

TOWNSHIP OF LOWER MAKEFIELD  
PLANNING COMMISSION  
MINUTES – JULY 24, 2006

The regular meeting of the Planning Commission of the Township of Lower Makefield was held in the Municipal Building on July 24, 2006. Chairman Pazdera called the meeting to order at 7:35 p.m.

Present:        John Pazdera, Chairman  
                  Dean Dickson, Vice Chairman  
                  Ronald Smith, Supervisor  
                  John Donaghy, Township Solicitor  
                  James Majewski, Township Engineer  
                  Nancy Frick, Mgr. Zoning Inspection and Planning  
                  Tony Bush, Secretary  
                  Richard Cylinder, Member  
                  Karen Friedman, Member

III. APPROVAL OF MINUTES 6/12/06

Ms. Friedman moved, Mr. Dickson seconded by Mr. Dickson and it was unanimously carried to approve the approved the Minutes dated June 12, 2006.

IV. #543 MINEHART TRACT – FINAL PLAN

Mr. Eric Tobin stated the engineering review letters were supplied to the Township and the builder agrees to comply with them. The only open issue is the \$160,000 contribution which should be deferred to the Board of Supervisors. Mr. Pazdera requested Mr. Tobin to recap the project since three out the five Board members have not seen the plans. The location of the property is near the northeastern corner of the intersection of Lindenhurst and Woodside Roads. There are approximately 31 acres with one parcel dedicated to one of the neighboring properties. Mr. McGinn stated when a property is dedicated to a neighboring property the property line is eliminated and the property would be consolidated.

Mr. Cylinder indicated that after review of the soil surveys it appears that the soil is poor in general and there is a high water table. Mr. McGinn stated that extensive research was performed in regards to the soil quality. He stated the soil was found to be suitable and it was concurred by Mr. Majewski, Township Engineer.

Mr. Pazdera referred to the Pickering, Corts & Summerson Inc. review letter of June 28, 2006, Item No. 2 regarding transcontinental gas pipe line. Mr. McGinn stated that Transco forwarded the protocol if the pipeline is crossed. This protocol was also forwarded to Mr. Majewski. Mr. Bush asked what the minimum distance is between the homes and the pipeline. Mr. Tobin stated that Transco in their original easement agreement have limitations on the distance from the pipeline. Mr. McGinn indicated that the pipeline has a 90' easement which will create a buffer.

Mr. Pazdera brought up the letter of Remington and Vernick Engineers dated June 23, 2006 referencing CKS Engineers review letter dated August 17, 2005 to the Board. Mr. Dickson stated there were no issues with that letter. Mr. McGinn stated that his engineer mailed a response on July 21, 2006 and a copy was sent to the Township Manager. Mr. Cylinder asked Mr. McGinn if the comments of the Bucks County Planning Commission were met. Mr. Tobin stated the Commission issued a new letter for final approval, and their only comment was that the Township should confirm that all conditions of preliminary approval are met.

Based on the letter by Pickering, Corts & Summerson, Inc. it appears that the only issues remaining are issues for the Board of Supervisors for the site plan.

Ms. Friedman moved, Mr. Dickson seconded and it was unanimously carried to approve the final plans of the Minehart Tract subject to the Pickering, Corts & Summerson, Inc. letter dated June 28, 2006 and subject to the Remington & Vernick Engineer Report dated June 23, 2006. Note: Plan 8 dated August 8, 2003 and last revised plan May 3, 2006. In addition, fee-in-lieu will be deferred in lieu of discussions with supervisors. Mr. Cylinder requested that for the record it is noted that only three members of the Commission were in attendance when the preliminary plan was approved.

There was no public comment.

V. CONSIDER PROPOSED ORDINANCE AMENDING CHAPTER 200, ARTICLE VII GENERAL BUSINESS/INDUSTRIAL (C-3) REGARDING ZONING REGULATIONS RELATED TO THE SALE AND STORAGE OF FIREWORKS AND PERMITTING SUCH USES IN THE C-3 INDUSTRIAL DISTRICT.

Ordinance is still being worked on in response to issues raised by the Planning Commission.

VI. CONSIDER PROPOSED ORDINANCE AMENDING THE PROVISIONS OF THE LOWER MAKEFIELD TOWNSHIP CODE RELATED TO SUBDIVISION AND LAND DEVELOPMENT TO PROVIDE FOR LOW IMPACT DEVELOPMENT DESIGN STANDARDS AND STORM WATER MANAGEMENT PRACTICES.

Present before the Commission was Mr. James Bray, member of the L.I.D. Task Force, Mr. Bucky Klösser, attorney at Curtin & Heffner and Mr. Geoff Goll, member of the EAC and principal in an environment engineering firm. Mr. Bray stated the L.I.D. is of vital importance to the people of Lower Makefield Township as well as those in the surrounding communities. Mr. Bray thanked the Planning Commission for their input from the prior two meetings and changes which have been incorporated into the ordinance. He also wanted to make mention of the contributions of Mr. Majewski to the task force.

Mr. Majewski addressed the comments and concerns of Mr. Cylinder. On the issue of waivers, Mr. Majewski stated that it is already in the subdivision land development ordinance as it currently exists. The operation maintenance issues and enforcement procedures are in the new storm water management ordinance for the Delaware River South and the Neshaminy Creek Watershed with penalty provisions which was adopted in March, 2006. Mr. Cylinder stated that some of the language in storm water management did not seem to have much "teeth" to it. Mr. Majewski stated this was purposely done make this more of an explanatory document guiding people on the philosophy of storm water management. If further explanation is needed, it is contained in the actual storm water management ordinance for the Delaware River South and the Neshaminy Creek Watershed.

