

TOWNSHIP OF LOWER MAKEFIELD  
PLANNING COMMISSION  
MINUTES – OCTOBER 24, 2016

The regular meeting of the Planning Commission of the Township of Lower Makefield was held in the Municipal Building on October 24, 2016.

Mr. Tracey called the meeting to order at 7:35 p.m.

Those present:

Planning Commission:            John Tracey, Chairman  
    Chad Wallace, Secretary  
    Craig Bryson, Member  
    Charles Halboth, Member

Others:                                Steve Ware, Keystone Municipal Services  
    Barbara Kirk, Township Solicitor  
    Maryellen Saylor, Township Engineer  
    Bill Zadrovicz, Township Traffic Engineer  
    Judi Reiss, Supervisor Liaison

Absent:                                Dawn DiDonato-Burke, Planning Commission  
    Vice Chair

APPROVAL OF MINUTES

Mr. Bryson moved, Mr. Halboth seconded and it was unanimously carried to approve the Minutes of September 26, 2016 as written.

MOTION TO CONTINUE KAPLAN PRELIMINARY/FINAL MINOR SUBDIVISION PLAN

Mr. Tracey stated there was a request for a Continuation, and he read the request addressed to Mr. Ware into the Record asking for the Continuance so that they have time to work with the Township engineer on technical items. Ms. Kirk asked Ms. Saylor if she felt they would be ready for the next meeting of the Planning Commission or would it be more productive for the Applicant to carry it to the second meeting in November; however, Ms. Saylor was not sure.

Mr. Ware stated when he spoke to the Applicant he seemed to feel he would need to meet the second meeting in November.

Mr. Bryson moved, Mr. Halboth seconded and it was unanimously carried to continue this matter to November 28, 2016.

MATRIX AMENDED FINAL LAND DEVELOPMENT PLAN DISCUSSION AND MOTION

Mr. Joseph Blackburn, attorney, was present with Mr. Karl Janetka, engineer. Mr. Blackburn stated the property that is the subject of tonight's Application has a long history. He stated the property was initially approved as part of a Master Plan for development in 1988, and the Master Plan contemplated largely office building uses. He stated the property was then sold to Matrix; and upon receipt of that property, Matrix submitted a Revised Land Development Plan in 1999.

Mr. Blackburn stated the 1999 Application was the subject of extensive litigation which culminated in a Settlement Agreement dated May 18, 2006 which provided for the construction of no more than 600 residential units with one third being single-family residential dwellings, one third to be townhome residential dwellings, and one third to be condominium units. Mr. Blackburn stated the single-family residential portion and the townhome residential unit portion were then sold to Toll; and he added it his understanding that they are close to completion of construction of those two phases. Mr. Blackburn stated this leaves the one hundred sixty-five condominium units which was the amount that was ultimately approved, to be constructed. Mr. Blackburn stated it is that portion of the project that they are discussing this evening. He stated Matrix has submitted an Amended Final Land Development Plan whereby it proposes to construct in lieu of the one hundred sixty-five condominium units a sixty-two unit townhome dwelling development. He stated this impact will be substantially less. Mr. Blackburn stated this will also be an age-qualified development as are the other two developments. He stated the condominium units are no longer feasible as an age-qualified development so they are proposing the revision to the sixty-two unit townhomes in lieu of the one hundred sixty-five condominium units.

Mr. Blackburn stated they have received two review letters for this Amended Plan one from Boucher & James, the Township engineer, dated August 16, 2016 and one from TPD, the Township traffic engineer, dated September 16, 2016 which they would like to discuss this evening. He stated they are mostly "will comply" as the Settlement Agreement comments, Zoning Ordinance comments, Subdivision and Land Development Ordinance comments, Stormwater Management Comments, Miscellaneous comments, and the Plan Revision comments are all "will comply."

Mr. Bryson stated he would like to have there be a review of the Master Plan, and then see the deviations. He stated there are an exorbitant amount of Waivers being requested which normally would be of concern; however, how it relates to the Master Plan and what they are proposing may help.

Mr. Blackburn asked Mr. Janetka to review the one hundred sixty-five unit condominium development that is currently approved versus the sixty-two unit townhome development they are proposing.

Mr. Janetka showed the original Plan for the 2006/2007 Approval which shows the one hundred sixty-five condo plan made up of eleven buildings, fifteen units per building, three stories each. He showed the road network consisting of a main entrance off of Big Oak Road, a cul-de-sac, and a road connection to the Toll Bros. development on the other side of the trees and wetlands which he showed on the Plan. He stated the Toll townhouse Development is what is currently being built at Regency at Yardley. He showed the location of the single-family homes at Regency at Yardley as well.

