. VanSciver, President

1. ROLL CALL:
Council President Van Sciver
Council Vice President Raymond
Council Member Crawford
Council Member Edge
Council Member Lynch
Council Member Smith
Council Member Vike
Mayor McGlone

COUNCIL RECESSED TO EXECUTIVE SESSION TO DISCUSS A LEGAL MATTER.
FOLLOWING THE EXECUTIVE SESSION, COUNCIL RECONVENED THE MEETING.

2. Council President announced that copies of the Agenda are available at the Press Desk. This is a Work Session of Council and, as such, there is no public forum scheduled; however, citizens/taxpayers are invited to offer comments during the discussion phase of each agenda item.

3. ROAD DEDICATION OF GRIFFITH AVE. FOR TAG BUILDERS:

Chris Mongeau, Chairman of the Malvern Borough Planning Commission, reported that the Planning Commission recommends that Borough Council accept dedication of the portion of Griffith Avenue in the TAG Builders subdivision. The road is being built to Borough standards. The road has a hammerhead instead of a cul de sac at its terminus.

Tom Galbally of TAG Builders stated that there is an agreement between the DeFlavis' and the principal and the agreement is not signed but is going back and forth between the attorneys.

Council President Van Sciver stated that Council was being asked to consider accepting this roadway for dedication assuming the applicant has all the appropriate rights issues resolved.

Tom Galbally responded that the Planning Commission has given final approval subject to the comments in the borough engineer's letter. Before plans can be completed, they must have a decision if the roadway will be public or private. They have letters from Aqua and the Fire Marshall and if Council recommends a public road, they will come back with a cleaner letter from the engineer and come back on May 20th for final approval.

Council Member Crawford expressed support in accepting dedication of the roadway as a public road and Council Member Smith agreed. All members of Council were in favor of accepting road dedication.

4. PETITION FOR ZONING AMENDMENT FROM 237 KING PARTNERS, LLC:

Council President Van Sciver stated that Council will have a general discussion and then hear comments from the public. He stated that ultimately there will be a public hearing on this matter. The borough solicitor was asked to review for Council, and the public, how a Zoning amendment gets adopted.

Sean O'Neill explained that a Zoning Amendment is a legislative action and is not an application that has to be acted upon in a specific timeframe. It is a request by a property owner to change the ordinance. Council can review the ordinance and forward it to the Planning Commission to study or schedule it for a formal public hearing. This is just now being presented. It can be discussed, but the Borough isn't ready to do anything tonight except refer it to the Planning Commission. It is not something that anybody has to take a formal action upon until the public hearing is scheduled. At that time, there will be an opportunity for public comment and then the Council would vote on whether to make the changes to the Ordinance. They may request a certain level of detail with the plans that would be discussed prior to any hearings or approvals.

Council President Van Sciver stated that Council has received a copy of the Ordinance amendment and conceptual plans. The Borough also received a letter from the applicant's attorney granting the Borough a waiver in the amount of time for review. Council will refer the petition to the Planning Commission for comments and recommendation. After that, Council may also appoint a Task Force and/or hire a planning consultant. If Council should decide to do that, that would be worked out with the petitioner.

David Della Porta stated the height is the major change and most of the remaining items have already been considered in the borough's ordinance.

Council Member Vike reiterated the differences between what is being requested in the amendment and the current ordinance and stated that there are a number of other substantive changes in addition to the height.

Council President Van Sciver stated that he sees the most substantive change to the request is that the former C-4 District allowed for residential uses that support a retail office-type use. This proposal is for a strip of retail office use with a very large multi-family use behind it. Besides the height increase, he sees this as being substantial behind a strip of retail and office use.

K. C. Bernardine, Malvern Business & Professional Association, spoke in support of David Della Porta's request and asked that the Board keep an open mind when considering the amendment.

David Campli, Campli Photography, stated that he is strongly in favor of the height improvement. He is looking forward to a beautiful building, and thinks it will be a wonderful addition to the town.

Kristin Thomas, 326 E. Broad Street, stated that she likes the architecture but feels the height is an issue because it is in her backyard.

Connie Scanga, 152 Woodland Avenue, stated that one of the things she liked about the new zoning was that it kept the small town character. The Zoning Task Force sought to protect the environment by preserving open space. She sees the 75' solid wall as being contradictory to the intent of the zoning to retain the quality of the town. She is adamantly opposed to any height increase.

