

TOWNSHIP OF LOWER MAKEFIELD  
PLANNING COMMISSION  
MINUTES – JULY 11, 2022

The regular meeting of the Planning Commission of the Township of Lower Makefield was held in the Municipal Building on July 11, 2022. Mr. Bruch called the meeting to order at 7:35 p.m.

Those present:

Planning Commission:        Ross Bruch, Chair  
  Adrian Costello, Vice Chair  
  Tony Bush, Member  
  Tejinder Gill, Member

Others:                            James Majewski, Community Development Director  
  Barbara Kirk, Township Solicitor  
  Andrew Pockl, Township Engineer  
  Daniel Grenier, Supervisor Liaison

Absent:                            Dawn Stern, Planning Commission Secretary

APPROVAL OF MINUTES

Ms. Kirk stated even if members were not present at the prior meeting, if they have reviewed the Minutes, they are able to vote on them. Mr. Costello and Mr. Bush stated they were present at the last meeting, and they did not see any issues with the Minutes.

Mr. Costello moved and Mr. Bush seconded to approve the Minutes of June 13, 2022 as written. Motion carried with Mr. Gill abstained.

#685 – 1566 LLC MAJOR SUBDIVISION

Tax Parcels #20-018-0021 20-018-001-002, 20-018-002, 20-16-027

R-1 Residential Low Density Zoning District

1566 Newtown-Yardley Road, 1472 Newtown-Yardley Road, 1069 Creamery Road, Buck Creek Drive

Proposed subdivision of a 3.03-acre lot containing an existing stone dwelling and stone barn into 3 single-family residential lots (creating 2 new building lots) Zachary Sivertsen, attorney with Eastburn and Gray, was present with

Gerry Katzoff, a member of 1566 LLC and who is an authorized representative to discuss the proposed Subdivision Preliminary/Final Plan. Mr. Sivertsen stated they are proposing to take four existing lots that total a little over 21 acres. He stated they are proposing to consolidate them and then re-subdivide those lots into seven new lots where they would construct six new single-family, detached dwellings and the seventh lot will include the existing dwelling which will be retained with that lot being significantly larger than the others. He stated the project also includes an extension of an existing roadway, grading, utilities, landscaping, street lighting, erosion control, and stormwater management facilities.

The Plan was shown, and Mr. Katzoff stated he and his wife have owned Lot #3 which is the farthest right-side parcel since 1980. He stated they have lived there continuously. He stated their son, Stewart, is his partner in 1566 LLC. He stated about twenty years after 1980, they bought Lot #2 from the Loftuses who owned all the property to the left. He stated they bought that property for the sole purpose of expanding their property and to also own the end of Buck Creek Drive so that if it were continued it would come into a parcel that they owned with the hope of protecting whatever the future development was of that property if someone bought it. He stated about three years ago, the Loftuses approached them about buying the entire property which they did under the 1566 LLC banner which is the address of the Loftus property. He stated the primary purpose was to increase the size of their house and property. He stated their house is called Mansion House Farm, and it is an old stone farmhouse that was built in 1713, and has been completely restored and maintained. He stated the plan was to protect the future development of the Loftus property. He stated what they came up with is a minimal development of four houses in the back area away from their property. He stated they did all of this to control that development so that another developer would not come in and build something that they would not want to be their neighbor. He stated this was not done from a “profiteering point of view or a profitability point of view” but was really done to get their property bigger and maintain their property and control what happened next to their property.

Mr. Katzoff stated they then purchased the little property on Creamery Road so that when they either re-build the Loftus house that has been there or knock it down and build a new house, it would come off of Creamery Road as a driveway instead of coming off of Yardley-Newtown Road. Mr. Katzoff stated the last house is the flag lot, and they were told by the engineers that there was room to do that so they added it to the Subdivision. He stated there are two houses there already and that would be a third.

Mr. Katzoff stated he has heard rumors that everyone is nervous about a big developer coming in, but there is no developer; and they are the property owners and have a lot of experience in this area. He stated they have been in the Township for a long time and feel that they are doing something positive and avoiding having someone come in and build a “barrage of houses on that parcel.”

Mr. Sivertsen stated they are prepared to go through the review letters tonight, adding that most of the comments are “will comply,” although there are some discussion items specifically related to tree replacement and fees-in-lieu that came out of the EAC letter of July 7.

Ms. Kirk noted the Township engineer’s review letter of May 21, and she asked Mr. Sivertsen if he is indicating that all of the items that are underlined as having to be addressed are “will comply;” and Mr. Sivertsen stated according to their engineer that is correct, and the only issue that he potentially raised was with #17 related to the dry-weather surface water assessment. He stated their engineer had indicated that in other projects that he had worked on he had been able to obtain a Waiver from that requirement, and he wanted to see if there was any willingness from the Township engineer to consider a Waiver on that. He stated he understands the Township engineer’s position may be different based on the current location of the pond on this property.

