

TOWNSHIP OF LOWER MAKEFIELD
PLANNING COMMISSION
MINUTES – MARCH 11, 2024

The regular meeting of the Planning Commission of the Township of Lower Makefield was held in the Municipal Building on March 11, 2024. Mr. Bush called the meeting to order at 7:30 p.m.

Those present:

Planning Commission: Tony Bush, Chair
Colin Coyle, Secretary
John DeLorenzo, Member

Others: James Majewski, Community Development Director
Dan McLoone, Planner
Barbara Kirk, Township Solicitor
Paul DeFiore, Township Engineer
John B. Lewis, Supervisor Liaison

Absent: Tejinder Gill, Planning Commission Vice Chair
Adrian Costello, Planning Commission Member

APPROVAL OF MINUTES

Mr. DeLorenzo moved, Mr. Coyle seconded and it was unanimously carried to approve the Minutes of February 12, 2024 as written.

#694 – TIMKO-NOYES SUBDIVISION RECOMMENDATION OF APPROVAL

Minor Subdivision

Tax Parcel #20-034-020-004

Zoned R-2 Residential Medium-Density

Proposed plan to subdivide a 4.175-acre lot into 2 single-family Residential lots

Mr. Russ Sacco, attorney, and Mr. Sam Costanzo, engineer, were present. Mr. Sacco stated he is representing the Applicants, Carol Timko and Theresa Cleary. He provided this evening the latest response to the revised letter.

Mr. Sacco stated Ms. Timko and Ms. Cleary are sisters, and they received this property from their father. He stated the property is approximately four acres located at Sandy Run Road and Edgewood Road. He stated they are looking to subdivide the parcel into two lots, one for each of them of about 1.2 acres each. He stated on the Plans there are two houses shown on the lots, but they are only conceptual in nature; and his clients do not have any intention of building immediately.

Mr. Sacco stated they are prepared to address the March 7 review letter, and Mr. Costanzo put together a response to that letter which had just been provided to the Commission this evening. Mr. Bush asked if that could be e-mailed to Mr. Coyle, and Mr. Majewski stated he has done that and also sent it to Mr. DeFiore.

Mr. Costanzo stated they provided in concept on Page 2, two homes and driveway locations. He stated since this site has natural resources on it, they wanted to show that there are buildable areas on each of these two lots after they are subdivided. He stated the sites contain Waters of the Commonwealth, which were flagged, wetlands, steep slopes, and woodlands. He stated those were delineated and he then showed an area of clearing for both homes.

Mr. Costanzo stated the sisters have intentions that are different from each other, and they may not come in with a Plan for homes on these lots for some time. He stated the purpose is to just allow them to have their half of the ground, and the Township will know that the lots can be built on once an Applicant comes in for a Building Permit Application. He stated at that time they would go through more detail of depicting the size of the home since what is shown on the Plan is theoretical, and they could come in with a different shaped home with a different roof line and different location on the site.

Mr. Costanzo stated with regard to the March 7 Remington Vernick review letter, they have already complied with or will comply with a number of the items listed including #1 through #7, #10 through #16, #19 through #26, #29, and #31 through #34.

Mr. Sacco noted #8 which references the site capacity calculations for woodland protections. Mr. Costanzo stated there were a number of comments relative to site capacity calculations that do not really require any change. He stated when you do site capacity calculations, you first deduct the areas

that have the highest resource values. He stated if there are wetlands that are 100% protected and the water course buffers are 100% protected, you subtract that land out initially. He stated that area can also be encumbered with woods, which is the case here. He stated when you do natural resource protection to demonstrate that you are meeting the standard, you count all of the woods on the site even though they are in the 100% resource. He stated that is all the “misunderstanding is,” and in site capacity you start deducting ultimate right-of-way, Easements that exist on the property and then you start with your highest resource value and work your way down; and you are left with a net-buildable site area which is for the purposes of density. He stated for the resource protection standards, you need to show how you meet each of the individual resources – woodlands, etc. to demonstrate compliance.

Mr. Sacco asked if that has been shown in terms of the Plan that has been revised, and Mr. Costanzo stated there was no need to revise the Plan. He stated that there was an area that they helped to clarify as the Site Capacity Calculations technically do not have a listing for Waters. He stated they have wetlands and wetlands and watercourse buffers, and they decided to put the Waters in the watercourse buffer area which was 100% protected. He stated they moved that into the wetland category, and there is no change other than moving things around. Mr. Sacco stated that would address #9 as well.

Mr. Bush asked Mr. DeFiore to speak to #8 and #9 and the Applicant’s response. Mr. DeFiore stated he just received that, and that is something that he will have to discuss with the reviewer and investigate further before he can comment. He stated it seems that there was a “disconnect” between the two sheets, and they need to make sure that Sheet #1 and Sheet #2 are coordinating.

Mr. Majewski stated he believes that it is just a minor technical item, but it should be reconciled between the two engineers.

Mr. Sacco noted Items #17 and #18 are a similar issue. He stated #17 deals with the request for conceptual erosion and sediment controls, and he asked Mr. Costanzo if that is something he would suggest would hopefully be deferred to the Building Permit. Mr. Costanzo stated he did make that suggestion; but to make it more clear for the reviewer, he decided to show more woodland clearing to the maximum limits to show how wide open it is for anyone to meet the stormwater management requirements. He stated he provided for this in the response and also updated the Plan to show that.

Mr. DeFiore stated comparing the Plan that was just presented to the Plans that were submitted which they reviewed, he has a Plan dated 2/13/24 which is drastically different from what is now being shown which is a new Plan that was not submitted to Remington Vernick. Mr. Costanzo agreed, adding that they got Mr. DeFiore's letter on Friday morning, and they responded to it today. Mr. DeFiore stated they will have to review this new Plan as part of the process.

Mr. Majewski stated it seems that this will now be a "will comply." Mr. Costanzo stated they are not showing the erosion control devices or designing all of the erosion control, but they made it more open; and the erosion control and the stormwater management will all come into play at the Building Permit stage.