Mr. Cylinder brought up the issue of enforcement. Mr. Majewski stated the Township would only become involved if the people who own the property and the facility do not maintain them. If this occurs, the Township will send notice and if action is not taken the Township will have the right to assess the property owner for the work to be done and the Township will then be responsible for correcting the problem. Mr. Majewski stated that some states are choosing to spread water throughout a development rather than letting it collect in a detention basin at the bottom of the site. Mr. Goll stated that developers are required to do this. He suggested reporting yearly requirements; however, the Township would be faced with a huge administrative burden. This issue will have to be addressed in the ordinance review on overall maintenance. Mr. Goll also stated that requirements will be in deed restrictions and language when the property is purchased. Mr. Smith stated that many people do not read deeds.

Mr. Smith expressed concern over maintenance by homeowners since the township now is responsible for maintenance and monitoring these facilities. Mr. Dickson stated that there is not a problem in enforcing but a question on how onerous it is on the Township to follow through with the enforcement. Mr. Goll stated that people have to understand that in our existing detention basins maintenance will be necessary and money will need to be spent. He does not see future systems requiring any less maintenance. Mr. Bush commented on enforcement mechanisms for maintenance of retention basins. He believed this would rely on resident observation and reporting to the Township. Mr. Smith is concerned that the planning department will be overwhelmed with observation and identification of these problems and correction. Mr. Bray stated that the EAC will be taking a major role in public education regarding detention basins. Mr. Majewski stated the goal of the L.I.D. ordinance is to prevent the generation of storm water and by

pushing housings close to the road and reducing the roadway widths the generation of storm water in and of itself will be less than it would be under today's ordinance. Mr. Goll stated that the developers should be pushed for zero maintenance. An option would be clustering and consuming less land.

Mr. Smith stated that whatever this Commission can do to move this ahead and make all the appropriate modifications be done as soon as possible for consideration of the Board of Supervisors. This ordinance is definitely needed in Lower Makefield Township.

Mr. Bush asked Mr. Klosser if there have been challenges to this type of ordinance in other townships. Mr. Klosser has done some research and has not found any since it is still primarily in the implementation phase. Mr. Bray referred to a challenge in New Jersey regarding the buffer surrounding Class A streams. The buffer width was lengthened to 300'. A developer's association sued the state of New Jersey over this buffer width and the high court ruled in favor of the municipality and the 300' buffer remained.

Mr. Smith asked Mr. Bray is it his belief this will not act as a major disincentive for developers. Mr. Bray stated that the standards that are presented do not preclude development but invite responsible development.

Ms. Friedman questioned the Saldo ordinance Category 12, item C. Ms. Friedman requested that the word setbacks be added. Mr. Donaghy stated that the setbacks are set forth in the zoning ordinance.

Mr. Dickson expressed concern regarding storm water generated off-site from prior development that did not meet the L.I.D. Mr. Majewski stated that it is not possible to make a developer control someone else's water. If they are conveying it into their system, then they have to make sure they have enough room to handle it in addition to their own storm water.

Mr. Dickson stated that there could be legal challenges regarding redevelopment. Mr. Dickson brought up the point what is the definition of redevelopment. Mr. Majewski stated that in the Delaware River South Ordinance it is defined as the construction, alteration or improvement exceeding 5,000 sq. ft. of land disturbance performed on sites where existing land use is commercial, industrial, institutional or multi-family residential. Neshaminy Creek Watershed Ordinance defines redevelopment as development that requires demolition or removal of existing structures or impervious surfaces at a site replacing it with new impervious surfaces. Maintenance activities such as top layer, grinding or repaving are not considered to be redevelopment. Interior remodeling projects and tenant improvements are considered to be redevelopment. Utility trenches and streets are not considered to be redevelopment unless more than 50% of the street width including shoulders is moved or repaved. Mr. Donaghy commented that if the term redevelopment is going to be used in either of these two ordinances a definition has to be incorporated even if it is by reference to the Delaware River South Ordinance or the Neshaminy Creek Watershed Ordinance.

Mr. Smith asked if both attorneys present are comfortable with the language in these ordinances with respect to interpretation to prevent challenges on a legal basis. It was agreed that legal challenges can never be avoided.

There was no public comment.

Ms. Friedman moved, Mr. Dickson seconded and it was unanimously carried to approve the L.I.D. Ordinance taking into account all points of discussion to add the word setbacks in the Saldo Ordinance Category 12 sub point (c), as well as, to delete the word and definition of redevelopment.

VII. CONSIDER PROSPOSED ORDINANCE AMENDING THE LOWER MAKEFIELD TOWNSHIP CODIFIED ZONING ORDINANCE OF 1996. AS AMENDED SO AS TO PROVIDE FOR LOW IMPACT DEVELOPMENT STANDARDS.

Mr. Dickson moved, Ms. Friedman seconded and it was unanimously carried to approve the ordinance as presented amending the Lower Makefield Township Codified Zoning Ordinance of 1996 to Provide for Low Impact Development Standards without change.

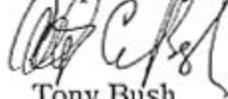
There was no public comment.

VIII. OTHER BUSINESS

Regarding Community Day, Mr. Smith suggested the Planning Commission utilize the presentation by Mr. Majewski as a tool to educate the public on the benefits of L.I.D.

There being no further business, Ms. Friedman moved, Mr. Bush seconded and it was unanimously carried to adjourn the meeting at 8:50 p.m.

Respectfully Submitted,



Tony Bush  
Secretary