Mr. Pockl stated he would not be supportive of a Waiver for testing of the water within the stream. He stated there is a large focus now by DEP on water quality throughout Pennsylvania, and this would be further information to support the Township’s Municipal MS4 Permit for stormwater run-off.

Mr. Bruch asked Mr. Pockl if there is anything from his review letter that he would like to raise that the Planning Commission should focus on. Mr. Pockl stated the existing animal pen is shown to encroach into the wetland buffer, and he asked if that will be re-located. Mr. Sivertsen stated he does not believe there was an intention to do that; but if that is an issue, they could discuss that. Mr. Katzoff stated the stream runs to the left of that pen, and not through the pen. Mr. Majewski stated there is a 50’ buffer on each side of the stream, and it looks like the pen is within that 50’ area from the stream.

Mr. Grenier asked where the wetland line is coming from. Mr. Pockl stated he would have to go back and read the Environmental Impact Assessment Report, but he believes that a Jurisdictional Determination was made for the location of the wetlands. Mr. Grenier stated he saw that they wanted

to impact about 3% of the wetlands for the installation of the utilities, and he asked if they are in the process of acquiring a General Permit or some other type of Permit from PADEP for those impacts. Mr. Pockl stated he believes that they are in the process of obtaining those Permits. He stated that the impacts are a sanitary sewer force main; and depending on the method of how that is constructed, they could directional drill it underneath the stream and have a minimal impact. Mr. Grenier discussed what would be required if this is done.

Mr. Grenier asked if they did buffer averaging on the stream or the wetlands versus the straight buffers, and Mr. Pockl stated they did buffer averaging for the house on Lot #5 which required a buffer average. Mr. Grenier asked if there is a stream down the middle, and Mr. Pockl agreed. Mr. Grenier asked about the 50' "assumed floodway" from the State, and if they are within that buffer and if it falls under that Permit program as well. Mr. Pockl stated it would fall under that Permit.

Mr. Majewski stated they would need to provide a quick flood study to verify that it does not jump the banks that far with the floodway. He stated he does not believe that it does adding that it is a very small stream ditch running through the property, and the floodway does not extend 50', although they will need confirmation. Mr. Grenier stated if there is not a FEMA Study typically the State will assume 50' if the drainage area is greater than 100 acres; and if it is that small of a stream, it might be less than 100 acres.

Mr. Grenier stated he assumes from looking at the aerial that the site has a fair amount of woodlands, and Mr. Pockl agreed. Mr. Grenier asked if they will be impacting woodlands and requesting a Variance. Mr. Sivertsen stated they are well within their permitted disturbances for woodlands. Mr. Grenier stated there is a disturbance number and a setback number, and he asked about the setback from the woodlands. Mr. Pockl stated they are within their allowable disturbance, and they have met the setback requirements.

Mr. Grenier asked if they are filling in the floodplain, and Mr. Pockl stated they are not.

Mr. Grenier asked if the Township will be taking over ownership of the cul-de-sac, and Mr. Pockl agreed. Mr. Grenier stated he is not in favor of cul-de-sacs because of the difficulty with snow removal, and he asked if they have looked into other alternatives to "squeezing four houses around a cul-de-sac."

Mr. Sivertsen stated currently Buck Creek Drive is a dead-end street without a bulb for turning around etc., and he feels the cul-de-sac as proposed would be an improvement over the existing condition on that end of the street.

Mr. Grenier stated he does not agree that adding four houses in the middle of the woods would be an improvement although he understands the comment. He stated the Public Works Department complains all the time about cul-de-sacs which was why he asked.

Mr. Grenier asked Mr. Pockl how much volume they are looking at from a stormwater management perspective, and he also asked about the BMP. Mr. Pockl stated they have two detention systems proposed and six rain gardens. Mr. Grenier stated he would like to know if their infiltration testing shows that they will get the infiltration required for some of those features. Mr. Pockl stated the infiltration testing they provided shows that the design for each of the rain gardens and the detention system would be in compliance. He stated there is a rain garden or water quality BMP on each Lot, and two other systems to manage the additional run-off from the roadways and drive-ways. Mr. Grenier asked how the stormwater system will be maintained long-term, and Mr. Pockl stated it would be the responsibility of the property owners or Homeowners' Association. Mr. Grenier asked if that will be part of a Deed Restriction on their documents that they need to maintain it long-term, and Mr. Pockl agreed.

Mr. Grenier asked if the ponds will stay as is, and Mr. Pockl stated there is no proposed change to the existing pond on Lot #3.

Mr. Grenier asked if there are any water quality or "goose issues" with the ponds. He added he assumes they were manmade from the creek that used to flow through there. Mr. Pockl stated they have no documented issues with the ponds. Mr. Grenier stated he assumes that they pre-date regulations so they are grandfathered in from requiring any regulations for the impacts historically to the stream, and Mr. Pockl agreed.

