Tuesday, March 7, 2023

Jay McGuigan

Jguig@comcast.net

215-837-0878

Mr. Lewis,

First I would like to thank you, in advance, for answering the questions that follow in reference to the Mayfield development. As you recall, I posed some of these questions at the BOS meeting on 2/22/23, however it was requested that I direct them to you through email.

There are two primary issues of concern. First, the hours of work currently allowed and secondly, the building height. At the meeting 2/23/23, I submitted that there are several homes, now constructed, that appear to exceed the 35 feet maximum height allowed by code.

Work Hours

The work hours were clarified in the document attached **(Appendix A).** These Preconstruction Meeting minutes were from the 40 minute meeting held 2/10/22.

The area in question is excerpted below for your convenience:

17. Work Hours.

a. The Contractor may perform work on weekdays (Monday through Friday), beginning at 7:00 AM and concluding no later than 8:00 PM each day, in accordance with the Municipality's ordinance requirements.

b. With the prior approval of the Municipality, the Contractor may perform work on Saturdays, beginning at 7:00 AM and concluding no later than 8:00 PM, in accordance with the Municipality's ordinance requirements.

c. The Contractor is prohibited from performing any work on Sunday or on any legal holidays recognized by the Municipality.

d. Work performed after 8:00 PM on weekdays, during the weekend or on any legal holiday may require overtime inspections. The Developer is advised that they are responsible for paying premium inspection costs for overtime inspections.

1. Have there been any updates to this section of the document regarding work hours?

2. Is it standard operations for Township to allow developers to "work" 6 days/week from 7AM to 8PM?

3. For clarity, are all agents and entities associated with this new development (construction, landscaping, and sales personnel) bound to the terms of this agreement outlined in these documents? Are there are exceptions? Which entities would this not apply to, and where is that documented as a stipulation?

4. Consistent with this excerpt from Appendix A page 7 of these minutes, did the township give **permanent** approval for the Developer to work on Saturdays, for 13 hours each Saturday, beginning at 7AM?
    a. Who had the authority to approve that on behalf of the township and the residents who are most affected?

5. Is it possible to re-negotiate Saturday hours so that residents are not impacted every Saturday for 13 hours? Could the hours for Saturday be changed to 9A – 4P?

6. Are you aware that the Mayfield development has had repeated violations of these agreed to Work Hours? If you would like video proof of many of these violations, I can provide that to you. There is a Facebook page for Newtown Crossing where these have been posted over time.
    a. 1/16/22 - Survey truck making a left out of development, despite postings. – This was posted on the Facebook Newtown Crossing page.
    b. 8/14/22 – Construction on Sunday of the first model home – There is video of this also and you should be able to see this in their labor logs as people were clearly paid for their labor.
    c. 1/8/23 – Construction equipment working on Sunday again. Police log will prove this.
    d. 1/16/23 – Construction on MLK day – also a violation. Police log should prove this.
    e. 2/20/23 – President's Day – In violation, the builders worked the full day. The police were called but either did not come or came without stopping the builders
    f. 2/21/23 – Builders were working past 8PM in lot 34's basement.

7. Was anyone in township leadership aware of these violations and has there been any action to address the builders to date?

8. In the future, since the police did nothing to stop the violations from 2/20/23 after being called, what should residents do when they witness violations of the terms of the agreement?

9. Now that you are aware of these willful violations, will there be any fines levied or action of any kind taken?

    a. Please see the “overtime inspections” section cited above. Will there be such inspections
    b. What is the fine amount?
    c. Does that fine go to the Township for general fund purposes, or does it go to the HOAs of adjacent developments who were actually affected by the violations?

10. Will there be any repercussions for the builder for future violations?
    a. Are fines escalating like they are, for example, OSHA violations? By this I mean that your first fine if $5,000. Repeated violations warrant increasingly higher penalties to encourage compliance.

11. Will NVHomes be allowed to continue working in their sales office on Sundays (violating the agreed to Work Hours), despite the stipulation above in Work Hours that does not specifically exempt them?

Building Height

Please be advised that the questions below relate to the following documents located in the following Appendices:

- **Appendix B : Stipulation and Settlement Agreement** – Only the first page and the relevant page of this document are presented. I obtained this from

the township office upon request, so I suspect you already have a copy. Please note that on the second page of this Appendix, the fourth row from the bottom notes that the maximum height allowed is 35 feet. Please further note that there are no asterisks that qualify what nor how this measure should be made.

- **Appendix C: Newtown Area Jointure R2 Codes -** Please note the third column of this excerpted document specifies the Jointure code that the R2 single family detached structure has a maximum height of 35 feet. Again, with no asterisk anywhere on this document to suggest any type of exemption, this document indicates that height measurements should measure the lowest graded point at the base of the building to the highest point.