Mr. Blackburn stated the Master Plan shows a through lane which would go through to the single-family homes, but they are now proposing a cul-de-sac; and Mr. Janetka agreed.

Mr. Janetka showed the proposed Plan which has a similar road system with the same entrance. He stated instead of the through road that would have connected to the development on the other side of the wetlands, it will terminate in a cul-de-sac. He stated they have provided an emergency access off of the eastern cul-de-sac. He stated this is the major difference from the original Plan besides the density so there will be a less-intrusive footprint, and it does not propose any more natural resources disturbance than there was on the original approved Plan. He stated they will also have less impervious area.

Mr. Bryson asked if the developable area is more restricted on this Plan than it is on the Master Plan. He asked if natural resources due to new regulations restrict the developable piece. Mr. Janetka stated it is basically the same “canvas.”

Mr. Blackburn stated there is no increased disturbance of the natural resources over what was previously approved.

Mr. Bryson asked why the decision was made to put the cul-de-sac in instead of continuing up to the single-family homes. Mr. Blackburn stated it was to further decrease the impact. Ms. Reiss stated this will then be less impervious surface.

Mr. Tracey asked for further discussion on the emergency access. Mr. Janetka showed on the Plan where they will have a 12’ wide paved surface, and they will add bollards as this was a comment in the Boucher & James letter. He stated it will be traversable by emergency equipment; and if there is an accident that blocks the exit, it can be used by the people who live in the development.

Mr. Bryson stated it appears there is an opening going to the single-family homes where a road would fit. Mr. Blackburn stated it is based on the width; however, there are also grading issues. Mr. Blackburn stated they are asking for a Waiver to have a 24' road. Ms. Reiss asked if there would be less impervious surface the way they are proposing it, and Mr. Janetka stated that is part of it and they also have to be mindful of the wetlands and the wetlands buffer. Mr. Janetka stated the intent was for it to be more of a private development, and they did not want to have the cut through.

Mr. Bryson asked Ms. Saylor about the necessary additional width for the grading of the roadway that might preclude a road from going through; and Ms. Saylor stated she would have to review the Grading Plan.

Mr. Janetka noted Item #10 from the August 16, 2016 Boucher & James letter, and the first Waiver requested is SALDO 178-40.A which requires residential roads to have a right-of-way width of 56 feet and a cartway width of 26 feet. He stated they are proposing 24 foot wide roads and no right-of-way, and the roads will be private to be maintained by the HOA.

Mr. Janetka noted #11 and a Waiver is requested to 178.41.B.(2) which requires a minimum center line radius of 150 feet for horizontal curves on local streets and this Plan proposes a center line radius of only 115 feet along the western side of Road B. Mr. Janetka stated this road network is very similar to the previously approved Plan from 2006; and considering the amount of traffic and the no-cut throughs, they do not anticipate there will be a problem with excessive speeds. He stated in their opinion the horizontal curve which is slightly less than the 150 feet should not be a problem.

Mr. Blackburn stated the next Waiver request, #12, deals with the emergency access, and Mr. Janetka agreed. Ms. Saylor stated they would recommend that the Fire Marshall look into this to make sure he is okay with that. Mr. Janetka agreed; and he added that if the Fire Marshall needs it to be a little bit wider, they have the ability to do that. Ms. Kirk asked for clarification on the Waiver request; and Mr. Janetka stated it is to only provide one public entrance which he showed on the Plan, and one emergency access which has been added to the cul-de-sac.

Mr. Janetka stated #13 relates to cul-de-sac lengths which are not to exceed more than 440 feet in length; and both of the cul-de-sacs do exceed that length, with one being 620 feet and the other 710 feet. Mr. Blackburn noted that the cul-de-sac to the right was on the approved Plan, and Mr. Janetka agreed adding it is similar to the previously-approved Plan.

Mr. Janetka stated #14 specifies that cul-de-sacs have either an asymmetrical bulb to the left or a symmetrical bulb, and their cul-de-sacs are bulbs to the right because it worked better that way for the lay out. Mr. Bryson asked if the Fire Marshall is satisfied with that; and Ms. Kirk stated since she does not believe the Fire Marshall has reviewed it yet, any Approval should be subject to the Fire Marshall's review. Mr. Bryson stated they did provide a turning template Plan within the Plan set that showed that emergency vehicles were able to traverse that. Ms. Saylor stated with regard to the turning templates they did not have one for the emergency access so they will be asking for that.

Mr. Janetka noted Item #15 which requires five foot wide sidewalks with a five-foot wide planting strip, and they are proposing four foot wide sidewalks with a four foot wide planting strip. Ms. Saylor stated ADA recommended five feet, but they will allow four feet as long as every so much distance there is a five foot wide passing area. Ms. Saylor stated with the driveways that is acceptable as long as they have no more than 5.00 longitudinal cross slip She stated the Plans show 1/4" per foot and the other detail says 2.0; and they want them both to say 2.00%. Mr. Janetka agreed to do this.