Mr. DeFiore stated with regard to the Plans that were submitted and reviewed, he commented on that because the wood lines were right up to the seepage beds. He stated he noted that they should provide an area for the silt sock and an "LOD" beyond that, and there should be some sort of an offset. He stated it looks like there is clearance and he wanted them to demonstrate that there would be more woods clearance and the site capacity and natural resources would have to be adjusted; and it looks like that has been taken care of.

Mr. DeFiore stated the site capacity previously was on Sheet #1 2.05 units permitted, and he asked what the updated site capacity calculations yield. Mr. Costanzo stated nothing changes with the site capacity if you disturb more, and the site capacity still stays with the extent of resources, and you deduct through them, and still end up with 2.05.

Mr. Majewski asked if they are just maxing out more what is the allowable disturbance under this Plan, and Mr. Costanzo stated that is correct relative to natural resource protection standards with woodlands. He stated as he noted earlier, he did that to make it more clear; and when the Applicant comes in with a Building Permit, they may come in with less since they might have a smaller house, a different location for the house, or a different driveway configuration. He stated he believes that they will have the same driveway locations because they are at the optimum spots for sight distance.

Mr. DeFiore asked what is now the resource protection land for woodlands as it was previously 2.062 and a lot more woods were being preserved. Mr. Costanzo stated on the resource protection, they show them on each individual lot. Mr. DeFiore noted Sheet #1 where they have the sum of 2.709 resource protection land, site capacity calcs, and he sees that 2.062

was the resource protected on the previous Plan, and the acres of the resource protected are 2.709 so it looks like they are clearing a good amount more of woods. Mr. Costanzo stated there is a Sanitary Sewer Easement running through, and those woods “get knocked out right away in the first step, and you do not knock them out again.” He stated that is why he provided a detailed response, and he could discuss this further with Mr. DeFiore.

Ms. Kirk stated Mr. DeFiore’s review letter was based on a prior Plan, and a new Plan has been submitted. She stated there are issues as to whether or not the new Plan that has been submitted complies with what Mr. DeFiore was requiring. Ms. Kirk asked with respect to the items where there is a difference, if the Planning Commission were inclined to recommend approval that it would be subject to the final review of the Township engineer. She stated it seems that there needs to be further discussion between the two engineers directly, and both Mr. DeFiore and the Applicants were in favor of this.

Mr. Lewis asked if they meet the Ordinance with regard to the volume control. Mr. Costanzo stated that is the number permitted for site area, and they are proposing two lots, and that complies with the 2.05. Mr. Lewis asked what would the threshold be for that. Mr. DeFiore stated he sees the calc changing, but he will discuss this with the designer.

Mr. Lewis stated he will be sending something for Mr. DeFiore to look at when he reviews this in the context of potential stormwater management changes that the Township may consider in the future.

Mr. Sacco stated Item #18 addresses the infiltration testing at the site, and he asked Mr. Costanzo since these houses are conceptual in nature, is that something that he is recommending be put off until the Building Permit stage; and Mr. Costanzo agreed. He added that to do the testing they would have to disturb woodlands, and they would be testing in locations that may not even be utilized by someone years from now. He stated he needed to demonstrate that there is a suitable area for stormwater management, and they gave a sizing of that based on soil survey data of limiting zones, and they provided a response to that in the information provided this evening.

Ms. Kirk stated in light of the request that certain requirements under our Subdivision and Land Development Ordinance be deferred until the time of Building Permit, she does not believe that the Building Permit Applications require some of these items. Mr. Majewski stated it is actually reversed, and our Ordinance does not require Items #17 and #18 as part of a Minor

Subdivision Application. He stated RVE did point out that when they do go to build these houses, Mr. DeFiore was concerned that the clearing limits were a little bit tight for the erosion and sediment control that would be required at the Building Permit stage when they would have to do the stormwater design, which is why he raised Items #17 and #18. He stated they want to make sure that this will work so that they do not sell off a lot to someone which is overly constrained because there was not enough investigation.

Ms. Kirk asked if there are items that are being deferred to the time of Building Permit, would it make sense to do some type of Declaration of Restrictions that require these items to be completed at the time of the submission of the Building Permit before approval. Mr. Costanzo stated he was going to include those types of things as Notes on the Record Plan so that when the Record Plan and Subdivision is Recorded, they would be bound to do that. Ms. Kirk stated she was suggesting a Declaration of Restrictions because that would be picked up by a Title Clerk as opposed to specific Notes on a Final Record Plan. Mr. Sacco agreed. Ms. Kirk asked Mr. Sacco if that is something that his clients would agree to, and Mr. Sacco stated he believes that they would. Mr. Majewski stated he would be in favor of that since it puts it out there for anyone potentially purchasing the lot.

Mr. DeFiore stated there are two different owners each looking to take a lot, and he would like to make sure now that things work. He stated looking at the Plan, everything is very tight; and if it is found that the seepage bed shown does not infiltrate and has to be moved, potentially the Zoning calcs may not work in the future. He stated they may need a 1' shift in the lot line right now. He stated doing a lot line change in the future could be an issue since there are two owners. He stated he feels now is the time to make sure that everything will work. He stated in that way when they come back in for a Building Permit, they will not be looking for any relief. He stated he feels a lot line change between two different owners in the future could be difficult. Mr. Sacco stated they will make the Applicants very aware of that issue.

Mr. Costanzo noted Item #27 which addresses the roadway shoulder, and they are not showing that on the Plan. He stated if the Board feels that is a requirement according to the Code, they will be requesting a Waiver. Mr. Majewski stated he reviewed past Applications, and that has been a requirement although typically it is waived depending on the situation. He stated in this case, he does not feel we would want to widen Sandy Run Road in this area, cut down more trees, and re-locate utility poles.

Mr. DeFiore stated at this point it is considered a Subdivision, and once it is subdivided SALDO would not apply since one single Residential building would not count for a Land Development. He stated his office was looking to flag everything in SALDO that would apply now that would not apply in the future.