- **Appendix D: Bucks County Planning Commission Memorandum** dated June 1, 2021. This document is to the Newtown Township BOS and the Planning Commission. Please note that page 2 specifies maximum building height at 35 feet. Page three specifies 17 waivers and there is no waiver noted for building height, thus indicating that the building should be measured from the lowest graded point to the building's highest point.

The following questions regard the height of the newly constructed buildings:

1. Have there been any inspections from the township on the already constructed buildings?

2. Did the codes officials measure the height of the currently constructed buldings?

3. Are there inspection reports available for the public to access?

4. Did the builders apply for a variance for the homes they have constructed if they are over 35 feet?

    a. If yes to above, will the builders continue to be allowed to continue to construct homes over 35 feet at will, despite by the code (see multiple references in Appendices) by using variances? If yes, is there no limit to the use of variances?

5. What is the plan to address the current buildings constructed if they are indeed in violation over 35 feet? If there is no plan, why not?

6. Given the **Work Hours** violations and, if true, the height violations over 35 feet, Is there any plan to fine the developers for violating the codes?
    a. If no, why not? What is the benefit to the township to allow code violations to go unchecked?
    b. If yes, what will that fine be?
        i. Is that fine per violation? Again, I can provide you video proof of many of these violations.
    c. Has there been, or will there be, any contact with the developer to address any of the above issues.

In summary, thank you for taking the time to address these concerns. I appreciate your response.

Respectfully,

Jay McGuigan RN

215-837-0878

Appendix A

Minutes of Pre-Construction Meeting
9 Pages

MEMORANDUM

TO: Preconstruction Meeting Attendees

FROM: Leanna M. Colubriale, P.E., CFM

RE: Preconstruction Meeting Minutes
Mayfield (formerly Arcadia) Final Land Development
Newtown Township
RVE File #PBNTP189

DATE: February 10, 2022

Remington & Vernick Engineers (RVE) is pleased to provide minutes from the recent pre-construction meeting that was held for the project referenced above.

These minutes shall serve as the official record of items discussed at this meeting. Please review these minutes upon receipt and direct any questions or comments to our office within ten (10) calendar days. Otherwise, these minutes shall stand.

Sincerely,
REMINGTON & VERNICK ENGINEERS
By

Leanna M. Colubriale, P.E., CFM, Associate
Township Engineer

LMC/lmc

cc: Micah Lewis, R.L.A., Township Manager
Kristie Kaznicki, Newtown Township, Administrative Assistant
Christopher J. Fazio, P.E., C.M.E., Executive Vice President
Vanessa Nedrick, P.E., MSEM, Principal, Regional Manager
Ed Woodbridge, Project Inspector

PRECONSTRUCTION MEETING MINUTES

Project:	Mayfield (formerly Arcadia) Final Land Development
Developer:	Arcadia at Newtown Holdings LP
Contractor:	B. Blair Corporation
Municipality:	Newtown Township
RVE File #:	PBNTP189

A preconstruction meeting for the Project was held on February 9, 2022 on Microsoft Teams. All preconstruction meeting attendees were asked to sign-in and a copy of the sign-in sheet has been included with these minutes.

All preconstruction meeting attendees are advised that the purpose of the preconstruction meeting is to establish administrative requirements for the completion of the Project.

1. Scope of Project.

   This project includes the construction of 60 single family dwellings with associated roadways, parking, landscaping, and stormwater management.

   Initial grading permit work to include only erosion controls, demolition, wooded tree removal, basin grading and excavating per Exhibit A in the grading permit. Following final plan approval and the recording of final plans and execution of agreements, the remaining scope of work can commence.

2. Status of Agreement & Permits.

   a. Status of Escrow Recommendation: Issued

   b. Status of Land Development Agreement: Pending

   c. Status of PennDOT HOP: Pending

   d. Status of Conservation District Letter of Adequacy: Issued

   e. Status of PA DEP NPDES Permit: Issued

   f. Status of SWM O&M Agreement: Pending

   g. Status of Building Permit: Pending

3. Approved Plans.

   a. Project Plan & Revision Date:

      The plans are entitled "Final Land Development and Major Subdivision Plans for Mayfield (Formerly Arcadia at Newtown Holdings, L.P.) revised 9/29/2021, prepared by Holmes Cunningham LLC of Doylestown, PA.

   b. The Developer must provide five (5) copies of the recorded final plans to RVE. Each sheet of these plans will be stamped "Approved for Construction" with red ink. The copies of the stamped approved plans shall be distributed as follows:

      i. Municipality (1 copy);
      ii. RVE (2 copies);
      iii. Developer (1 copy);
      iv. Contractor (1 copy).

   c. The Project shall be completed in accordance with the stamped approved plans. Any work performed that is not consistent with the stamped approved plans for the Project may not be accepted and may be subject to correction. It is the responsibility of the Developer to ensure that the Project is completed in accordance with the stamped approved plans. The stamped approved plans must be kept at the Project site and must be available for inspection upon request during performance of the work.