Mr. Bryson asked if there is a dimensional or any other requirement why they are losing two feet. Mr. Bryson stated the new ADA Standards are pushing for 5 feet because if there is a wheelchair-bound pedestrian within 4 feet, that leaves a minimum for crossing. He stated if this is an age-qualified development, there may be people who may have apparatus. Mr. Halboth stated he feels there should be a compelling reason for age-restricted housing to have this type of a Waiver request. Mr. Janetka stated in this case due to the lay out of the driveways, there are several driveways right in a row next to each other so they would have a walkable sidewalks and plenty of areas that are considered passing areas on the driveways. Mr. Bryson stated he did look at the Grading Plan, and they will not have 2" cross slopes because the driveways come in steeper into the sidewalks in some cases; however, Mr. Janetka stated they will have it in the apron part between the driveways for four feet so that makes four feet plus another four feet. Ms. Reiss stated her concern is if there is a wheelchair with someone walking along side, someone will be walking in the grass at least a good part of the time. She stated she feels the five feet makes a lot of sense. Mr. Janetka stated there are very few areas of sidewalk on the Plan that do not get wider because of the driveway apron. Mr. Bryson stated if there is not that much sidewalk in between them, it should not be a hardship to have it at five feet. Mr. Wallace asked why they have to go to four feet, and Mr. Janetka stated in order to provide a minimum twenty foot driveway and the size of the units, they did not want to intrude into the natural resource; and the extra foot or two does make a difference. He stated they felt since there is a situation where there is a sidewalk that is really almost eight feet wide almost everywhere except for the areas in the between the units which are very short,

they felt there were plenty of areas that were considered passable. Mr. Bryson stated his response is that if it is not that much more sidewalk, they should just make it five feet. Mr. Tracey asked if there was a calculation made to determine that there was a reason they needed to go to four feet for impervious surface considerations; and Mr. Janetka stated while they were trying to trim impervious everywhere they could, they did not do this just so that they would have one foot less impervious on the sidewalk. He stated it was due to the width of the road, the width of the grass strip where it exists plus the sidewalk being four feet, and another twenty feet for the driveway at a minimum, plus the stagger and length of the units produces a much less wide footprint. He stated while it is only one foot, it is also another foot on the other side; and it does add up when you are talking about the back of the units being pushed closer to the wetland buffer which they tried to avoid doing.

Mr. Wallace stated he feels since this is an age-qualified development, he feels they should have the most width of sidewalk available. Mr. Blackburn stated the ADA does provide for the reduction, and they have chosen to provide the “jut-outs” as opposed to the uniform five feet wide sidewalks for a variety of reasons.

Ms. Reiss stated she is concerned that with the jut-outs if they plant a bush, etc. you could not even walk in the grass. She stated she wants to make sure that it is accessible since they need accessibility for this age group.

Mr. Janetka stated Item #16 states that all Subdivisions or Land Developments in any Zoning District shall be required to establish bike paths; and they do not propose a bike path, and are requesting a Waiver. He stated they do not feel it would be relevant to this type of community to connect with the bike path, and they are not sure where it could even connect. Ms. Reiss stated the bike path is for everyone in the Township, and not just one community. She stated Big Oak does go toward other parts where there are bike paths or proposed bike paths. Ms. Reiss stated the bike path would not have to go through the development, but it could go around the perimeter. Mr. Blackburn asked if there are any bike paths currently associated with the other two portions of the development, and it was noted that there is not and no sidewalk either. Ms. Reiss stated this is an area where people would like to get to the shopping area.

Mr. Janetka asked if they were going to request a bike path, where would they like it to be. Mr. Bryson asked if there is any public area within the Matrix Master Plan, and Ms. Kirk stated there is an open space designation. Ms. Reiss stated there was to be a pavilion on the open space; however, she does not feel it will be built there, although the open space land will be there. Mr. Benedetto stated he was contacted by Gary Cruzan, from Residents Against Matrix, who is extremely bothered by the fact that the Township is attempting to circumvent the Agreement so anything with

regard to the pavilion is not going to change unless the Residents Against Matrix sign off on it. Ms. Reiss stated she was told today there is an Agreement, that while the open space was going to stay, because there was no access to it or parking to get to it that instead of the huge pavilion being built there, they agreed to build a pavilion either in Memorial Park or someplace else.