Council Member Smith asked Mr. Della Porta how he would respond to that. Mr. Della Porta feels that when the Borough sees the renderings, they will see the buildings vary from 50-55'. It is the roof structure that goes up farther than that but if the borough wants a flat roof, they could show us 55' but it would not create interesting architecture. When you talk about 65', it is really not that tall. We are asking for larger setbacks that will add to the visual aspect of the project. Mr. Della Porta does not think it is going to be the issue that people are concerned about.

Sheila Stackhouse, 304 E. Broad Street, stated that 65' for them will look like they're swallowed. She feels they are going to seem contained in a tiny area with that height, as their homes sit lower on E. Broad Street. She also feels that traffic will increase on her street as there are only so many ways to get in and out of Malvern and the traffic will be going out into other areas.

Joe Giandonato, 39 Crest Avenue, spoke in support of the development.

Lynne Hockenbury, 7 Raffaella Drive, stated that she was thinking about what 65' really means. The Borough doesn't have any buildings that high. You are talking about swallowing up Church steeples. She agrees with the people in support of this project and agrees this is a revitalization but feels the Borough should consider lower heights. She does not feel we need 200 more homes.

David Reilly, 32 Raffaella Drive, feels the infrastructure cannot support 200 more homes.

David Harshaw, Highland Avenue, feels the traffic will get much worse.

David Reilly, 32 Raffaella Drive, feels the traffic will be outrageous especially when they build the shopping center on Route 30. He stated that at this point you cannot move on King Street. There will be more traffic from Wegmans. It doesn't make sense.

Duane McCrory, 34 Raffaella Drive, thinks this project has potential but every developer wants to change the codes, request waivers, and they are all out to maximize their profit.

Bill McGarrigle, 100 Monument Avenue, stated he is in favor of the plan. He thinks the Borough needs it to survive and move forward. He feels that maybe the design plans need some modification, but the big picture is that the community needs it to survive. We had a bomb on an industrial site on E. King Street and this project needs to happen.

Paula Eagle, 262 Miner Street, asked if the proposed zoning change would allow anyone else who buys the properties to build up to 65'. Sean O'Neill responded that it would apply throughout the C-4 District. It is considered an overlay. Mr. O'Neill asked Mr. Della Porta if the amendment specifies to which zoning district it would apply. Mr. Della Porta replied that he believes it is only for the C-4 Zoning District.

Joe Bones, 25 High Street, stated that he is pretty much against the height allowance. It is such a long area of King Street that it will change this borough forever. He asked Borough Council to be very careful in their decision making in that whatever they allow, we will have to live with. He hopes that Council takes all deliberations in their decision making in that regard.

Tony Mancini, Highland Avenue, stated that when you look across the street, the houses are all pretty tall. He is in favor of the project but feels something must be done about the traffic.

Sarah Bones, 25 High Street, complimented Mr. Della Porta on the marketing of this development. Her question was, how does that rendering reflect the plan that you will submit to the town.

Mr. Della Porta responded that the rendering is what they expect to build. He has built five other multi-family communities and every one was a rezoning and they started the process the same way. They submitted a concept and they intend to build what we see. If you look at the images he did three years ago for another project, the finished project looks exactly like what they presented. The Township and neighbors were concerned about the project, but they are now getting a lot of compliments.

Sarah Bones, 25 High Street, stated that she is totally against the height and density. This is not what the Zoning Ordinance Task Force intended. All the traffic studies that were completed showed that all the major intersections failed and there are no solutions. Our town

cannot support 1,000-2,000 more cars. This will not allow the residents to get in and out. A lot of the business people don't live in our town. I'm against the height and increased residential.

Council Member Lynch asked Mr. Della Porta how old the oldest development was that they had built and what type of impact it had on the town.

Mr. Della Porta responded that the oldest development was Cornerstone Villas in Concord and that was all residential. In terms of positive impact, there was a significant increase in tax revenue and the impact to the school district was positive. Mr. Della Porta stated that in Malvern's case, as in other cases, they are redeveloping blighted properties. They are demolishing blighted properties and building attractive buildings. The maximum number of units for this project is 200. There is no question that traffic is a problem. In developing vibrant communities, you have traffic. Traffic means people on the streets to support businesses.

Jim Greim, Knots & Weaves, stated that he understands the differences between a business owner and a resident. Right now the site is just an eyesore. What they are proposing is aesthetically pleasing. It seems very fortunate as to who did purchase the property because there are people who could have purchased the property within the framework of what is allowable but could build something awful and bring in just as much traffic. My family uses this town, but as a business owner, I'm holding on to something like this as our salvation. If it doesn't go through, I have to leave. Something has to change for the positive or our business has to move out of town. This developer has to make it work, too. If they leave because the residents or Council don't want the 65', you don't know what you might bring out in place of it. Mr. Greim stated that he is totally in support of the development.