Mr. Sacco stated they will also be requesting a Waiver for the installation of sidewalks noted in #28. Mr. DeFiore stated he commented on this because Lower Makefield likes to have sidewalks although the decision would be made by the Planning Commission and the Board of Supervisors. Ms. Kirk asked the Applicants if they are not going to construct sidewalks, are they going to pay the Fee-In-Lieu; and Mr. Costanzo agreed adding that he cited that in his response.

Mr. Bush asked Mr. Majewski if there is a sidewalk anywhere near this location, and Mr. Majewski stated there is not. Mr. Majewski stated Edgewood has a bike path, but when you go down Sandy Run, there is no sidewalk anywhere on the remainder of Sandy Run Road. Mr. Lewis stated these lots abut Edgewood. Mr. DeFiore stated that could be a good connection to the trail for these new homes and could be a good selling feature. He stated they wanted to make this comment now since it would not apply later.

Mr. Coyle asked if SALDO would require the building of the sidewalk as a Condition of the Subdivision; and Mr. DeFiore stated it is a requirement in SALDO, but once this is subdivided and they come in for a single Building Permit for a residence, SALDO would not apply.

Mr. DeLorenzo asked if the requirement on the sidewalk would be different if it was not subdivided versus being subdivided. Mr. Majewski stated one of the requirements is that all Subdivisions must provide sidewalks; and if the Planning Commission feels that would be appropriate at this location, they could make that recommendation. He stated if they are not sure that the sidewalk would make sense at this location, the Planning Commission could recommend that they pay a Fee-In-Lieu of sidewalk so that they could consider better connection in the area. Mr. DeLorenzo asked what would be required if they came in to build on the four-acre lot as opposed to a Subdivision. Mr. Majewski stated if they came in with one house, there would be no sidewalks required; however, since they are subdividing into two, a sidewalk is required.

Mr. Costanzo stated under Section 178.36 it states: “Applicants shall be required to construct or pay for the construction of, at the option of the Township, certain on or off-site improvements or portions thereof which the Township determines bear a rational nexus to the need created by and the benefits conferred upon the Subdivision and development.” He stated this is a discussion item for the Township; and if the Fee-In-Lieu is chosen, that is something that can be taken care of either now or at the Building Permit stage. He stated if a sidewalk is chosen, that also could be noted on the Plan; and at the time of the Building Permit the Applicant would be required to construct sidewalk along its fair share of road frontage.

Mr. Bush stated while he generally likes to see sidewalks, this is almost a sidewalk to nowhere and would be a little stub coming onto Sandy Run Road although it would connect these two homes to the bike trail on Edgewood. He stated he feels that at a minimum there should be a Fee-In-Lieu, and he does not feel strongly that there should be a sidewalk although he could go either way.

Mr. Coyle stated the decision is predicated on the sight lines coming down Edgewood Road to turn right onto Sandy Run Road, and they are not “fantastic” given the wooded coverage of the road. He stated he would see a safety benefit to those two homes having a sidewalk to connect to the bike path to keep pedestrians and cyclists out of the street trying to get access to the Pool or the ballfields, etc. He asked that the Township engineer and Mr. Majewski weigh in on this and defer this to the Board of Supervisors.

Mr. DeFiore stated he agrees with Mr. Coyle that having the sidewalk would be safer.

Mr. Coyle stated he feels that this is especially true given that the traffic from Sandy Run can only turn right, and drivers making a right turn onto Sandy Run Road may not feel that they have to exhibit as much care. He stated he would be in favor that the requirement be on the Plans and have it Recorded as a requirement for the subdivided lots; and at the time of the construction, he would prefer that there be a discussion about removing the requirement as opposed to trying to put the requirement back in. Mr. Bush stated he agrees.

Mr. Costanzo stated there are utility poles along that side of the roadway; and for the addition of two homes to re-locate utility poles would be quite a burden for a sidewalk that leads to nowhere. He stated he does not feel

a sidewalk would ever be extended unless the Township were to solicit Grant money to extend the sidewalk since the rest of the road has already-developed lots.

Mr. Coyle stated there is a request to subdivide the land, and there is no burden today to build a single home on the property. He stated in Item #31 it references “a homeowner” in the text rather than the current owners so it is clear that they are contemplating a future undetermined homeowner who may be buying this land, and he feels it is appropriate for them to consider that burden when considering their design plans.

Mr. Sacco asked if it is anticipated that the bike path would be adjacent to the sidewalk. He stated he lives on a corner property, and they put in a bike path and took out his sidewalk which he was fine with. He asked if that is what is contemplated for the bike path. Mr. Coyle stated the bike path is existing on Edgewood Road and crosses Sandy Run.

Mr. Lewis noted the location of the bike path and revision to the intersection which was just done. He noted where the sidewalks would be installed which would be the frontage of the new lots on Sandy Run Road. He stated the argument for that is that there are other houses on Sandy Run Road that eventually could be connected or it could just be for these two lots. He stated he feels the best choice would be to leave the decision to the Board of Supervisors at that time to determine whether sidewalks or Fee-In-Lieu would be better. Mr. Lewis stated the Board may want to link up the rest of Sandy Run, and the Township has been applying for Grants and building out bike paths; although he does not feel that this location would be in the “top five.”

Mr. Sacco noted Item #30 with regard to the tree protection standards. He stated the comment asks for a description of the protection that would be given to the remaining existing trees, and he asked Mr. Costanzo if he was hoping that this would be deferred to the Building Permit since we do not know which trees are going to be removed. Mr. Costanzo stated his response was that since the precise limits of the disturbance are unknown, they believe that this matter would be best suited to be noted on the Record Plan of Subdivision to be a requirement to be filled by the Applicant for a Building Permit. He stated this is particularly true since the timing of the Building Permit Application could be one, two, five, or ten or more years from now and tree sizes will have changed. Mr. Sacco stated this is a common theme of the issues that they are running into since

it is conceptual; and while they are providing the information, it may be irrelevant because it could be years from now before anything is built. He stated by putting the buildings in conceptually to give the Township an idea that they could fit, it is now causing more requirements than if they had not provided them at all.

Mr. DeFiore stated this is part of SALDO and would not apply later which is why he wanted to comment now so that it would carry through to the Building Permit.

Mr. Sacco stated he believes this would be one of the issues that they would put into the Declaration.