Ms. Kirk stated what is being presented is a modification of a Settlement Agreement that was submitted and approved by the Court. She would recommend to the Planning Commission that anything they would propose by way of recommending approval of this Plan, that it clearly be subject to the submission of a Revised Settlement Agreement or an Amended Settlement Agreement signed by all of the original Parties and filed with the Court. She stated absent that, any Approval of this Amended Plan could be subject to litigation and a request for enforcement of the original Settlement Agreement. Mr. Blackburn stated he should have mentioned this at the offset as it was his understanding that any approval would be subject to approval by all the Parties of any revision to the original Settlement Agreement made in 2006.

Mr. Bryson stated in general going from condos to townhomes would be a justification to amend the Agreement, and Mr. Blackburn agreed.

Ms. Kirk stated this will have to go to the Supervisors and any approval by the Supervisors would be subject to a Condition of a written Agreement. She stated the Settlement Agreement specifically addressed open space and the construction of a pavilion, so any change to the original Plan would also have to be changed in the Settlement Agreement and filed with the Court.

Mr. Bryson stated he is not sure there is an appropriate avenue for a bike path in an age-restricted community. Mr. Reiss stated they could pay a Fee-In-Lieu of a bike path, and Mr. Bryson agreed that should be considered by the Planning Commission and the Board of Supervisors. Ms. Kirk stated when a Waiver is requested from the provisions of the Subdivision and Land Development Ordinance, the Township generally reserves the right to request a contribution in lieu of performance.

An individual from the audience asked to be shown where the pavilion is to be located. Mr. Janetka stated it was on the Master Plan, and he believes it is to be where they are building Regency at Yardley. Mr. Janetka stated there is no pavilion proposed by this Applicant making the presentation this evening. Ms. Kirk stated she believes the pavilion area is Toll's responsibility, and Mr. Janetka stated this is his understanding as well.

Item #17 was noted which specifies that parking lots shall be separated from buildings by a minimum distance of 20 feet or more. It is noted that this is in conflict with the Zoning Ordinance which allow parking to be located within 15 feet.

Mr. Janetka stated they are asking for this Waiver more procedurally than anything else as their off-street parking areas do not encroach within 15 feet of the units, and they are in compliance with the Zoning Ordinance. He stated they are not parking lots. He stated they are asking the Waiver to be granted for the 20 feet from SALDO because of the conflict between the two Ordinances. Ms. Saylor stated she did not have a problem with going to 15 feet, and they have seen this before.

Item #18 indicates that each tree must have a setback of at least 4 feet from curbs and sidewalks, but not more than 15 feet beyond the street right-of-way and be planted outside any utility easements in accordance with Chapter 178-81.D.

Mr. Janetka stated they are asking for this Waiver due to the configuration. He noted Big Oak Crossing in Middletown is a similar development to what they are proposing with groups of townhomes together with connected driveways. He stated what you end up with is small areas between the buildings to put street trees as there is no other place to plant them. He stated what they have done is calculate the amount of street trees that would be required based on the linear feet of road, and placed the trees between the buildings but not necessarily along the street where you would see a typical street tree planted. Mr. Blackburn stated they are relocating the required number of trees, and they are not asking to plant any less than what they are required. Mr. Janetka agreed adding they are just asking to redistribute them which is based on the lay out of the townhome development.

Mr. Bryson asked the width of the driveway for each unit, and Mr. Janetka stated it is 20 feet. Mr. Bryson stated they are going to have a line of garage doors with driveways that align the whole front of the building. Mr. Janetka stated the architecture will be off set, and it will not be straight across the front. Mr. Bryson stated they will still be looking at a building that has four to five units per building with a line of garage doors with a driveway going up. He stated he feels there is nothing more important than to have a street tree to break that up. Mr. Janetka stated there is a 5' gap between each of the driveways. He noted the Big Oak Crossing Development which has a similar lay out. He stated the 5' grass strip is where they will have most of the sanitary and water utilities so if there is a tree in that location it will encroach on both the driveways and will interfere with the services to each building, and this is the main reason they are proposing to plant the trees elsewhere. He stated he feels the architecture can be modified to soften the look that Mr. Bryson is describing. Mr. Blackburn stated the buildings themselves are stepped. He stated they will have to come back with something that the Township is happy with, but the intent was to step them which varies the length of the driveways and does vary the straight across the front look Mr. Bryson is describing. Mr. Janetka stated at Big Oak Crossing, they actually got rid of the grass strip, and put in decorative pavers that is a different color than the driveway.

Item #19 states that berming between two and five feet in height shall be required for Type I residential/non-residential separation buffers in accordance with Chapter 178.82.B.(2). Mr. Janetka stated they are asking for a Waiver to eliminate the berming at locations he showed on the Plan. He stated on the cul-de-sac, they do not have room for the side adjacent to the existing office building. He noted another location where there is an empty parcel owned by Matrix which is within Middletown, and is Zoned Commercial. He stated they have provided significant buffers as shown on the Landscape Plan. He stated they are not asking to reduce the buffer, they are just asking to reduce the grading associated with the berming. Mr. Janetka stated they are proposing not to have a berm at all, and they will just use landscaping as the buffering mainly because of the short distance between the back of the units and the tract boundary.