Vicki Sharpless, 328 E. Broad Street, stated that not only did the Zoning Ordinance Task Force put a lot of work into writing the Ordinance, but they put into it a lot of vision. They knew that a higher height requirement would be needed. There is air space and light between the individual units. You are talking about two huge buildings but it is still going to be one structure with a 70' light-blocking structure that will totally impact on a lot of people that live behind the Fisher Feed property. She stated that she would like to see something nicer but does not want to feel like she lives in Center City Philadelphia.

David Malec, 1 High Street, stated that to him it is all about density right now. To say you are in favor of this, it is way premature. The studies have not been done on traffic which is really big. We may need additional police. One hundred more homes will have an impact on the businesses as well. There is an equal chance that something better could come rather than something that isn't as good. It is extremely premature to grant any of this until all the other things are ironed out.

Paul Hockenbury, 7 Raffaella Drive, stated that he is not necessarily opposed to a waiver. He is concerned about the height and the density. He believes the project can be positive for the community, but he is strongly opposed to changing the ordinance that could carry over beyond the C-4 District. He is concerned about changing the ordinance and would be more in favor of a waiver if it went through the process.

Shawn Deegan, 27 Malvern Avenue, feels that Malvern needs to change. He thinks that if there is some flexibility with the height, everyone would be happier with the results.

Council President Van Sciver suggested referring the petition to the Planning Commission and seeking their opinions.

Council Vice President Raymond stated that she would like to hear the input of the Planning Commission.

Council Member Vike stated that if we are going to be requesting information from the Planning Commission, any additional information received by Council should be conveyed to the Commission upon receipt.

Council President Van Sciver stated that the Planning Commission is embedded in our Ordinance to get this amendment. We can hire a consultant and have a task force to collect information. The E. King Street development will be referred to the Planning Commission.

5. LAGRIE SUBDIVISION AND LAND DEVELOPMENT – CITIZEN COMMENTS:

Council Member Vike reported that the recommendation of the Planning Commission has not yet been submitted to Borough Council but, at the last meeting of the Commission, the Planning Commission voted to recommend to Borough Council approval of the Preliminary Plan subject to completion of items in the borough engineer's review letter.

Paula Eagle, Miner Street, stated that she was able to overlay the plans and, in many cases, the locations of the houses behind her home will be closer to her than the existing homes that are side by side. She stated that the Fire Chief said they would not have an objection to the 24' cartway. This might present a problem with trash collection. Also, there are currently five houses on Old Lincoln Highway that have been vacant for quite some time. Mrs. Eagle asked how successful the developers of the LaGrie project will be in selling the new homes that will be so close to their homes on Miner Street. The new homes will also look at the Sunrise Nursing Homes. She is wondering about the salability of these homes.

John Rossetti, 231 Miner Street, feels the area is crowded enough already and they need some open space. He feels there is too much building and crowding between the living spaces.

Duane McCrory, 34 Raffaella Drive, stated that he tried to capture significant points in their Petition, but they are a collection of the important points. Clearly there are some things going on behind the scenes that the residents don't comprehend. He stated that it would be curious for him to know why some members of the Planning Commission didn't vote. He has the feeling the Planning Commission is worn down and wants this piece of property taken care of. He stated that he knows he can't stop people from building but he would be content if they built single family homes on the three lots. The request for the waivers and density really scares him. He stated that the developer cannot make a road 28' wide because of the water runoff. They have to put in a water basin that is to be maintained by eight homeowners. That water basin is going to be kicked to it's maximum every year. Mr. McCrory asked that Council please take these things into consideration and do the right thing.

Phil Melucci, 323 Old Lincoln Highway, stated that his biggest concern is that he doesn't have any municipal services because he lives on a private road. The LaGrie plans call for dealing with a Homeowners Association and it is highly negative. He feels that no waivers should be granted to preclude the borough requirement for accepting dedication of the street.

David Reilly, 32 Raffaella Drive, stated the Fire Department has agreed to alter the dimension of the road, but simply put, I would hate to be the person living behind the house that is on fire. The other issue is the people on Miner Street were upset when our development was built. Our builders promised us land with a lot of trees and still have that wooded feeling. What was built and what was proposed are two different things.

Joe Eagle, 262 Miner Street, stated the strip of land we are talking about is a narrow strip of trees between the houses. We are all up against each other.