4. Communications.

   a. Although questions may be asked at the preconstruction meeting, all preconstruction meeting attendees are advised to submit questions to RVE in writing.

   b. Hereafter, all correspondences, including questions, shall include RVE's project file number (noted above) and be transmitted to the Municipal Engineer, the Manager of Construction Inspection Services and the Project Inspector. All responses to technical questions will be issued by RVE Engineers in writing.

5. Product Submittals; Preconstruction Video.

   a. The Contractor must provide product submittals for all products used in the construction of the site improvements shown on the stamped approved plans (e.g. pipe, valves, fittings, pre-cast structures, inlet grates, manhole covers, amended soils, aggregate, geotextile, concrete, ad-mixtures, asphalt, site furniture, etc.). Product submittals must be sent to the Design Engineer to be reviewed for conformance and then sent to the Manager of Construction Inspection Services via e-mail or mail. Product submittals will then be reviewed for conformance with the stamped approved plans and returned electronically.

   b. RVE does not review water or sanitary sewer submittals for this project. All water and sanitary submittals should be coordinated with the appropriate authority.

   c. The Contractor shall provide a Preconstruction Video before construction begins. The video must include the Project site and immediate surrounding areas (e.g. neighboring buildings, properties, sidewalks, trees, etc.). The Contractor must provide two (2) copies of the video in digital format (1 copy for RVE; 1 copy for the Municipality).

6. Contractor Personnel.

   a. The Contractor designates that Bob McNeill will be the Foreman assigned to this Project for its duration. The Contractor is advised that the Foreman must have good verbal communication skills. If the Foreman fails to communicate effectively, the Contractor will be required to replace the Foreman.

   b. The Contractor designates that Bob McNeill will be the Site Safety Officer assigned to this Project for its duration.

7. Engineering Inspection.

   a. RVE serves as the Municipal Engineer and has the right to inspect the site work shown on the stamped approved plans at any time on behalf of the Municipality. The Contractor shall provide the Manager of Construction Inspection Services with a minimum of forty-eight (48) hours notice before construction begins.

   b. RVE designates that Ed Woodbridge (215-901-3713) is the Project Inspector assigned to this Project.

   c. If there is a gap in construction activity for more than one (1) week, the Contractor shall provide the Manager of Construction Inspection Services with a minimum of forty-eight (48) hours notice before resuming construction.

   d. The Developer is responsible for coordinating directly with other agencies to satisfy their inspection requirements (e.g. building code officials, utility owners, Pennsylvania Department of Transportation, Pennsylvania Department of Environmental Protection, County Conservation District, etc.).

8. Construction Schedule.

   a. The Contractor must submit a detailed construction schedule to the Manager of Construction Inspection Services. The construction schedule must indicate the anticipated start and completion of each type of operation for the following two (2) weeks.

   b. An updated construction schedule must be e-mailed of faxed (610-940-1161) to the Manager of Construction Inspection Services by 12:00 PM every Thursday.

   c. The anticipated beginning date for construction is: 2/14/2022

9. Plan Revisions.

   a. If the Developer proposes any revisions to the stamped approved plans, then two (2) copies of the revised plan must be submitted to the Municipal Engineer for review and approval. After the revised plan has been approved, the Developer will be required to provide an additional five (5) copies of the revised plan to RVE. Each sheet of these plans will be stamped "Approved for Construction" with red ink and distributed as described previously.

   b. The Developer is also required to notify the Conservation District of the revised plan and to satisfy any requirements imposed thereby.

10. Security Releases.

a. Before requesting a Security Release, the Developer or the Contractor shall review the completed quantities of work to be submitted with the Project Inspector. Only the quantities or work actually agreed upon with the Project Inspector may be submitted to RVE for a release or partial release of the security held by the Municipality.

b. The Developer must submit any request for Security Release using the exact item descriptions, quantities and unit prices from the Cost Estimate that was used for the Development Agreement for the Project, as amended.

c. If the Developer submits a request for Security Release that includes the partial completion of a Lump Sum item valued in excess of $5,000.00, then the Developer must also provide satisfactory documentation indicating the value of the completed portion of the Lump Sum item.

d. The Developer must submit any requests for Security Release directly to the Manager of Construction Inspection Services vie e-mail or mail.

e. Each Security Release must be recommended by the Municipal Engineer and then certified by the Municipality before being forwarded to the financial institution for release. Municipal meetings are held the 2nd and 4th Wednesday of each month. The Developer must submit any request for Security Release to the Manager of Construction Inspection Services at least (2) two weeks before the municipal meeting. If the Developer fails to submit their request to the Manager of Construction Inspection Services on time, then the Security Release may be delayed.