Ms. Kirk stated it seems that a lot of the Notes are going to be part of a Declaration of Restrictions assuming it is approved by the Board of Supervisors. She stated she feels that is the easiest way to capture all of these items that are being deferred until the time of building so that there are no issues on the part of any property owner at the time of construction.

Mr. Sacco stated he feels there would be the same conversation for Items #35, #36, and #37. He stated #35 is the lifting of exact impervious surface numbers, #36 is providing for the conceptual stormwater conveyance system, and #37 is providing details for the grading and stormwater management on the site.

Mr. DeFiore stated that is for the benefit of the Applicant as well to show that this will work, and they will not want to have to shift a lot line by 1' which they would have wished they had done before. He stated this is to prove that they are viable lots and meet all of the site capacity calculations, resources, and Zoning with all of the disturbance that they have to do to fit in homes of the size that would be most likely proposed, showing that they would be compliant and not require any Variances.

Ms. Kirk stated because there is no clear timeframe as to when these houses will be built and they will not be built in the immediate future, it would be subject to the regulations in effect at the time of the construction. Mr. Sacco stated he understands that.

Mr. DeFiore stated there are two additional comments he would like to add after reviewing the other letters that were submitted. He stated the first is that the Applicant shall submit a PADEP Sewage Facilities Planning Module Application mailer for the Subdivision. He stated the other comment is from

the Environmental Advisory Council, which is that the Applicant should provide a landscape buffer that will screen the two lots year-round from the adjacent train tracks. He stated they addressed the number of trains that come through. Mr. Majewski advised Mr. DeFiore that he did include the comment about the buffer which was noted in Comment #31.

Mr. Coyle stated he agrees with the Applicant that is not really a matter of whether or not we permit the Subdivision, it is that if you are going to buy a house that backs onto a train track, you may want some trees to buffer the noise. Mr. Costanzo stated that his response was that this is not really an Ordinance-driven matter, but he understands it; and usually he addresses these by a Disclosure Statement for a future homeowner to execute so that they are aware of what they bought and the proximity of their home to railroad tracks. He stated he does not feel it is appropriate to knock down existing trees to put up evergreen trees. He stated if he were the homeowner, he would probably consider a board-on-board fence to curtail the noise. He stated he believes that this is a homeowner issue, and they should be made aware of it. He stated he does not feel they should have to cut down trees to put up new trees.

Mr. Lewis stated while that is a Quiet Zone intersection for the trains which makes it a more appealing lot than it would have been pre-Quiet Zone, there is no guarantee that it will always be quiet. He stated the future homeowners need to know that depending on CSX or SEPTA standards, at certain times they will blow horns. He stated this involves the Federal Railroad Administration, and the Township does not have a lot of pull with them.

Mr. DeFiore stated Mr. Costanzo had indicated that they would not want to remove trees to put up evergreens, etc. ideally, we would look for places where they would be adding trees and not taking down any trees in order to provide the buffer. Mr. Costanzo stated he felt that a fence would be better because if there are any gaps between the trees, it does not help the noise.

Ms. Kirk noted the Township traffic engineer review letter of February 15, 2024 and it appears that Items #1 and #3 may still be at issue. Mr. Costanzo stated they were included in the Township engineer's letter and have been addressed.

Mr. Coyle stated there are a number of points where Remington Vernick has put a note about proving that it is a viable Subdivision, and he asked if we are required to prove that we are certain that they will be able to put in enough stormwater management to eventually construct a home. Ms. Kirk stated technically they can Subdivide the property if they desire, and that is permitted under the MPC; and there is no requirement at this stage to the best of her knowledge that they have to prove that they can construct a dwelling on those lots. She stated at the time of the construction if it does not comply with Zoning regulations, etc., then they either build a really small house, they design it in such a way that it complies, or they get Zoning relief.

Mr. Coyle asked with regard to the sample homes that are illustrative on the Plan, does having those in the Record moving forward in any way guide or bind future Commission or Board decisions around the property. He asked if we are essentially saying that we have reviewed a proposed home and indicated an approval or is this solely illustrative and there is no positioning that it is precedent setting. Ms. Kirk stated the Record clearly states that they were placed on the Plan simply to show the dimensions for the Subdivision requirements. She stated there is nothing to be construed as an affirmative or placid type of approval of the proposed homes.

Mr. Costanzo stated there is a “pretty bold” Note on Sheet #2 on the Concept Plan that states “the Concept Grading Plan with schematic sanitary sewer laterals and water services and the Demolition Plan shown above are provided solely as a means to support the viability of the Subdivision Application without Land Development.”

Ms. Kirk stated the Planning Commission could also make it a requirement of the Declaration of Restrictions that any proposed schematics are merely for illustration purposes, and nothing else; and Mr. Sacco agreed.

Mr. Bush stated he did not see the Bucks County review letter; and he asked about the item related to the PADEP. Mr. Costanzo stated every Subdivision needs to have a DEP endorsement; and in this case, he will file for a Planning Module exemption for zero EDUs because that aspect is not what is being proposed. He stated he has done that in the past, and got their acknowledgment that there is no building being proposed at the time. He stated it is a formality that a Subdivision needs to file Planning Modules of some sort; and in this case, it will be an exemption.

Mr. DeFiore asked if they are not asking for additional EDUs but are creating another lot, how would they account for having an addition EDU at that new lot if it is not listed on the mailer. Mr. Costanzo stated they have done it before with another Municipality, and the Municipality proposed the Subdivision and received a DEP response for zero EDUs; and it was deferred. He stated they had to file it at the time of the Building Permit Application.

Mr. Majewski stated there should be a Note on the Plan that each individual lot would be required to get a Sewage Facilities Planning Module approval, and Mr. Sacco agreed.

Mr. DeFiore stated sometimes there are moratoriums; and in the past when he was designing, he would “issue for it now;” however, he added that would be up to the Applicant if they want to defer this. Mr. Costanzo stated he will discuss it with the Applicants; and if it means that they do not have to pay for the EDUs with the Sewer Authority, that may impact their decision. Ms. Kirk noted that there is no longer a Township Sewer Authority, and Mr. Costanzo stated he is aware of that as he did a lot of the surveying for the Lower Make-field sewer lines to make that conveyance happen. He stated he was disappointed that the Sewer Easement they found on this property was not monumented, but it is monumented now on this Plan.