Mike Sheehan stated that the Planning Commission voted 3-1 to approve the Preliminary Plan.

Council President Van Sciver stated that at the next meeting, Borough Council will consider a Resolution. Depending upon where the clock is, Council can act or ask that the Planning Commission reconsider some specific point.

Council Member Vike stated that Borough Council generally asks the applicant to attend a meeting prior to adoption of a Resolution in order to present their plan to Council. The public is invited to attend that meeting and express their concerns.

Jeff Grayboyes, 36 Raffaella Drive, asked how often the members of the Planning Commission abstain from voting. He stated that his property runs 270' along the proposed subdivision and he has 10-12 trees on his property. The borough's subdivision ordinance says the trees cannot be cut within 25' of this subdivision, but there was case law in Tredyffrin Township that stated a builder was permitted to cut these feeder roots and LaGrie would not be responsible if the tree fell.

Sean O'Neill stated that the roots of these trees could be trespassing on their ground.

Mr. Grayboyes stated the Landscape Plan was forwarded to the Shade Tree Commission. He stated he is not sure he understands what purpose this would have. The little trees would provide no buffer. The existing trees have been there for a long time.

Council President Van Sciver stated that he is not personally familiar with the plan. He stated that property owners have a right to build on their properties. If the plan is in conformance with the ordinance, there is not much that can be done. If they need waivers, there is something that could be done but it is very common to request and grant waivers.

Paula Eagle, 262 Miner Street, thanked Council for listening to their concerns. She stated that the Planning Commission abstentions really bothered them and they felt they weren't properly represented.

Dave Reilly, 32 Raffaella Drive, stated that people have a right to develop this land and we know it would have to be stopped for some legal reason. Malvern is not a little island. Mr. Reilly stated that he's seen it destroyed with political will. Route 401 is a parking lot.

6. PROPOSED PARK ORDINANCE:

The proposed park ordinance that would allow for-profit activities in public parks as long as the activity was a borough sponsored activity was discussed.

Council Member Vike stated that he liked the Ordinance as written.

Council Member Smith asked if the solicitor felt the ordinance would stand, as written, to only allow borough sponsored for-profit activities. The Manager replied that Ms. McLean assured her that it would.

Council agreed that the Ordinance could be published for adoption at the May 20th meeting.

7. BID RESULTS FOR OPEN CHANNEL HYDRAULIC GRINDER AT CRESTSIDE WAY PUMPING STATION:

The Manager read the results of the bids for the Open Channel Hydraulic Grinder and explained that the Crestside Way pumping station handles approximately 80% of the flows in the Borough and that the Public Works Department is at the site approximately twice a week performing maintenance repairs. The grinder will grind material before the material (i.e. diapers)

gets to the pump, thereby reducing the need for maintenance.

A motion was made by Council Member Lynch, seconded by Council Member Edge and unanimously carried by a vote of 7-0 to award the bid to the lowest responsible bidder, Heisey Mechanical, Inc., at a cost of \$44,300, as recommended by the Borough Engineer.

8. COMMUNITY EVENTS:

The Manager reported that the Shade Tree Commission had their first Arbor Day event on Saturday and, although the weather was not cooperative, it was a wonderful event. She reported that three new trees were planted in Burke Park, an older tree that wasn't growing as it should was given some new life by clearing out the dirt at the base of the tree, giving it some fertilizer and adding mulch and Bartlett Tree Service provided tree climbing equipment that one young man took advantage of. The Manager recognized the Shade Tree Commission, Bartlett Tree Service and W. D. Well & Associates for their participation in this event.

The Manager also reported on the Public Safety Day event that was sponsored by the Malvern Police Department and the Malvern Fire Company. She reported that many surrounding police and fire departments participated, as well as, the County, and there were many volunteers in attendance for this well attended event.

9. PERMANENT AGENDA:

Septa Tunnel – the Manager reported that she and the borough engineer would be meeting next week with Septa's contractor and representatives of Septa to receive a status report on the project.

Randolph Woods/Greenway Link
Community Center/Recreation
Revitalization Plan/Main Street
Infrastructure Improvements
Traffic Calming

North & South Warren Ave. Sidewalks
Truck Traffic (No. and So. Warren Ave. and PA Ave. Extension to E. W. Twp.)

10. ADJOURNMENT:

A motion was made by Council Vice President Raymond, seconded by Council Member Smith and unanimously carried by a vote of 7-0 to adjourn the meeting at 9:40 p.m.

Respectfully submitted,

Sandra L. Kelley
Secretary/Manager