Mr. Grenier asked if the EAC called out any major issues. Mr. Pockl stated the EAC has identified the compliance with the Tree Replacement Ordinance that the Application is requesting a Waiver from. He stated the Applicant shows on the Plan that 754 replacement trees would be required, and they are proposing to plant 167 trees. He stated the Applicant's justification for the Waiver request is that there are not enough physical locations on the site to plant the additional trees, and the EAC has provided several options for how

they could address that comment without requiring a Waiver. Mr. Grenier stated that is a Waiver that the “Township does not often grant nor should we.” He stated he believes that there was a comment made earlier that the property was purchased to protect the Lot around the home rather than taking down trees and building new homes, and he does not believe that Waiver will be approved by the Board of Supervisors as has been seen in the past.

Mr. Grenier noted the different driveways, and he asked about traffic safety and whether there are adequate sight lines. Mr. Pockl stated the Plan was reviewed by the Township traffic engineer, and the only comment that is outstanding is that “No Parking” signs be placed within the extension of Buck Creek Drive as the truck-turning analysis shows that a trash truck would not be able to make that maneuver within the cul-de-sac. Mr. Grenier asked if there were extra cars that homeowners wanted to park in the cul-de-sac would that be potential for tickets or towing, and Mr. Pockl stated there would be enforcement of the “No Parking” signs. Mr. Pockl stated clear sight triangles of 15’ have been added to all the driveways. He stated there is no sight distance issue for the four Lots around the cul-de-sac. He added that one driveway is along 332, and that will be subject to PennDOT HOP requirements. He stated there are no sight distance issues along Creamery Road.

Mr. Grenier asked if there are sidewalks required; and Mr. Pockl stated for any major development, there are sidewalk requirements on both sides. He stated they are not proposing any sidewalks, and are requesting a Waiver. Mr. Grenier stated he does not believe the Board of Supervisors will be in favor of that.

Mr. Grenier asked if there are any other major Waivers being requested other than the trees and the sidewalks. Ms. Kirk stated on Mr. Pockl’s review letter, two of the three Waiver items that were submitted with the Application appear to be embodied in the body of the letter, and she understands that Waivers are still being requested as items have not yet been satisfied. Mr. Grenier stated that means they may be getting more Waiver requests, and this is being considered Preliminary/Final. Mr. Majewski stated he spoke to the Applicant’s attorney, Mr. VanLuvanee, and they were going to go just for Preliminary Approval and then go to the Zoning Hearing Board to obtain the Variances required for the stream crossing for the utility lines, and then come back for a Final approval.

Ms. Kirk asked if the first Waiver request asking that this be considered Preliminary/Final will be withdrawn, and Mr. Majewski stated that is what Mr. VanLuvanee told him.

Ms. Kirk noted Item #30 of Mr. Pockl's review letter deals with the planted island in the center of the proposed cul-de-sac. She stated Mr. Pockl had indicated that a Waiver was required for that, but he did not list it under the items of requested Waivers; and she asked if they are still proceeding with that as a Waiver request. Mr. Sivertsen stated they still have that in their Waiver request letter, and they are requesting a Waiver from that requirement.

Ms. Kirk stated they also asked for a Waiver to use iron pins in lieu of concrete monuments to outline the area of Easements, and she asked if they are still requesting that Waiver. Mr. Sivertsen stated they are still requesting that Waiver. Mr. Pockl stated they have supported that in the past, and they would support that in this case.

Ms. Kirk stated the last item is the number of trees that are going to have to be either replaced or the Fee-In-Lieu paid under Section 178-85H. Mr. Sivertsen stated they have that Waiver request, and that was one of the items that they wanted to discuss. He stated that was discussed with the EAC which issued their letter and provided a few different options. He stated their third option allowed for a reduction of the required trees from 754 to 350 if the Applicant agreed to certain restrictions on further Subdivision of Lot #7 and putting in a Conservation Easement over the 3 ½ acres of the wetlands and wetlands buffer area on the property, and the Applicant would be interested in pursuing that but they would need some more details in terms of how that would affect the existing structures and improvements on the property and whether those would be allowed to continue which would be their main concern. He stated that proposal from the EAC is one that they would potentially be interested in pursuing. Ms. Kirk stated at this point they are still asking for a Waiver, and in lieu of planting the whole number of trees or paying the whole Fee-In-Lieu of they would ask that the Board consider the alternative shown as Item C in the EAC review letter. Mr. Sivertsen stated they would agree that should be further worked out; and if they are just going for Preliminary, he feels that is something that they could work out with the solicitor's office and the Board before Final Approval.

Ms. Kirk stated she wanted to make sure everyone was clear as to the total number of Waivers being requested.