11. Permits; Contractor Licensing.

a. The Developer is responsible for identifying and obtaining all necessary permits and paying associated fees.

b. Contractors performing UCC regulated work on this Project must hold a valid Contractor License from the Municipality. If a Contractor is registered with the Pennsylvania Home Improvement Contractor (HIC) Registration Program they are not required to register separately with the Municipality for residential construction.

12. Access to Properties.

a. The work shall be restricted to the subject property and those areas delineated on the project drawings.

b. Prior to the Contractor entering any easement area or private property, written authorization must first be obtained. All requests for authorization to easements or private property shall be brought to the Municipality and RVE. The Municipality will determine the process of obtaining said authorization.

c. Access to private properties shall be maintained at all times.

d. Every effort shall be made to provide access to business during the businesses hours of operation.

e. As part of the Settlement Agreement, construction traffic is restricted from turning left onto Buck Road from the service road and is restricted from accessing Mill Pond Road. The Developer will send the proposed construction signage to RVE and the Township for approval.

13. Notice to Residents.

a. The Contractor is required to notify residents within two hundred fifty (250) feet of the project site by distributing door hangers at least forty-eight (48) hours prior to the start of construction activities. The Contractor is not required notify residents of additional work or additional phases of work taking place within an ongoing construction site.

b. The Contractor is required to distribute additional notices to all affected residents at least forty-eight (48) hours prior to the interruption of water and/or sewer service or any other action which would affect normal activities.

c. Copies of the door hangers must be submitted to RVE for approval before distributing.

14. Road Closures.

a. The Contractor is required to notify the Municipality at least forty-eight (48) hours prior to any road closure.

b. In the event of a road closure, the Contractor is required to submit a detour plan to the Municipality for approval. Detour plans must be submitted to the Municipality for approval at least ten (10) business days in advance of the planned road closure.

c. If parking restrictions are necessary, Contractor is required to submit a written request for parking restrictions to the Municipality at least seventy-two (72) hours prior to the start of the parking restrictions. The local police department shall authorize and/or post parking restrictions. Failure by the Contractor to properly arrange for parking restrictions to be posted may prevent enforcement and towing.

15. Existing Utilities.

a. The Contractor must call the Pennsylvania One Call System, Inc. at 811 (inside Pennsylvania) or (800) 242-1776 (outside Pennsylvania) at least three (3) full business days, but not more than ten (10) business days prior to the start of excavation. Each Contractor is required to comply with all provisions of Pennsylvania Act 287, known as the Underground Utility Line Protection Act.

b. If utility conflicts are suspected, the Contractor shall perform test pits to verify the existing conditions of underground utilities.

16. Site Safety Conditions.

a. The Contractor is reminded that safety on the Project site is their responsibility. The Contractor shall implement all necessary measures as necessary to ensure safety on the Project site.

b. The Contractor is required to follow all applicable OSHA and Municipal safety standards.

c. The Contractor is required to provide all maintenance and protection of traffic, as required by the applicable Traffic Control Plan or Pennsylvania Typical Application (PATA) standard application

figure in PennDOT Pub. 213. Flaggers at a minimum shall have the training as per the most current version of PennDOT Pub. 408, Section 901. Because flaggers are responsible for public safety and make the greatest contact with the public, it is essential to practice safe traffic control and public contact techniques.

17. Work Hours.

    a. The Contractor may perform work on weekdays (Monday through Friday), beginning at 7:00 AM and concluding no later than 8:00 PM each day, in accordance with the Municipality's ordinance requirements.

    b. With the prior approval of the Municipality, the Contractor may perform work on Saturdays, beginning at 7:00 AM and concluding no later than 8:00 PM, in accordance with the Municipality's ordinance requirements.

    c. The Contractor is prohibited from performing any work on Sunday or on any legal holidays recognized by the Municipality.

    d. Work performed after 8:00 PM on weekdays, during the weekend or on any legal holiday may require overtime inspections. The Developer is advised that they are responsible for paying premium inspection costs for overtime inspections.

18. Restoration and Maintenance of Property.

    a. The Contractor is advised that all disturbed areas must be restored to conditions that are the same or better than pre-construction conditions.

    b. The Contractor shall keep a neat, clean construction site. All construction equipment and materials are to be consolidated and stored in an orderly fashion throughout the duration of the project.

    c. The Contractor shall place trench backfill in eight (8) inch lifts and compact each lift using a jumping jack compactor, roller or other approved equipment. No clay, organic or wet material is permitted for backfill. The use of vibratory compaction equipment must be approved prior to use.

    d. The Contractor must maintain all temporary erosion controls on a regular basis. Remedial work is to take place immediately, especially before forecasted rain events. Additional erosion control measures may be required if the proposed measures prove inadequate.