Mr. Coyle stated with regard to a Motion he believes that we are excusing the requirement for #17 of the review letter and agree with the Applicant that it is not appropriate to hold to that requirement. He stated that would be the same for #18, and it would be up to whoever builds on the property to do that. He stated he believes the Commission is in agreement with regard to #13, tree protection, that there is no way to properly assign those to this particular property without a Building Plan being contemplated. He stated with regard to #31, the vegetative buffer recommended by the EAC, there will be a disclosure statement related to the proximity to the tracks. He stated with regard to #37 having to do with the conceptual basins, this is another item that is not appropriate for the Subdivision request.

Mr. Bush stated he understands that Items #8 and #9 were will comply, and Ms. Kirk stated she understood that it was will comply subject to the Township engineer’s approval of the revisions to the Plan.

Mr. Coyle stated there was an item that was going to be memorialized by a Covenant/Restriction on the Deed; and Ms. Kirk stated Items #13, #17, #18, #27, #28, #30, #35, #36, and #37 were all going to be Notes on the Final Record Plan and subject to the Declaration of Restrictions along with the requirement for the Pennsylvania DEP Sewer Facilities mailer. Mr. Majewski stated he does not believe that #13 was one of the ones to be included in the Declaration of Covenants. Ms. Kirk stated she felt that #13 was being deferred because of the seepage bed “for the time of impervious surface coverage.” Mr. Majewski stated he believes that was Item #17 and Item #18.

Mr. Coyle moved, Mr. DeLorenzo seconded and it was unanimously carried to recommend to the Board of Supervisors approval of the Minor Subdivision subject to compliance with the recommendations in the second review letter issued by the Township engineer dated 3/7/24 as well as any revisions to the Plan that were submitted since that review letter to also be approved by the Township engineer. To comply with the recommendations, if not already, of the Township Traffic engineer’s second review letter dated 2/15/24; and subject to the recommendations of the EAC set forth in its memo of 12/15/23 with the understanding that any item itemized by the Applicant to be deferred to the time of building – specifically Items #17, #18, #27, #28, #30, #35, #36, and #37 as well as the mailer to the DEP for Sewage Planning Facilities be included as Notes on the Final Record Plan as well as part of a Declaration of Restrictions to be signed and Recorded against each new lot. The request for grant of Waivers as to proposed grading at 3 to 1 slopes, the maximum driveway slope of 10%, the Waiver of shoulder in lieu of curbing per the review letter Item #27, as well as the discussion of sidewalks with payment in lieu of under #28 be deferred to the Board of Supervisors’ consideration.

MODEL SUSTAINABLE AND RENEWABLE ENERGY ORDINANCE DISCUSSION

Mr. Bush stated this is a continued discussion from the prior meeting about the Ordinance that the Township received from Bucks County.

Mr. McLoone stated the Planning Commission had requested the number of Solar Permits in the past year, and there have been about 29 according to OpenGov. He stated there was a concern expressed at the last meeting if there would be some preemption for the UCC (Uniform Construction Code), which is the Building Code that the Township adopted for the Permit. He stated he spoke with our Building Code Official who stated that there are not any glaring issues and it references which Building Code it must abide by in the Ordinance.

Mr. McLoone showed a slide of an example of some of the wording that Northampton Township used in their Ordinance. He stated they used parts of the model Ordinance. He stated they established provisions for the design, Permitting, construction, and operation of alternative emerging energy facilities. He stated they defined alternative energy and included some other definitions in their Ordinance. He stated they showed uses permitted by right if they are located within a lot with a permitted use. He stated their Ordinance also talks about setbacks and lot requirements. He stated the last line is relevant to the UCC and states, "Solar energy systems shall be located, designed, and installed as per the manufacture's specifications as well as all Zoning, Building Code, and utility requirements. He stated it would need to meet the requirements for getting a Building Permit.

Mr. McLoone stated he has learned that in 2021 about 55% of Municipalities in Bucks County had some kind of Alternative Energy Ordinance on the books, and he assumes that number has since grown.

Mr. McLoone stated the slide was part of a presentation by the Bucks County Planning Commission.

Mr. Bush asked if the other Municipalities that have Ordinances like this are for new developments or re-development, and Mr. McLoone stated they are for both. Mr. Bush stated Mr. Coyle had indicated previously that in Lower Makefield to a large degree this would have more applicability to re-development than to new development, and he agrees. Mr. Bush stated if there are things in the model Ordinance that Lower Makefield is interested in, we should try to be as flexible as possible not knowing what there could be in the future. Mr. Bush stated in central New York he has seen solar panels that are for EV charging in some Municipal and private parking lots, and he showed a picture of an example. He stated he could see this being installed in Lower Makefield in some of our shopping centers. He stated we need flexibility for these kinds of things if and when they are presented to the Township. He stated he believe that installation would depend on how close it would be to the wires, as it is not as expensive if you are close to the wires. Mr. Bush stated it gets hard wired into the grid. Mr. Majewski stated it can back feed into the grid when it is not in use.

Mr. Majewski stated he has heard it is expensive when you look at the long-term costs, and sometimes the maintenance of solar facilities can get costly. He stated he agrees with the recommendation about flexibility being provided.

Mr. DeLorenzo asked why we would want these “all over the place,” as opposed to being in one location. Mr. DeLorenzo stated he feels this would look out of place in some of our parking lots. He stated he feels it would be better if these were all condensed in one place. Mr. Majewski stated he has seen ones where they had a long canopy encompassing a number of parking spots. Mr. McLoone stated there is a parking lot at Citizens Bank Park that utilizes this. Mr. DeLorenzo stated he does parking decks, and this could be put at the top of the deck which could provide a cover and you are generating power. He added we are not really a place that would have parking decks. He stated he would prefer seeing an array of them rather than sporadically.