Mr. Grenier stated one of the Waivers was putting a planted island in the middle of the cul-de-sac, and he asked if that would affect the turning radius and is why the turning radius does not work. Mr. Pockl stated it becomes difficult for the Township to maintain the planted area within the cul-de-sac,

and it provides an impediment to snow plowing. Mr. Grenier asked if the Township would take ownership of the planted area in the middle of the cul-de-sac, and Mr. Pockl agreed and the Public Works Department would be responsible for maintaining that. Mr. Sivertsen stated they are requesting a Waiver to not be required to have that in the middle of the cul-de-sac. He stated he does not feel that is a favored approach of the Public Works Department, and Mr. Grenier stated he agrees.

Mr. Majewski stated looking at the Environmental Impact Assessment, it does not appear that they had a Jurisdictional Determination done by the Army Corps, and they may need that for their General Permits. Mr. Majewski stated the drainage area that drains to the stream that runs through the center of the property is about 50 to 60 acres so it is under the 100 acre threshold. Mr. Grenier stated when the DEP looks at this, because of the historic nature of the pond potentially being a connection point between that stream and Buck Creek, they may consider that as a larger drainage area than the amount that Mr. Majewski just called out. Mr. Pockl stated they may require the pond to be Registered or a Permitted entity from this point going forward. Mr. Sivertsen stated they will apply for all required Permits. Mr. Majewski stated they are aware that they are going in for General Permits for the stream crossings.

Mr. Sivertsen stated with regard to the question raised about the cul-de-sac, the reason and justification for the cul-de-sac in that location is that they did not want to cross the stream because they do not want to impact it. He stated that is what necessitates the need for the cul-de-sac there.

Mr. Grenier stated they are able to meet all of the Zoning requirements related to setbacks, lot size, etc., and Mr. Pockl agreed.

Mr. Costello stated with regard to the sidewalks, if they were to install sidewalks, they would be going nowhere, and Mr. Pockl agreed. Mr. Costello stated he feels in that case, he would not be inclined to make someone build a sidewalk that will not connect to anything. Mr. Grenier stated there is a sidewalk Fee-In-Lieu program set up so that would be a reasonable option. Mr. Pockl stated the Township may want to provide a sidewalk along Route 332 or Creamery Road down to the intersection where there is a connection point at the intersection. Mr. Costello stated when they did the site visit, one of the existing neighbors was excited about the fact that this project would bring the curb in front of their house and finish the area for the people who live there. Mr. Pockl stated there is a section of curb that is missing along Buck Creek Drive that is off the property, and the developer has indicated that they will curb up to the existing curb.



Mr. Grenier asked Mr. Katzoff if anyone from the Township ever approached him about potentially purchasing all or part of his site as open space for the Township in the future, and Mr. Katzoff stated they have not. Mr. Grenier advised Mr. Katzoff that if he is interested in that, “they could have someone talk to him because it is an interesting site with the wetlands and the woodlands and the floodplain.” Mr. Katzoff stated it might be too expensive for the Township. Mr. Grenier stated the Conservation Easement is interesting.

Mr. Bruch stated it seems that there needs to be additional conversation around that particular part of this proposal, and he asked Ms. Kirk if that is something the Planning Commission could work into a Motion. Ms. Kirk stated there was a similar project where they came in with Preliminary Subdivision and Land Development and went before the Board and deferred the issue of tree replacement until the time of Final so if the Planning Commission were inclined to recommend approval of the Application, they could structure it in such a way that it would be in compliance with all of the review letters by the Township’s professional consultants, make a recommendation as to the Waiver requests, and specifically indicate that any Waivers for tree replacement under the Ordinance be subject to further review in consideration of the EAC’s recommendation for alternatives.

Mr. Costello stated the Board of Supervisors has taken that out of our hands whether the Planning Commission recommends it or not as if the Applicant does not plant the trees, they need to pay Fee-In-Lieu; and it would be the Board of Supervisors that would say that they would not have to follow the Ordinance. He stated he would be willing to include a statement that some creative recommendations have been made; and if the Board of Supervisors were in favor of that, he would support that. Ms. Kirk stated the Planning Commission could recommend approval of the proposed Plan subject to compliance with all the Township professional consultants’ review letters and any Waiver requests should be left to the discretion of the Board of Supervisors.

Mr. Grenier stated it seems that there may be Waiver requests coming in after they go to the Zoning Hearing Board. Ms. Kirk stated there appear to be at least 11 Waiver requests. Mr. Sivertsen stated there were two Waivers requested that were not specifically highlighted in the engineer’s review letter although they were discussed.

Mr. Gill asked about the Waiver for the cul-de-sac; and Ms. Kirk noted that is included in Mr. Pockl's review letter as Item #30, and Mr. Pockl indicated he would support that Waiver.