Mr. Janetka stated Item #20 is a technical Waiver, and the Ordinance requires the edges of slopes to be a minimum of five feet from property lines or right-of-way lines in order to permit the normal rounding of the edge. He showed the area on the Plan where they are requesting the Waiver for the cul-de-sac and the grading associated with the buildings along a side he showed on the Plan. He stated it does encroach within five feet; however, Matrix owns the property. He showed an area which is already fully developed, and stated this should not have any impact.

Item #21 relates to Chapter 178.95.D.(a). that states no excavation or fill be made with a face or surface slope steeper than four horizontal to one vertical. Mr. Janetka stated they are proposing a three to one slope along the basin and areas where the cul-de-sac ends, and this was done to reduce grading and the amount of the impact on the wetlands buffer and other associated natural features. Mr. Blackburn stated this was to minimize the impact on the natural resources toward the rear of the property. Mr. Janetka was asked to show the location of the basin, and he showed it on the Plan. He stated the location is very similar to the location on the previously-approved Plan.

Mr. Blackburn stated they will comply with all other items in the Boucher & James letter. He noted the TPD letter dated 9/16/16 Comment #4 regarding sidewalks. Mr. Janetka stated he did speak to the TPD representative about this, and the reason they are not proposing sidewalks along the frontage was because it would have no place to go. He stated there is no sidewalk along the frontage for the office complex. He stated they are proposing to bring sidewalks up to the curb radii and provide crosswalks to connect to the Regency at Yardley Development across the street. Ms. Reiss asked if they are across from the CVS, and Mr. Janetka stated they are further back. He stated there are no sidewalk anywhere around them along the frontage. Mr. Bryson stated if they are bringing the sidewalks to the intersection, it should be signed appropriately; and Mr. Janetka stated he has talked to TPD about this, and the developer will provide whatever signage is required by TPD.

Mr. Blackburn stated he does not believe there was any negative feedback from Boucher & James about any of the Waivers which have been requested, and Ms. Saylor agreed.

Mr. Tracey stated he feels the developer needs to take into consideration the feedback they were given about the width of the sidewalk.

Public comment was accepted at this time; and Mr. Rifkin stated he lives in the Toll Bros. community and he is confused about the road they discussed going to Regency at Yardley, and he also asked about a public pavilion. Mr. Janetka stated what he indicated was that they are not proposing to connect the road through as was shown on the original Plan, and they are proposing that it be a cul-de-sac with emergency-access only.

Ms. Kirk stated with regard to the pavilion, it is very clear in the Settlement Agreement that was reached between the Township, Matrix, and the residents opposed to the Matrix project that five acres along Old Oxford Valley Road were to be conveyed to the Township with a pavilion-like structure to be constructed of 2,500 square feet in size. She stated the Agreement specifically states no change in the size of the pavilion shall be made without the Approval of all Parties to this Agreement and in addition to the pavilion there will be picnic benches provided. She stated this was part of the Court Order in 2006. She stated part of the project was sold by Matrix to Toll Bros. to develop, and the open space and pavilion are on the Toll Bros. side and not the Matrix side which is being presented.

Ms. Reiss stated they are aware that they would have to have Court approval but there is no real public access to where the proposed pavilion would be located. She stated it would just be something that would have to be taken care of. She stated they would have to go back to the Court for Approval to keep the open space where it is but have the pavilion put somewhere that has more public access such as Memorial Park or the Snipes Tract where they are planning athletic fields.

Mr. Blackburn stated they are not proposing to do anything with that since it is not within the confines of their property being discussed this evening. He stated it is connected to this only because it is mentioned in the Settlement Agreement.

Ms. Debbie Stevens stated she lives on the other side of the wetlands, and she asked if the wetlands area will be disturbed. Mr. Janetka stated there will be nothing more than what is already approved. He stated the wetlands area will not be touched. He stated there will be some minor tree removal along the perimeter of the developed area, but within the wetlands area, they are not removing any trees.

Ms. Donna Soose asked the dimensions of the wetlands, and Mr. Janetka showed the wetlands and the wetlands buffer on the Plan. He stated they are only encroaching in a minor way into the wetlands buffer only to remove whatever is minimally necessary to grade out. Ms. Soose asked the dimension at the widest part, and Mr. Janetka estimated it to be between 350' and 400'.

Ms. Stevens stated there is an area where land has already been cleared, and she asked if there is anything to show where the wetlands end, and Mr. Janetka stated flags may still be there but they were put in years ago.