Mr. Lewis stated at the grocery stores, there is a canopy over the area where the carts are returned; and if that were extended out, it could be visually very attractive. He stated with regard to the infrastructure to be part of the grid and the buy back in power by PECO, we need to consider how power generators can store or transmit their excess power and how to make that easy for people to do whether it is a Commercial development or an existing residence. He stated he understands that is not too easy currently, and some people are putting battery back-ups in their homes, which does have benefits in the event that there is a power outage; however, it is not the most efficient use of the power generated.

Mr. Bush stated that is the current state of affairs and could change in the future. He stated we should look at what we can propose to allow for these things in the future.

Mr. Lewis asked if the Bucks County Planning Commission could help us map out all of the end points, where it would be easiest to tie into the grid, where you could send power back, and how to do that. He stated we want to know how to make alternative energy easier for people to implement and to get their payment. Mr. Bush stated he feels that would be helpful in coming up with an Ordinance.

Mr. Coyle stated with regard to solar carport canopies, he has seen a number of them in hotels. He stated he feels if we are going to modernize our Township infrastructure at some point and go for LEED Certification, he could see such structures available. He stated he saw that the Northampton Ordinance had indicated that the structure should be no taller than 15’, and that may not apply to a solar carport which would provide shade for cars. He stated

he wants to make sure that whatever we do, it would not preclude us from doing something in the future. He stated he would like to see more research into what these kinds of facilities look like before we codify any limits.

Mr. Majewski stated we could look at what the height is in a Residentially-Zoned District versus a Commercial District where a higher number might make more sense.

Mr. McLoone stated no action is needed this evening, and more research will need to be done in order to create something more concrete that the Planning Commission can make recommendation on.

UPDATE TO THE TREE BANK ORDINANCE (SALDO) DISCUSSION AND RECOMMENDATION

Mr. McLoone stated the EAC brought this to himself, Mr. Majewski, and Mr. Kratzer. He stated the EAC is proposing a slight change to the Ordinance going from a three year to an annual change in the contribution for a replacement tree. He stated Ms. Kirk drafted the Ordinance change, and the purpose is to make sure that we are adjusting the cost effectively.

Ms. Kirk stated the information that is listed in the Ordinance as to using the Urban Consumer Price Index is what the EAC provided to her as being the Index; however, the Bucks County Planning Commission suggested that the specific Table from the Index be designated in the Ordinance along with months designated to mark the annual change and a specific category used to determine the change.

Mr. Coyle asked if we index anything else in the Township to an inflation index, and Mr. Majewski stated our Traffic Impact Fee is tied to one index and our Park & Rec Fee-In-Lieu is indexed to another. He stated one is the Engineering News Record 20 City Building Cost Index which is October/November of each year and the other is the Philadelphia Consumer Price Index of November. He stated he agrees with the Bucks County Planning Commission that we should spell out which exact Table and Index we are using. He stated he does have that information, and there is an exact date and Table that we use. He stated we could add that wording in the Ordinance.

Mr. Coyle asked if we could use one of the Indexes that we are already using. Mr. Lewis stated BLS has the Table for CPI, and if you go to BLS.gov you can get the latest numbers; and that is public. He stated Bureau of Labor and Statistics calculates the CPI every month, and they have different versions of it. He stated CPIU is the urban one which was mentioned. Mr. McLoone stated the Ordinance says U.S.; and Mr. Majewski stated that is what we use, and it is the Index that is later in the year because we do our Fee Schedule in December, and he believes it is the October Index that comes out in November.

Mr. Bush asked when was the last time the amount of the Tree Ordinance replacement cost was changed, and Mr. Majewski stated he believes that it was last year.

Mr. DeLorenzo moved, Mr. Coyle seconded and it was unanimously carried to recommend to the Board of Supervisors approval of the update to the Tree Bank Ordinance subject to including the revisions as recommended by the Bucks County Planning Commission to be supplied by Mr. Majewski.

PROPOSED STORMWATER MANAGEMENT ORDINANCE AMENDMENTS DISCUSSION AND RECOMMENDATION

Mr. Majewski stated the Township is looking into updating our Stormwater Management Ordinance to be more in tune with current practices for stormwater. He stated we have two Stormwater Ordinances because we have two major watersheds – the Delaware River South Watershed and the Neshaminy Creek Watershed. He stated the Neshaminy Creek Watershed is in the northwestern part of the Township, and the Delaware River South Watershed encompasses the remainder of Lower Makefield.

Mr. Majewski stated the Ordinances that are part of our Act 167 Stormwater Management Plan were initially adopted around 2004/2005 with a few minor updates over the years. He stated we realized that updating the Ordinance will be a long process of about six months or more to get all of what we feel we should have in a Stormwater Ordinance to be adopted. He stated in speaking with the consultant that the Board of Supervisors engaged for this endeavor we looked for any quick changes that could be made that would be impactful to stormwater.

Mr. Majewski stated Mr. McLoone circulated the Stormwater Management Ordinances in a track changes format, and they are minor tweaks to the Ordinances. He stated for each Ordinance they are basically identical but they are basically identical but with different citations as to where they fall in the Ordinance. He stated issues such as volume control and design storm are included. He stated it was recommended to take out the simplified method for calculating stormwater and increasing the rainfall data. Mr. Majewski stated we have had more increasing intensity storms over the last decade. He stated previously Lower Makefield used 7" rainfall over 24 hours as the storm of design; and while it was increased to 8.4", we see that is inadequate so the recommendation is to go with higher level for those storms in order to capture larger rainfall.

Mr. Majewski stated another change is taking away some items were it says "recommended" and replace those with "shall" so that Applicants are not just encouraged to do things we want them to do for stormwater but they are mandated. Mr. Majewski stated a lot of the changes are in line with the upcoming Pennsylvania Post-Construction Stormwater Management Manual that is currently in the adoption phase by the Pennsylvania Department of Environmental Protection. He stated that may be adopted sometime later in the year; and our consultant had been working on that, and this is where they came up with many of these recommendations as they are recommendations that will most likely be adopted later in the year by the State.