Ms. Kirk stated two of the Waivers were addressed in the body of the review letter, but were not set out as separate Waivers under the Waiver Section of the letter. Mr. Pockl agreed adding that if they are adjusting their Application to be considered as Preliminary, the requested Waiver that this be considered Preliminary/Final would be removed.

Mr. Pockl stated with regard to the Tree Replacement issue, if it is determined that the tree replacement number is 350 trees, the Applicant would be required to either plant 350 trees or provide a Fee-In-Lieu of. Mr. Costello stated because the Board of Supervisors within the last five years has clarified what they want done in this area, he feels that it is taking the decision of whether or not to make a recommendation on this out of the hands of the Planning Commission. He stated if the Board of Supervisors decides to make a separate agreement with a developer about "doing something in lieu of," that is totally within the discretion of the Board of Supervisors; and as a Planning Commission member he does not have an opinion on that. He stated he does not feel he is in a position as a Planning Commission member to give an opinion on a Waiver from the Tree Ordinance.

Mr. Bruch stated he understands that Mr. Costello does not support a Waiver of the Tree Replacement Ordinance, and Mr. Costello agreed.

Mr. Bush stated he feels the rationale behind the Tree Ordinance is the preservation of trees, open space, and natural habitat. He stated they are considering recommending Preliminary Approval; and if they do that, they would push the question of Tree Replacement to when Final Approval is considered. He stated there is a creative proposal on this which was made by the EAC that talks about preserving space and restricting further subdivision of certain Lots which is in the Township's interest in order to preserve more trees. He stated our Supervisor liaison has indicated that he is potentially open to considering this idea after further discussion, and he does not feel the Planning Commission should shut this down right away.

Mr. Costello stated he agrees with what Mr. Bush has stated. He stated it is frustrating that every developer asks for a Waiver even though it has been Codified; however, since he did the site visit, he has indicated that he is in

favor of the Plan and what Mr. Katzoff and his team are trying to do. He stated as a resident he would encourage the Board of Supervisors to get creative on this if it is something that makes sense to them. He stated it sounds like there are some give and take that make sense for the Township. He stated his point with regard to the trees, is that as a Planning Commission member he feels the Township has already indicated what the Waiver should be – either dollars or trees; and if the Board of Supervisors wants to do something different and the Applicant wants to petition the Township on what that should be, the place for the Applicant to negotiate that would be with the Board of Supervisors.

Mr. Bush stated Mr. Costello's argument about not granting Waivers for this could be raised against every request made, and Mr. Costello agreed that is fair. Mr. Bush stated the role of the Planning Commission is to consider these things and make recommendations. Mr. Bush stated he feels the Planning Commission could consider it although it does not have to be considered tonight because the Applicant is not in the position to even propose something tonight as it is very conceptual, and they would come back when they seek Final Approval to discuss this.

Mr. Bush asked Mr. Majewski what was the rationale behind requiring that planting be in the middle of a cul-de-sac. Mr. Majewski stated when that was done in 2006, the rationale was that they wanted to try to minimize impervious surface; and by putting a green space in the middle, there is less pavement. He stated it is problematic with maintenance, and practicalities have made it less desirable than what was originally thought. Mr. Bush stated putting aside the Public Works Department's current position, the rationale behind including it in the Ordinance has not changed; and Mr. Majewski agreed. Mr. Bush stated while the Public Works Department may have a legitimate complaint, it may not be something "we should roll over with every time they raise a complaint." He stated it may be a legitimate complaint in this instance, but he is concerned that there was a lot of thought that went into the Ordinance when it was adopted, and we may not need to necessarily walk away from it.

Mr. Grenier stated he felt it may have been for aesthetics. He noted there was a development off of University Drive which had issues with a rain garden similar to this. Mr. Majewski stated in that instance it was depressed, and it gathered water. He stated there is also one in Chanticleer where they put in a raised island. Mr. Bush asked what would have been put in place in this instance if the Waiver were not granted, and Ms. Kirk stated she feels it was not intended to be raised. Mr. Katzoff stated they had not considered the specifics.

Mr. Grenier stated while a Waiver has been requested for installing sidewalks, there is a Fee-In-Lieu for sidewalks as well. He stated this would be similar to the Waiver request for the bikeway.

Mr. Grenier noted the Waiver with regard to the Sanitary Sewer Easement. Ms. Kirk stated the Applicant is going to have to provide whatever will be required by Aqua. Mr. Grenier stated the Township no longer owns the sanitary sewer system. Ms. Kirk stated the Applicant could request a Waiver from the Township's requirement for the Sanitary Sewer Easement subject to compliance with whatever Aqua requires. Mr. Pockl stated their Waiver request is to provide a Sanitary Sewer Easement of 20' wide instead of the required 30' wide.

Mr. Majewski stated with regard to Waiver #9 to not be required to provide bikeways, bikeways are not required for this development. He stated our Bike Path Master Plan has bike paths on the opposite side of Creamery Road and Route 332 so that Waiver request is not required.