19. Disposal of Spoils.

    a. The Contractor indicates that this Project will result in a balance of soils.

    b. The Contractor must dispose of any exported soil properly and in accordance with standards of the PA DEP.

20. As-Built Drawings.

    a. The Developer is required to provide As-Built Drawings to the Municipality prior to project closeout.

b. As-Built Drawings must include the horizontal layout of all improvements (e.g. buildings, curbs, sidewalk, edge of pavement, utility structures, storm water management facilities, underground utilities, lights, hydrants, etc.). As-Built Drawings must indicate the final elevations of buildings, utility structures (surface and all inverts), stormwater management facilities (basin invert, outfall, spillway, etc.).

c. The As-Built Drawings shall be provided to the Municipal Engineer in electronic .pdf format. As-Built Drawings may be generated by a new survey prepared of the Project as-built conditions or may be a mark-up of the approved plans for the Project. If a mark-up is provided, then the as-built conditions shall be clearly and accurately depicted in red.

d. If the Municipal Engineer determines that significant changes have occurred since the recording of the final plan for the project, the Developer may be required record the As-Built Drawings. In this case, the As-Built Drawings must be generated by a new survey prepared of the Project as-built conditions.

21. Comments from the Municipality.

    a. E. Carlson questioned what to do if trespassing occurs since neighbors are known to walk this property. K. McGovern noted that if site trespassing is occurring, to dial the non-emergency police line or 911 as appropriate.

22. Comments from the Conservation District.

    a. R. Krasselt notes a start date of 2/14/2022. B. Barland indicates revised plans were submitted to the district last week.

    b. R. Krasselt states to keep a copy of the NPDES permit with approved plans on site.

    c. Minor changes to the plan can be made as a field change. The plans should be redlined and BCCD and RVE notified. Major plan changes need to be submitted to BCCD for review.

    d. Sequence of construction must be followed. Construction entrances are needed on each lot.

    e. R. Krasselt stated self-inspection formers are required to be filled out and kept on site. BCCD will perform unannounced inspections.

    f. Final inspection will require 70% established cover.

    g. All contractors and subcontractors must be added to the permit as a co-permittee and should contact Rene Moyer with the form.

    h. R. Krasselt notes that if fill is brought in, clean fill certifications need to be provided.

    i. For the Notice of Termination, as-builts that are signed and sealed will need to be submitted. Holmes Cunningham will be present at critical stages.

23. Comments from the Developer & Contractor.

    a. E. Carlson notes that there will be a project Dropbox for storing project files.

b. Once final plans are approved and recorded, the group will be notified.

c. E. Carlson notes that there is one signature outstanding from the health department regarding the well closure. Once that is obtained, the demolition permit will be submitted.

d. B. McNeill noted that some E&S measures cannot be installed until some clearing occurs. R. Krasselt states this is okay as long as E&S measures are installed immediately following clearing.

24. The meeting began at 1:00 PM and was adjourned at approximately 1:40 PM.

Appendix B

Stipulation and Settlement Agreement
2 Pages

IN THE COURT OF COMMON PLEAS OF BUCKS COUNTY, PENNSYLVANIA
CIVIL ACTION

IN RE: APPEAL OF ARCADIA AT NEWTOWN HOLDINGS, L.P.	:	**No. 2018-07572**

STIPULATION AND SETTLEMENT AGREEMENT

It is hereby stipulated and agreed by and among Appellant Arcadia at Newtown Holdings, L.P. ("Arcadia"), by and through its attorneys, Eastburn and Gray, P.C. and Intervenor Board of Supervisors of the Township of Newtown ("Township"), by and through its attorneys, Kilkenny Law, LLC as follows:

BACKGROUND

1. Arcadia at Newtown Holdings, L.P. ("Arcadia") is a Pennsylvania limited partnership maintaining its office and principal place of business at Ten Penn Center, 1801 Market Street, Suite 630, Philadelphia, PA 19103.

2. The Board of Supervisors (the "Board") of Newtown Township ("Township") is the "governing body" of the Township, as that term is defined in Section 101 of the Pennsylvania Municipalities Planning Code ("MPC"), 53 P.S. §10101.