Ms. Kirk reiterated the wetlands area is not being recreated or disturbed, and it was designated on the original concept plan that was presented to the Township as part of the Settlement of the issues with the Matrix project; and it is not something new that has come up. Mr. Janetka stated while this is a different Plan and is not hatched the same, it is the same area; and there will not be any more or less encroachment into that area.

Mr. Steve Miller asked the closest distance from the cul-de-sac on the right hand side to where the existing residents are at Regency, and Mr. Janetka estimated it to be 500' to 600'.

Mr. Schor stated the problem is they are trying to determine where their development is compared to the Plan.

A short recess was taken at this time so that the residents present could look at the Plan.

Ms. Susan Kaplan, Regency at Yardley, stated she does not feel any Waivers should be give on the Township's portion of preserved land. Ms. Kaplan stated Mr. Janetka mentioned changing the Township portion in one part of the Plan, and there is a buffer zone he is talking about modifying. Mr. Blackburn stated they are not seeking any Waivers in that regard. Ms. Kaplan stated Big Oak Road is a two-lane highway which is very congested, and the other part of her development is being built right now. She stated in the next few years another approximately three hundred fifty cars will be going to be coming out onto Big Oak Road, and she stated she feels someone has to address the infrastructure before they build anything else as they are creating a "nightmare." She stated it is a major bottleneck. Ms. Kaplan stated when there is a commercial train with over two hundred cars, it is backed up; and there have been a number of accidents. She stated the Township as the responsible entity needs to deal with Big Oak Road before anything else is approval. She stated eventually the cars will back up onto Oxford Valley.

Ms. Kirk stated what is being presented is a reduction in what has already been previously approved. She stated they were entitled to construct two hundred age-restricted condo units on this parcel, and they are proposing a significant reduction. She stated the Settlement Agreement addressed road improvements along Big Oak and Oxford Valley Roads that were to be done, and she believes they have been done and that increased the through-lanes on Big Oak Road and increased the width of each of the shoulders. Ms. Kirk stated there was also supposed to be submission to PennDOT to see if further signals were to be required.

Ms. Paula Mezick, Regency at Yardley, stated after you turn off of Oxford Valley onto Robert Sugarman Road the road then narrows; and when the train stops, there is a line up backing up onto Oxford Valley. She stated with all the new residences to be built something has to be done about the infrastructure or there will be “major catastrophes.”

Mr. Miller asked how much percentage of the wetlands will be taken down at an area he showed on the Plan. Mr. Janetka stated any woods that are in a designated wetland area will not be disturbed; and only a minimum amount will be disturbed along the edge of the buffer and it is within the Township requirements.

Mr. Janetka stated the buffer is 50’ wide, and they cannot disturb it any more than it would take to reduce it to 30’ so at most they can disturb 20’; although in most cases, they are not disturbing it at all, and they are only doing it in isolated areas. He stated in other areas where they could disturb it, they are actually leaving the trees so that buffer is artificially wider in those locations. He stated they do not want to take out any more trees than necessary to build what they are proposing. Mr. Janetka stated he does not have the percentage being requested by Mr. Miller. Mr. Tracey stated they have to go before the Board of Supervisors after a recommendation from the Planning Commission.

Mr. James Reich asked if they could add trees to make it more of a buffer so that people who live in this area will not be looking at the backs of houses, and Mr. Janetka stated in order to put more trees between the new units and where Mr. Reich is, they would have to physically remove more trees. He stated they are only disturbing a minimum amount behind the units. He showed the area on the Plan where they will disturb a minimal number of trees. Mr. Janetka stated the wetlands extend onto the parcel where the residents at Regency at Yardley live. Mr. Reich showed an area where he would suggest trees be added; however, Mr. Janetka stated that is not the Applicant’s property.

Ms. Kim Hanshaw stated her family has owned property on Old Oxford Valley Road for over ninety-five years. She stated she is concerned about water run off and if there will be any berms installed to conceal her. She stated their business is a truck dealership which has been there for twenty-five years and is totally approved. She stated she is concerned since when all the development happened, the water runs south onto her property; and they have had to install retention basins. She stated she is at the corner of Old Oxford Road and Big Oak Road. She stated she would be willing to have them plant trees on her property.

Ms. Kirk stated the engineer did issue a review letter consisting of seven pages, and a lot of the comments from the engineer for the Township addressed Zoning, Subdivision, stormwater maintenance, etc.; and the Applicant has indicated they will comply. She stated there is a requirement that the engineer has to approve that the stormwater runoff for the property before development is not less than the stormwater run off after development. She stated the Applicant is also going to be responsible to enter into an Agreement with the Township regarding stormwater run off. She stated the items that were discussed this evening were dealing with Waivers, but there are numerous other requirements they have to meet under the Township Ordinances that were not specifically discussed tonight. She stated a copy of that review letter is available at the Township if anyone wants to look at the comments.