Mr. Grenier stated Waiver #10 is of concern because he does not want to set up the Township for liability since we no longer own the system and could not give permission for this.

Mr. Costello asked if there are any parallels to this with regard to the drinking water supply as they would be dealing with Pennsylvania American Water and not the Township. Ms. Kirk stated typically in instances like this, there is a general provision that the Applicant has to comply with all other Governmental and other entities with respect to other public improvements such as water and sewer, etc. that has jurisdiction over the project. Mr. Majewski stated we will need to revise the Ordinance to eliminate references to sanitary sewer, and it will be up to the Applicant to address this with the utility provider.

Mr. Fred Seabright stated he has been a resident for forty years, and he "is not as excited about this project as Mr. Katzoff thinks he should be." Mr. Seabright stated Mr. Katzoff's home is furthest removed from the new development, and his house takes the brunt of it as his house is directly adjacent to the cul-de-sac and the four new properties.

Mr. Seabright asked if the Township requires any assurances that funding is in place to complete the project. He stated he has seen other projects that are started in Bucks County and do not get completed as expected. Ms. Kirk stated if the proposed Subdivision goes through it could be divided into Lots.

She stated before construction can begin, they have to go through the process of Land Development which requires an estimate of the construction costs and financial security would have to be posted to insure there is not only 100% of the costs in Escrow, but it is actually 110% so that if the Township has to step in, there is reimbursement to the Township. Mr. Seabright asked if there is a timeframe as to the Approval; and Ms. Kirk stated under the Law, they are protected for five years.

Mr. Seabright stated with regard to utility delivery to the project he understands that there is going to be gas, water, and electric; and he asked if that will come from Creamery Road or Buck Creek Drive. Ms. Kirk stated the Applicant will develop that with the specific utility companies. Mr. Majewski stated he believes that the utilities for the four lots on the cul-de-sac will be coming from Buck Creek Drive. Mr. Seabright asked if there will be any costs to the residents from this such as digging up; and Mr. Majewski stated that will all be borne by the Applicant to pay the appropriate costs and they will have to restore any land that is disturbed.

Mr. Seabright stated he has had no water issues, and he asked if he has any recourse with the Township if he has groundwater issues after this project takes place. Ms. Kirk stated the Applicant has to comply with the Township's requirements to maintain stormwater management in accordance with State guidelines. She added that if at some point Mr. Seabright believes that there is a diversion of water from the Applicant's property onto his property, Mr. Seabright would file a complaint against the Applicant in Doylestown.

Mr. Seabright asked if impact to wildlife is considered, and Mr. Majewski stated they did identify a potential species that could be impacted, and all of that was addressed in their Environmental Impact Assessment.

Mr. Pockl stated the Applicant is proposing to plant trees between his property and the proposed roadway as a screen. He also stated that from a stormwater management perspective, they have a berm that is being planted on the north side of the roadway where the trees will be planted prohibiting any surface run-off to go onto that property. He stated the way the ground slopes, it is predominantly from west to east out toward Buck Creek Drive; and a significant portion of the development is down grade from Mr. Seabright's property.

Ms. Cathy Tipton stated she owns Lots #50, #51, and #52. She stated she will be impacted a lot, and the entire back of her property which is now trees will be taken down. She stated she understands that at her Lot #50 there will be a buffer zone, but on her far property that is where the huge cul-de-sac is going to be built. She stated her property which they bought in 1999 is beautiful, but after this construction, she will be looking at “McMansions.” She stated she has a little tiny ranch, and there will be a “monstrosity in her back yard.” She stated those houses will be able to look through her house and she will not have privacy. She stated her property is higher up than the property next to hers, and she has a retaining wall. She stated in the back corner of Lot #50, they are “dipping down because of the PECO pole.” She stated she is concerned about the cement wall and water because all of the trees will be knocked down. Ms. Tipton noted the amount of wildlife in the area which will be gone, and in its place she will be looking at a house. She stated this will impact her property value as well. Ms. Tipton stated she has owned her property since 1999 and no one who ever owned the property behind them has ever taken care of it. She stated trees fell down and knocked over their fence, and trees are growing through the fence from the other property as well as poison ivy. She stated she maintains her side of the property but the owner of the other side has not been doing anything. She stated her husband jumps over the side to try to get rid of the poison ivy out on the other side. Mr. Majewski stated Ms. Tipton’s property is to the west of the site, and her Lot backs up to the Lot at the end of the cul-de-sac. The location was shown on the Plan.