3. Arcadia is the owner of two parcels of real property in the Township identified as Bucks County tax map parcel #29-009-006 ("Lownes Parcel") and Bucks County tax map parcel #29-025-021 ("295 High Street"), the latter of which is located in the Newtown Crossing PRD. Arcadia is also the equitable owner of two parcels of real property in the Township identified as Bucks County

SETTLEMENT PLAN - ZONING TABLE	
ZONING DISTRICT: High-Density Residential District (R-2)	
ITEM	APPROVED STANDARDS
Housing Type:	Single Family Detached
Max. Density:	60 Units
Min. Open Space:	30% of Base Site Area
Min. Lot Size:	5,500 SF
Min. Lot Width at Street:	45 FT
Min. Lot Width at Setback:	50 FT
Min. Front Yard Setback:	20 FT
Min. Side Yard Setback:	5 FT
Min. Rear Yard Setback:	15 FT
Min. Perimeter Building Setback:	15 FT
Min. Perimeter Building Setback from Existing Residential Uses	130 FT
Max. Impervious Surface Ratio:	40% of Base Site Area
Max. Building Height:	35 FT
Min. Distance Between Buildings:	10 FT
Min. Number of On-lot parking spaces per lot	2 Spaces (Not Counting Garage Spaces)
Min. Number of Off-lot parking spaces per lot	1 Space

Appendix C

Newtown Area Jointure R2 Codes

1 Pages

§ 405R-2 High Density Residential Districts.

[Amended effective 11/25/2002 by JMZO Ord. 2002-1, Article IV; adopted 11/20/2002. Amended effective 11/25/2002 by JMZO Ord. 2002-13, § 1.G; adopted 11/20/2002. Amended effective 8/28/2004 by JMZO Ord. 2004-14, § 04; adopted 8/23/2004. Amended effective 4/18/2005 by JMZO Ord. 2004-17, §§ 04, 05; adopted 4/13/2005. Amended effective 12/23/2006 by JMZO Ord. 2006-13, §§ 2, 3; adopted 12/18/2006. Readopted effective 6/23/2007 by JMZO Ord. 2007, adopted 6/18/2007.]

In R-2 High Density Residential Districts, the following regulations shall apply:

A

C.

Table of Area and Dimensional Regulations. The following area and dimensional regulations shall apply:
[Amended effective 9/23/2018 by JMZO Ord. No. 2017-04, adopted 9/18/2018.]

	Minimum Lot Area	Minimum Lot Width at Street (feet)	Minimum Lot Width Setback Line (feet)	Maximum Building Height (feet)	Minimum Yards (feet) Front	Side (each)	Rear	Minimum Distance Between Buildings (feet)
R-2 District								
Single-family Detached								
(w/on-lot water and sewage disposal)	50,000 square feet (11)	125	150	35	75	30(1)	50	70
(w/public water and sewer facility)	30,000 square feet (11)	75	100	35	50	20(2)	40	60
Single-family Detached Cluster (Single-family Cluster)	9,000 square feet	45	50	35	30	15	30	35

Please note the third column of this excerpted document specifies the Jointure code that the R2 single family detached structure has a maximum height of 35 feet. Again, there is no asterisk that suggests measurements should not measure the lowest point at the base of the building to the highest point.

Appendix D

Bucks County Planning Commission

Memorandum to Newtown Township BOS and Planning Commission

June 1, 2021

4 Pages

BCPC
Bucks County Planning Commission
The Almshouse Neshaminy Manor Center 1260 Almshouse Road
Doylestown, Pennsylvania 18901 215.345.3400 FAX 215.345.3886
E-mail: bcpc@buckscounty.org

PLANNING COMMISSION:
Tom Tosti, *Chairman*
Richard Donovan, *Vice Chairman*
Thomas J. Jennings, Esq., *Secretary*
Craig E. Bryson, PLA
James J. Keenan
David R. Nyman
Carol A. Pierce
Edward J. Tokmajian
Walter S. Wydro
Evan J. Stone, PLA
Executive Director

MEMORANDUM

To: Newtown Township Board of Supervisors
Newtown Township Planning Commission

From: Staff of the Bucks County Planning Commission

Date: June 1, 2021

Subject: BCPC #12054-A
Final Plan of Subdivision for Arcadia at Newtown LP
TMPs #29-9-3-1, 29-9-6, 29-9-7
Applicant: Arcadia at Newtown Holdings, L.P.
Owner: Arcadia at Newtown Holdings, L.P., Sara Gowing, James Gowing, Susan Nydick, and Robert Nydick, Jr.
Plan Dated: April 16, 2021
Date Received: April 30, 2021

This proposal has been reviewed by the Bucks County Planning Commission professional staff, which prepared the following comments in accordance with the Pennsylvania Municipalities Planning Code (Section 502).

GENERAL INFORMATION

Proposal: Consolidate three parcels to create a 20.117-acre site and subdivide the site into 60 single-family detached lots ranging in size from 5,534 square feet to 8,578 square feet. Seven areas of open space totaling 8.27 acres are proposed throughout the development. Public water and sewer are intended to serve the development.