Ms. Hanshaw stated she is concerned that in the past from what was already done, there were problems that were not addressed, and she took care of those issues on her property herself; and she wants to make sure that they are taking the water run off into consideration since it does come south.

Mr. Benedetto stated he feels Regency is too congested and too dense, and when he has driven there, he has been unable to turn his car around. He stated they are asking for Waivers for smaller roads and an emergency access, and he feels those are the two biggest problems at Regency. He stated the Township is responsible, and it is a not a good situation at Regency the way it is built. He stated he feels this is where they should stop it, and the mistakes that were made at Regency should not be repeated. He stated while some of the Waivers being requested are benign, some of them are the same problems that were created at Regency.

Ms. Reiss asked about the difference in impervious surface, and Mr. Janetka stated the amount originally approved was 28%, and this proposal is for 27.6%.

Mr. Mark Paroly stated if the roadway is allowed to go through Regency, it is going to force a lot of traffic to go through there to avoid the traffic light. Ms. Reiss stated she feels this is why they wanted to create two cul-de-sacs so that there is not a cut through.

Mr. Tracey stated they must remember that whatever transpires must be in accordance with whatever has already been approved by the Court, and he feels Ms. Kirk has come up with a plan for a Motion as to how to address that. He also stated this is just the first step in a multi-step process.

Ms. Kirk stated a recommendation for approval from the Planning Commission would be subject to compliance with all conditions set forth in the Township engineer's review letter of August 16, 2016 with Conditions that 1) any modification of the original Settlement Agreement as reflected in this Amended Plan must be confirmed either by a written Amendment to the Settlement Agreement signed by all Parties or by a separate Court Order; 2) that the Waivers as requested be subject to review by the Township's Board of Supervisors subject to obvious comments from the Township's Fire Marshall and that any Waivers requesting lack of sidewalks or bike paths be approved with a fee paid in lieu of the installation of those items; 3) Further compliance with the rest of the comments as set forth in the engineer's review letter.

Ms. Kirk stated another proposed Motion would be approval of the Amended Land Development Plan subject to a written Amended Settlement Agreement signed by all Parties or a Court Order and requiring no Waivers be approved and demanding that Applicant comply with all provisions of the Township's Ordinances that regulate this Plan.

Ms. Kirk stated the third option for a Motion would be recommend Denial of the proposed Amended Land Development.

Mr. Bryson asked the Applicant if they would be willing to put in the five foot sidewalk; and Mr. Tracey stated he feels that is premature since this is a first step, and issues such as that are something that the Board of Supervisors will determine, and he does not feel it is within the Planning Commission's purview to get into that kind of minutia. Mr. Bryson and Mr. Wallace disagreed, and Mr. Wallace added he feels the Planning Commission should be giving their opinion to the Board of Supervisors as to what they feel is appropriate. Ms. Kirk stated this is why she provided three different options.

Mr. Bryson stated he feels there is a fourth option where they would comply with certain Waivers as he felt the Planning Commission was okay with some of the Waivers. Mr. Bryson stated he would recommend Denial based on working out some of the issues they discussed with some other options such as widened sidewalks, street trees, etc. Ms. Reiss stated she feels some of those things would come in a letter to the Board of Supervisors, and the Planning Commission should send the Board a letter with their recommendations so that the Board could discuss each one of those recommendations and be advised as what the Planning Commission feels is right as the Board takes the Planning Commission's advice a lot.

Ms. Kirk stated if the Planning Commission has significant concerns and does not believe Waivers should be granted on certain items, they could still make a recommendation for approval of the Plan subject to the Waivers except for certain Waiver requests and recommend that the Applicant comply with the Township Ordinance for those specific Waivers.

Mr. Halboth stated the letter of August 16 is just a reciting of the Waivers requested by the developer, and he would like to see on a couple of the Waivers some engineering recommendations as far as whether this is a prudent course of action or not.

Mr. Bryson stated he would like to give the developer some guidance. Mr. Blackburn stated they have received a lot of feedback, but he added the discussions they had with the Township engineer did not indicate they had any expressed concerns over any of the requested Waivers; and Ms. Saylor agreed. Mr. Bryson stated the Planning Commission needs to give the developer guidance; and if it takes a workshop to come to a general consensus on what Waivers they would recommend and which they would not recommend they could do that or they could do it tonight.

Ms. Kirk stated the Planning Commission would have to do this at a public meeting. She stated another option would be to suggest to the Applicant a Motion that this be continued to the next Planning Commission meeting with the Applicant going back and revisiting the specific Waivers that the Planning Commission disagrees with. She stated the developer should provide a more detailed explanation as to why those Waivers should be granted as opposed to compliance with the Township's regulations. She stated the Planning Commission could also request more input from the Township engineer as to whether a Waiver is appropriate or not.