Mr. Majewski stated there were some changes with regard to re-development projects and trying to get more consistency between volume and rate requirements in the Ordinance and reducing the total amount of impervious surface by 20% of what can be considered re-development. He stated currently under re-development, if you have a site that is fully developed, and you are re-developing it, you have to take out part of that site and consider it as if it were grass, but not actually currently paved. He stated they are recommending that be increased somewhat.

Mr. Coyle asked if Mr. Grenier has reviewed and made comments on this; and Mr. Majewski stated he has not as it is before the Planning Commission first and will go to the EAC this week. Mr. Majewski stated the Municipalities will be required to meet the minimum standards that will be in the State's Ordinance, and we are ahead of that. He stated he has been told that the State should approve this later this year, but sometimes it takes longer; and this is one of the reasons why the Township felt it would be a good idea

to approve something now which would be impactful and not wait another three months to a year to enact what is believed will ultimately be enacted by the State.

Mr. Majewski stated this is also part of the long-term plan to update our Ordinances. He stated in the future some of the other items we are looking at are increasing riparian buffer requirements for development sites and increasing the focus on low-impact development and green infrastructure. He stated we have an Ordinance that talks about that, but a lot of the wording is “you should, we recommend that;” and they are looking into how you can put more of those standards into requiring that.

Mr. Majewski stated they are also looking into utilizing the volume control design requirements that are upcoming through the Pennsylvania Post-Construction Stormwater Management Ordinance that will be mandated in the future and adding in more restrictive peak rate requirements. He stated this means that when the water is released during a storm, that you release less of it and that it is released slower over time rather than getting to a certain point when it all goes out. He stated hopefully that will have an impact on flooding. He stated they are also looking to better formalize our Stormwater Management Permits as to what is a major and minor Permit and what requires what level of effort on the part of a homeowner, developer, and engineers.

Mr. Bush stated it sounds like a lot of these other changes which are coming are extensive. He asked when is the estimated time for those proposed changes. Mr. Majewski stated they are looking at the next four to five months. Mr. Bush stated we are looking to get this in place in four to five months before the additional changes that will be coming. Mr. Majewski stated if the Planning Commission were to recommend this to the Board of Supervisors, it could be advertised by the Board of Supervisors. Mr. Bush stated he understands that the EAC has not commented on this yet, but the Planning Commission could make a recommendation before hearing from the EAC which could have their own separate, stand-alone recommendation to the Board of Supervisors or we could wait to hear from the EAC. Mr. McLoone stated the EAC is meeting this Thursday.

Ms. Kirk stated if the Planning Commission wanted to recommend this, the next Board of Supervisors' meeting is next Wednesday. She stated the Planning Commission could recommend to the Board of Supervisors that they adopt this and allow the EAC to make their own recommendation so that it can go before the Board of Supervisors for advertisement next Wednesday if there is the impetus to get this moving faster. Mr. Bush stated we do not know when the EAC would be ready with their recommendation to the Board of Supervisors. Ms. Kirk stated she believes that they will have a written recommendation by Friday. Mr. Lewis stated he is not sure that it would make it to next week's Agenda because the EAC would have to sign off on this before Friday. Mr. Majewski stated provided that the EAC does not have any substantive changes that might need to come back to the Planning Commission, he is hopeful that they would recommend approval of this at their meeting on Thursday although they may have some minor changes. He stated he believes that what is proposed is in line with what their goals have been, and he does not believe that they will have major changes. He stated if there are, it will come back to the Planning Commission.

Mr. Lewis stated both the Planning Commission and the EAC will have an additional opportunity to comment since these are the first changes, and then the longer-term items will be coming in.

Mr. Lewis asked what was the peak rate calculation for discharge. He stated the 24-hour total noted was 8.4" currently, and there was a situation where a storm hit where Upper Makefield hit over 7" and Lower Makefield hit 5.5" within 45 minutes to an hour. He asked what is the peak discharge rate in that scenario. Mr. Majewski stated he is not sure, but what they have done is taken that rainfall amount and raised it up. He stated currently the NOAA rainfall curve to be used is that they take the average number for what they used to call the one-hundred-year storm, which is the 8.4" over 24 hours but for over a couple of hours, it is a much lower number. He stated what is proposed will take it to the 90% confidence level so that 8.4" goes up. He stated it might not capture all of the rain that we experienced last July, but it will get us close to that. He stated if every basin had been designed to what we hope will be the new standard, the flooding might have been less extensive. Mr. Lewis stated he would be hopeful if that is the case, but it is very hard given where we are at with the weather swings we have gotten. He stated ideally we would want to be able to get to where we could handle unfortunate peak events like that which seem to be more and more frequent.

Mr. DeLorenzo stated it is the timing, and there is a difference between forty-five minutes and a twenty-four-hour period. He stated getting 3" in an hour could be worse than getting 7" to 8" over the course of twenty-four hours. He stated there is also the infrastructure failure issue as well. He stated the pipe that failed at the Canal in Yardley took out an individual's back yard as there was an Easement through that individual's back yard for the pipe that was coming from the street. Mr. Majewski stated that involved erosion and the pipe started falling into the erosion and eventually lost half of the pipe. He added that the pipe itself would have been fine other than the erosion that collapsed the ground surrounding it. Mr. DeLorenzo stated he feels there are probably a lot of pipes that need some work.

Mr. Lewis stated that is part of the reason why we are taking this first step and the longer-term items. He stated he feels that what happened last year in the Maplevale community "woke some people up" to the issues with stormwater management and being much more diligent about this not just in that immediate area but throughout the whole Township. He stated that storm and its impact has had a significant impact on the Budget of Lower Makefield Township, and we have spent close to \$1.5 million in response to that including repairs, etc.; and hopefully some of that money may come back to us over time. He stated as a consequence, residents should not be surprised if there is a Stormwater Management Fee that will be associated with this when it is looked at later this year. He stated we are looking to find revenue sources to help the Township make the improvements that were needed to be made and also help us with making sure that inlets are cleared, giving us the resources that we need to make sure that the stormwater management features that we have work well and that they are constantly inspected.