Location: Western side of the Newtown Bypass, northwest of its intersection with Buck Road (S.R. 532). Access to the site is via the existing service road and cul-de-sac that parallels the Bypass and intersects Buck Road.

Zoning: The R-2 High Density Residential District permits Use B-1 Single-family detached dwelling on a minimum lot area of 30,000 square feet when public water and sewer are provided.

This site is subject to a Stipulation and Settlement Agreement, dated February 24, 2021. Approved zoning standards for the development, as listed in the settlement agreement, include the following:

Housing type: Single-family detached
Maximum number of units: 60
Minimum open space: 30 percent of base site area
Minimum lot size: 5,500 square feet
Minimum lot width at street: 45 feet
Minimum lot width at setback: 50 feet
Minimum front yard setback: 20 feet
Minimum side yard setback: 5 feet

COUNTY COMMISSIONERS:
Diane M. Ellis-Marseglia, *LCSW, Chair;* Robert J. Harvie Jr., *Vice Chair;* Gene DiGirolamo

Minimum rear yard setback: 15 feet
Minimum perimeter building setback: 15 feet
Minimum perimeter building setback from existing residential uses: 130 feet
Maximum impervious surface ratio: 40 percent of base site area
Maximum building height: 35 feet
Minimum distance between buildings: 10 feet
Minimum number of on-lot parking spaces per lot: 2 spaces (not counting garage spaces)
Minimum number of off-lot parking spaces per lot: 1 space

Additionally, the agreement allows the following modifications from ordinance requirements:

Section 903.B.5.b.	not greater than 70 percent of woodland associations may be developed, regraded, or built upon; this standard shall apply in lieu of the 50 percent limitation imposed by Section 903.B.5.b. of the zoning ordinance
Section 903.B.6.c.	no zoning permit shall be required as a condition of removal of live trees with a girth greater than 10 inches measured 4 feet above the ground; Section 903.B.6.c. of the zoning ordinance shall not apply
Section 1000.E.3.b.	modified to permit decks and patios in a rear yard to encroach to within 5 feet of a rear property line
Section 1001.	the minimum parking stall size of 10 feet by 20 feet shall not apply to parking spaces in driveways and the minimum size of on-street, parallel parking spaces shall be 8 feet by 20 feet; these criteria shall apply in lieu of any inconsistent requirements in Section 1001. of the zoning ordinance
Section 1005.	open space areas shall not be required to meet the criteria of this ordinance section and open space areas may include stormwater management areas including basins

Notwithstanding any contrary provision of the zoning ordinance, Lots 14, 15, 18, 19, 35, and 36, which have frontage on a service street (alley), shall be considered to be in compliance with all dimensional criteria applicable to lots including frontage on a street.

Present Use: Vacant, residential (single-family detached dwelling).

COMMENTS

We have reviewed prior submissions for this site, with the most recent review in July of 2018 (BCPC #12054-A, dated July 19, 2018). Although several of the comments from our previous review have been addressed, we want to reiterate and add comments that should be considered prior to approval:

1. **Stipulation and Settlement Agreement**—The Stipulation and Settlement Agreement outlines the terms of agreement for the housing development proposed on the site and requires the project to be developed substantially in accordance with a plan for the property prepared by Holmes Cunningham, LLC, dated July 16, 2020, and marked as Exhibit A as part of the settlement plan. We recommend that township officials ensure the proposed final plan meets all terms of the agreement as well as the requirement that the site be developed in accordance with Exhibit A. We note the following discrepancy between the agreement and proposed site plan:

   a. **Off-lot parking**—The Settlement Plan – Zoning Table, referred to in Section I.3. of the Agreement, requires one off-lot parking space per lot. The plan delineates 58 on-street parking spaces; however, 60 single-family detached dwelling lots are proposed.

2. **Waivers**—The Stipulation and Settlement Agreement indicates the applicant has identified certain waivers from the subdivision and land development ordinance (SALDO) that are required in order to develop the project in accordance with the Settlement Plan and Agreement. Under the Terms of Agreement in Section II.3. of the Agreement, the township agrees that during the course of its review of Arcadia's' final plans, it will grant the waivers set forth on the Settlement Plan under "Ordinance Modification and Waivers, B. Subdivision and Land Development Ordinance (SALDO)," as listed below:

Sections 402.3.B.C. & G., 403.3.B.C. & G.	to not require the location of all existing features, including property lines within 400 feet of the site and the physical location of all 15-inch or greater trees on the site
Section 504.17.B.	to allow the reduction of the cartway width from 34 feet to 15 feet in each direction of a primary street and from 30 feet to 15 feet in each direction for one-way traffic and 28 feet for two-way traffic for a local street; parallel on-street parking is permitted within designated spaces on one-way streets and on one side of two-way streets
Section 505.2.A.	to reduce the minimum centerline radius for local streets from 150 feet to 50 feet
Section 505.5.	to not require intersections to follow a straight course for at least 100 feet, as measured away from the intersecting lines of rights-of-way
Section 507.1.	to not require the intersections with the roundabout to be perpendicular
Sections 507.7.A. and 507.7.B.	to permit less than the required sight distance
Section 508.2.	to permit driveways within 40 feet of an intersection
Section 509.1.	to permit the construction of a cul-de-sac with an outside radius of less than a 50-foot radius
Section 509.6.	to permit a central island as shown on these plans
Section 510.1.	to permit service streets (alleys) having the dimensions shown in the alley cross section
Section 510.3.	to permit dead-end service streets without turnaround facilities at the end, as shown on the plan
Section 517.4.	to eliminate the requirement for a 7-foot grass strip on local streets and 15 feet on the primary streets
Section 529.2.B.	to permit the layout of the development to disturb existing trees
Section 530.2.A.	to permit spacing of street trees in excess of 25 feet
Section 530.3.	to permit the placement of street trees within the right-of-way and between the curb and sidewalk
Section 1203.2.A.	to eliminate the requirement for a minimum of 3,000 square feet per dwelling to be dedicated to the township as park and recreation area

The final plan should note all granted waivers, including the date such waivers were granted.

3. **Trails**

   a. **Trail material**—We recommend upgrading the proposed natural surface (wood chip) trail to a minimum of an 8-foot-wide paved trail to allow for greater usage since natural surface trails are not ideal for most wheeled uses including wheelchairs, bicycles, strollers, etc.

   b. **Trail connection**—We recommend keeping the 6-foot-wide pathway at the northwest corner of the site connecting to the pathway located in the adjacent Eagle Ridge development. This pedestrian link would provide residents of the new development with access to Tyler State Park, using existing sidewalks along Mill Pond Road.

4. **Tree protection**—The erosion and sediment control plan, Sheet 19, indicates the location of tree protection fencing along the proposed tree line of the wooded areas behind Lots 22 through 49. The plan should be revised to also show the location of tree protection fencing along the existing tree line bordering TMP #29-9-3-2, located behind proposed Lots 4 through 13, and along the limit of disturbance parallel to the southern lot line that borders an existing tree line.

5. **Landscape plan**

   a. **Landscape architect**—We recommend that the landscape plan be prepared, signed, and sealed by a registered landscape architect licensed in the state of Pennsylvania.

   b. **Oak trees**—The landscape plan on Sheet 25 shows scarlet oaks (*Quercus coccinea*) and one white oak (*Quercus alba*) as part of the intended landscaping on the site. Oak trees, while typically a good native tree for plantings, are subject to bacterial leaf scorch which is an infectious chronic disease that is affecting several species of oaks in southeastern Pennsylvania.[1] Municipal officials should monitor planting plans to ensure that oaks are not overplanted, to avoid the risk of infection and eventual loss of these trees.

   c. **Dogwood trees**—The plan proposes six Chinese dogwoods (*Cornus kousa*), which are susceptible to dogwood anthracnose. We suggest an alternative species be selected.

   d. **Plant schedule**—The landscape plan identifies two proposed trees along the edge of the stormwater basin on TMP #29-9-3-2 as "SB"; however, the plant schedule does not include a plant symbol of "SB" for any of the listed plants.

      We note the plant schedule lists two weeping willow trees (*Salix babylonica*), identified as symbol "SA", which do not appear on the plan. Weeping willow is not included in the township's approved plant material list in Section 530.5. of the SALDO.

This review will be included in the Bucks County Planning Commission board materials for the July 7, 2021, meeting. It is not necessary for you to attend this meeting, but you are welcome to do so and to offer comments on the proposal to the BCPC board and staff.

In order that we may be more aware of your concerns, please send us a copy of all municipal decisions sent to this applicant.

LMW:dc/rml

cc: Eric Carlson, Arcadia at Newtown Holdings (via email)
Robert Cunningham, PE, Holmes Cunningham LLC (via email)
Leanna Colubriale, PE, Remington & Vernick Engineers, Township Engineer (via email)
Michele Fountain, PE, CKS Engineers, Inc., Township Engineer (via email)
Amy Kaminski, PE, Gilmore & Associates, Township Traffic Engineer (via email)
Micah S. Lewis, Township Manager (via email)
Drake Rizzo, Township Zoning Officer (via email)
Kristie Kaznicki, Township Administrative Assistant (via email)

[1] https://extension.psu.edu/bacterial-leaf-scorch