Mr. Tracey asked if they would agree to a Continuance. Mr. Blackburn asked what additional information they could provide. Mr. Tracey stated he feels the Planning Commission and the Township should be providing the Applicant clarification as to some of the disagreements they have with the Waiver requests.

Mr. Blackburn stated he could make a Motion for Approval conditioned upon the ones he feels should not be granted, and the rest of the Planning Commission could agree or disagree.

Ms. Kirk stated if there is a Motion to be made granting Approval of the proposed Land Development Plan as presented by Matrix this evening it would be subject to:

- 1) A fully-signed Amendment to the original Settlement Agreement signed by all Parties or by Court Order;
- 2) Compliance with all requirements set forth with respect to the Township engineer's review letter dated 8/16/16;
- 3) With regard to the Waivers Items #10 through #21 the Waivers be permitted except for: and the Planning Commission would then list the ones they do not feel should be granted.

Mr. Bryson stated the first one would be Chapter 178-47.A.(1) which is Item #15 requiring the minimum width of all sidewalks being five feet in lieu of four as proposed. Mr. Bryson stated the next one would be #16 that either a bike path be installed or a fee paid in lieu of, and #18 to have a consistent spacing of street trees along the front to break up the façade of the building. Mr. Wallace stated with regard to Item #11 which deals with the radius of turns for emergency vehicles, this should be approved by the Fire Marshall. It was noted this would also be the same with regard to Item #12 and #14.

Mr. Bryson moved, Mr. Halboth seconded and it was unanimously carried to recommend to the Board of Supervisors Approval of the Amended Land Development Plan as submitted by Matrix Lower Makefield Review #2 subject to the following:

- 1) Entry and filing of a fully-signed Agreement modifying the original Settlement Agreement dated 5/18/06 signed by all Parties or a Court Order permitting the modifications as proposed;
- 2) Compliance with the requirements set forth in the Township engineer's review letter dated 8/16/16 and the granting of the requested Waivers with the exception of #11, #12, and #14 unless such Waivers are supported by the Township Fire Marshall's review. No Waiver of #15 regarding the width of sidewalks, and those sidewalks must comply with the requirements under the Americans with Disabilities Act.

No Waiver of #16 of the bike path unless Applicant will pay a Fee-In-Lieu of installation of the bike path. No Waiver under Item #18 regarding the tree setbacks from the curbs and sidewalks, and the trees must be set in accordance with the Township's Ordinance.

#### DISCUSSION AND APPROVAL OF EBERT ENGINEERING GRANT APPLICATION

Ms. Tara Bernard, Ebert Engineering, was present and stated the Sewer Authority is going to apply for a Grant with the Department of Community Economic Development which released a Grant for small water and sewer projects. She stated the Grant was released in July in the amount of \$30,000 to \$500,000 for water or sewer improvements. She stated the deadline is October 31. She stated the Grant Application requires a letter of support from the Planning Commission. She stated their project involves the Buck Creek trunk interceptor and involves the 10" pipe and the 12" pipe. She stated there is approximately 1,852 linear feet for the 12" pipe and for the 10" pipe there is 989 linear feet. She stated they are going to go for a Grant in the amount of \$380,493.60; and if they are successful, the Authority will be obliged to give 15% of the money. Ms. Bernard stated they are correcting the I & I in the pipe.

Mr. Tracey asked the technology used, and she stated it is similar to a "roto-rooter." Mr. Tracey asked the material used for the lining, and Ms. Bernard stated is an epoxy base with a woven liner which will be pushed through the lining of the pipe. Mr. Tracey asked the approximate thickness of the woven liner, and Mr. Bryson stated it depends on the diameter of the pipe. Ms. Kirk stated she represents the Sewer Authority and the lining has been done in other areas, and for the 10" it is 1/4"; and because it is an epoxy base it is much more dependable and stable than when they use grout or other fillers.

Mr. Wallace asked what the Township's portion would be, and Ms. Bernard stated it would be 15% which is \$57,074.

Mr. Bryson stated this is money well spent since it is an I & I issue.

Ms. Kirk stated part of this is required by the State as well as by the co-op Agreements with Bucks County Water and Sewer for the Neshaminy Interceptor as the Township is under an obligation to reduce its I & I flows over a five-year period.

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Mr. Halboth moved, Mr. Bryson seconded and it was unanimously carried to approve the Grant Application.

Mr. Bryson moved, Mr. Halboth seconded and it was unanimously carried to adjourn the meeting at 9:30 p.m.

Respectfully Submitted,

Chad Wallace, Secretary