Mr. Lewis stated he does not want to slow down this first step adding that all of the Supervisors received a copy of this from Mr. Kratzer when he got it from the consultants, and the Supervisors are already reviewing it. Mr. Lewis stated he feels that we will still need to consider further some of the peak issues and some other items.

Mr. Majewski stated the consultant did say that many of these items that have been included in this Ordinance are items that will be in the Post-Construction Stormwater Management Ordinance once it is adopted by the State.

Mr. DeLorenzo stated there is not a lot on the Agenda that this would even effect. Mr. Majewski stated this would affect the two-lot Subdivision that was reviewed. He stated there is more land available for development; and if we were to adopt this, we could mandate that they go with the new higher standard. He stated if we wait it could be too late, and they would get in under the old requirements, and we would not get this enhanced stormwater design that we would like to have. Mr. DeLorenzo stated asked how long does waiting for the State to finalize affect us. Mr. Majewski stated someone could come in with something next Thursday; and if the Board of Supervisors did not authorize advertisement of what is being presented this evening, they would be grandfathered in under the old requirements.

Ms. Kirk stated she believes that the Stormwater Management Ordinance applies to construction of 1,000 square feet or more so it could apply to someone who wants to put up a large shed or a detached garage, etc.; and Mr. Majewski agreed. He added that it is for everything even a small patio. Ms. Kirk stated it is not just for a new development.

Mr. Majewski stated it is for new development, re-development, and people putting in swimming pools. He stated when Applicants go before the Zoning Hearing Board the most common thing is that the Board wants them to manage the stormwater for all of the increase in the impervious surface, which is what our Ordinance requires; but sometimes they also make it a Condition that they go back further; and if a lot was already over what is allowed and they are adding more, the Zoning Hearing Board wants them not just to mitigate the stormwater from what is being added but to go back a bit as well. He stated this Ordinance would mandate that with the extra 20% volume that they do a little more.

Mr. Lewis stated at the Zoning Hearing Board we have been accommodating for people's pool request, and we were not actually counting the actual space of the pool as impervious surface because of the theory that a pool can collect water; however, pools can overtop, and if there is significant rain it can do that and it does act as impervious surface and it is not discharging water properly. He stated those are the kinds of things that we want to push back on.

Mr. DeLorenzo asked how precise are we able to monitor this. He stated he assumes if someone wants to put up a shed, they will get an engineer; and he asked how precise is the measurement between 20% more than

what is current. Mr. Majewski stated there are simplified methods to do small scale impervious surface. He stated we have a spreadsheet that is available on our Website, and you put in your lot size, how much the house, driveway, patio, walkways, etc. take up, and it will calculate what your existing impervious surface is, and then you add in what you are adding. He stated it then tells you what the goal is that you need to meet. He stated you then type in how you are going to mitigate that.

Mr. DeLorenzo asked what are some simple mitigation methods. Mr. Majewski stated for small-scale projects that do not require you to go to the Zoning Hearing Board, you can plant trees to absorb water, put in rain barrels, and infiltration trenches, seepage beds, or French drains; and you can tie in a roof leader from your addition into that so that the water is stored underground prior to running off over land.

Mr. DeFiore stated he has reviewed this, and the 100-year storm can go up to a 1,000-year storm, and he asked if there is a factor that we want to consider adding such as a .1 or .2 increase in inches. He stated he pulled some NOAA data and the data shows that a couple of the gauges were less than the 8.4, and he suggested applying some factor such as .1. He stated the 100-year at one gauge was 8.06 and the 200-year was 9.18. He stated while he would not suggest going to the 200, we could tack on .1 or .2 above the value. He stated the gauges that they pulled were below the 8.4, and he would suggest this change in the Ordinance in Section A.

Mr. DeFiore stated another idea is with regard to the failure that they sometimes see with rain gardens, he felt that they should note in the Stormwater Code that for any infiltration BMP you specify, you have to have a back-up riser and outfall pipe installed with no orifice. He stated if it is going to infiltrate, you have the infrastructure there; and you could note that the orifice should be sized and drilled upon the infiltration BMP failing. He stated this would be a back-up plan if it does not infiltrate since over time if they are compacted, they fail. Mr. DeFiore reviewed some other comments which he can provide.

Mr. Coyle noted Mr. DeFiore's recommendation of adding the .1, and Mr. DeFiore stated they pulled rain gauges that were in the area including the Delaware River Watershed gauge and the Neshaminy Creek gauge. He stated the Delaware River gauge in Trenton was 8.12" for the 100-year whereas Table B1 in the Code is 8.4; and if someone pulled the NOAA data for their design, it would actually be less than the Table. He stated he would

recommend taking that out and stick with the Table and come up with a number. He stated the 50-year is 7.07, and you go 1 inch to 8.12 going from the 50-year to the 100-year, and you go another 1 inch going to the 200-year. He stated they could take the 8.4 and add .1 or .2 to help with what we saw in Maplevale. He stated we were dealing with a 1000-year storm which would be 12.5 as opposed to the 8.12 or the 8.4.

Mr. Coyle stated what is being discussed is we want to do something right now which would be clear and simple for a few months while we do a bigger review. He asked Mr. DeFiore if he could categorize his recommendations as small, quick tweaks versus longer-term changes and provide that as a letter to the EAC so that they can address that at their meeting; and Mr. DeFiore agreed to do so. Mr. Coyle stated the Planning Commission could then make a recommendation this evening to quickly modify some provisions, and the EAC can do a more thorough pass. Mr. Bush and Mr. DeLorenzo agreed. Mr. Bush stated the idea is to get this done, and that would satisfy the goal.

Mr. Coyle moved, Mr. DeLorenzo seconded and it was unanimously carried to recommend to the Board of Supervisors approval of the proposed Stormwater Management Ordinance Amendment changes as proposed in the track changes version by Mr. Majewski as a provisional change to the Stormwater Management Ordinance with the recommendation that the EAC evaluate the Township engineer's input in their process.

There being no further business, Mr. Coyle moved, Mr. DeLorenzo seconded and it was unanimously carried to adjourn the meeting at 9:30 p.m.

Respectfully Submitted,

Colin Coyle, Secretary