Ms. Tipton noted the property next to her where her neighbors have the stream that goes in between, and between that property it looks like there is a buffer. Ms. Tipton noted the location of her home on the Plan; and she stated it looks like there might be 50’ to 70’ of buffer, but then there is a huge house. Ms. Tipton stated with regard to traffic, she cannot get out of her driveway as it is now; and during the School year she cannot get out of Creamery Road in the morning or afternoon unless someone grants her access. She stated when they purchased their property, they were given the Plans for Makefield Meadows that were supposed to be developed; but they were told the Plans were “nixed” because of the wetlands behind them, and now someone is going to try to do the same that they tried in 1951. Ms. Tipton stated Mr. Katzoff will have “a great side of his property, but she is going to have all the houses.”

Mr. Grenier asked Ms. Tipton if she has the property with a short chain-link fence in front of her house, and Ms. Tipton stated that she has the green chain link fence that is on three Lots; and they can shut it for their driveway.

Dr. Nilesh Rana, 1531 Buck Creek Drive, stated his home is where Buck Creek Drive ends. He stated his driveway is about 5' from where Buck Creek Drive stops. He stated he strongly objects to this Plan because where the road makes a turn, the cars will come right next to his driveway where his grandchildren play. He stated the road is too short, and they are making a turn very quick. He showed this location on the Plan. He stated this will be very hazardous to his family. He stated he would like to know what traffic studies have been done, and he may hire a lawyer to fight this.

Mr. Majewski stated the Township traffic engineer did review this. He stated for the sharp turn, they have requested a Waiver for a smaller radius for the turn which will slow people down; and people coming out of the cul-de-sac will probably be going a lot slower as they turn to go past Dr. Rana's driveway. Dr. Rana stated while that may be what they are expecting, that will not happen. He stated someone could be driving drunk, and he asked what they will do then. He asked if he is going to be given 100% assurance in writing that will not happen. Mr. Majewski stated they do not legislate for drunk drivers. Dr. Rana stated he is talking about in general that drivers will slow down, and he asked if the Township is ready to give him in writing 100% that drivers will slow down, and there will not be a problem. Ms. Kirk stated the Township cannot give a 100% guarantee for anyone.

Dr. Rana asked about the traffic study, and Ms. Kirk stated the traffic study was done by the Township's traffic consultant. Dr. Rana asked where he could get a copy because he may be able to hire a lawyer to fight this. He stated he does not feel safe, and he needs to see the traffic study. Ms. Kirk stated she believes that everything is available on line, and Mr. Majewski agreed. Mr. Majewski added that a traffic study is not required for a development of this nature. He stated the Township did a Township-wide study years ago, and the only time a traffic study is required is if it is a Commercial-type development or if whatever is proposed deviates from the assumptions that were made for it years ago.

Dr. Rana asked how they will slow down the traffic making a turn, and he asked if they will put "bumpers" there. Ms. Kirk stated it would be based on the posted speed limit and is not any different from any other turn being made in the Township on a Township road. Dr. Rana stated right now in the development there is no sign about what the speed is. He asked why they would make an exception for six houses. He stated the road is not safe.

He stated he “might fight with his lawyer with the Township not to put this through.” Ms. Kirk stated if Dr. Rana wants copies, the documentation is available on-line.

Mr. Bruch asked with regard to this Waiver, if the 50’ radius is deemed to be safer because it causes cars to slow down when approaching the turn. He asked if the Waiver were not granted, and it was a 150’ radius, that would generally mean that cars would be coming out of there faster. He stated it seems that it would be advantageous to the Township to grant this Waiver. Mr. Pockl stated 150’ would be the radius required to make a comfortable turn, and shortening it to 50’ would require vehicles to slow down to make a comfortable maneuver at that radius. He stated another advantage is less disturbance to existing woodlands and existing resources because of the shorter radius on that roadway.

Mr. Costello stated the disadvantage to shortening that radius would be for the trash haulers, snow removal people, and fire trucks which may have a concern; but from a traffic standpoint, it will probably slow the traffic down. Mr. Pockl agreed adding that with regard to the trash haulers and the fire trucks, the Applicant has provided a Plan that shows that those vehicles can make that maneuver. Mr. Costello stated the 150’ radius is not really for traffic safety, and is more for ease of use of the road for all users; and Mr. Pockl agreed.

Mr. Gill asked how that effects traffic going both ways, and he asked if that affects the width of the road. Mr. Grenier stated the width of the road would stay the same, and it is just the bend. Mr. Pockl noted Page 19 of the Plans which shows the circulation plan. Mr. Costello noted that this is not a through street, and the turn would only be used by those living in the four houses and their visitors; and Mr. Pockl agreed.

Dr. Rana noted the location of his driveway on the Plan, and he stated when you make the turn there is not much distance left until his driveway.

Mr. Costello stated he has a driveway with a similar situation, and he has not had any issues. Mr. Pockl stated with the close proximity of the driveway entrance to the roadway, Dr. Rana will have visibility of any vehicles coming down from the cul-de-sac of approximately 220 feet to the curve. Dr. Rana stated he is still not happy with it.



Mr. Bruch stated with regard to legal recourse, if a property owner were to have a stormwater issue in the future that was potentially caused by one of these new properties, the legal recourse would not necessarily be against the Applicant that is before the Planning Commission today, and it would be against the property owner at the time causing that damage; and Ms. Kirk agreed.

Mr. Costello noted the Waiver request to not be required to have sidewalks; and he asked if the proposal by the Applicant is just not to install the sidewalks or are they asking to not install the sidewalks and not pay the Fee-In-Lieu. Mr. Majewski stated they are asking for a straight Waiver. Mr. Costello stated he would be in favor of not recommending the Waiver for the sidewalks since there is another recourse which is payment of a Fee-In-Lieu of sidewalks which is already established in the Township that could be paid.

Mr. Costello moved to recommend to the Board of Supervisors Preliminary approval subject to compliance with the comments by all Township consultants as set forth in the review letters provided, that the issue of tree replacement be deferred until the time of Final Subdivision consideration, no Waiver for the sidewalks, and the remaining Waiver requests be left to the discretion of the Board of Supervisors.

Mr. Bruch asked if they need a Waiver for the bike paths, and Mr. Majewski stated they do not.

Mr. Gill stated the public had a lot of questions about why the development was not pushed further away from where their residences are, and he asked if there was a reason why the Applicant proposed the new residences where they are to be located. Mr. Sivertsen stated the presence of the creek and the wetlands definitely impacted the way it was oriented. Mr. Katzoff stated it was the only way the four lots would fit meeting all of the setbacks because of the stream behind the property. Mr. Bruch stated he understands there would be no way to put an access road directly from Yardley-Newtown Road heading north to feed into these properties, and Mr. Katzoff agreed. Mr. Katzoff added they would have to cross the creek, and that was not possible.

Mr. Bush seconded the Motion.

Mr. Bush asked the status of the request for Zoning Variances, and he asked if that Application has been made. Mr. Majewski stated it has not been made. Ms. Kirk stated she understands that they are coming in for

Preliminary Approval only at this time with the Plan to then go to the Zoning Hearing Board for the Variances. She stated once that issue is resolved, they would come back for Final approval.

Motion carried unanimously.

ACKNOWLEDGE RECEIPT OF PLAN #688 – 1273 LINDENHURST ROAD MAJOR SUBDIVISION

Tax Parcel #20-003-020 (formerly Plan #665 Weldon Homes LLC Informal Sketch Plan)

R-1 Residential Low-Density Zoning District  
1273 Lindenhurst Road

Proposed subdivision of a 3.03-acre lot containing an existing stone dwelling and stone barn into 3 single-family Residential lots (creating 2 new building lots)

ACKNOWLEDGE RECEIPT OF PLAN #689 - 1101 BIG OAK ROAD MAJOR SUBDIVISION

Tax Parcel #20-034-127 – R-2 Zoning District

Proposed subdivision of a 6.07-acre lot (containing an existing dwelling and garage to be removed) into 6 single-family residential lots.

Mr. Majewski stated the 90-day clock per the Municipalities Planning Code starts at the next Planning Commission Meeting following submission of the Plans. He stated both of these Plans were submitted a few weeks ago, and this is the next meeting. He stated we will need to schedule a site visit to the two properties with the developers. He asked that the Commission members advise him when they will be available over the next few weeks. He stated he feels that they will be able to do both site visits fairly quickly.

OTHER BUSINESS

Mr. Majewski stated the EAC looked at the proposed Amendments to the Stormwater Ordinance that Mr. Pockl had proposed that needed to be done to fulfill our obligations. He stated they did not have any comments

on the Administrative items that Remington Vernick had listed that we need to do to comply; however, they wanted to go a little further in the Ordinance and suggested some other changes such as strengthening the recommendations for the use of green infrastructure and LID methods and also to create and Record a Riparian Buffer Easement whenever applicable. He stated they also wanted to increase the percentage of existing impervious surface that is considered meadow. He stated currently the DEP requires 20% of any existing impervious surface to be considered as if it was undeveloped, and that is so that you “make up for past wrongs” and trying to retain the water even though it was not retained in the past. He stated the EAC suggested that we up those percentages. Mr. Majewski stated he feels these items would be good to discuss at a future Agenda; but due to the time constraints that the Township has to meet their obligations to update the Ordinance for the Administrative and Procedural items that were outlined by Remington Vernick, he does not there is time to go through all of those other items as they would involve lengthy discussion.

Mr. Bruch stated he understands that this item will be Tabled until the next Planning Commission meeting; and Mr. Majewski stated it would be for future discussion and it could be at the next or a subsequent meeting.

There being no further business Mr. Costello moved, Mr. Gill seconded and it was unanimously carried to adjourn the meeting at 9:15 p.m.

Respectfully Submitted

Ross Bruch, Chair