

TOWNSHIP OF LOWER MAKEFIELD  
PLANNING COMMISSION  
MINUTES – FEBRUARY 23, 2009

The regular meeting of the Planning Commission of the Township of Lower Makefield was held in the Municipal Building on February 23, 2009. Chairperson Friedman called the meeting to order at 7:30 p.m.

Those present:

Planning Commission:       Karen Friedman, Chair  
                                      John Pazdera, Vice Chair  
                                      Mark Fried, Secretary  
                                      Tony Bush, Member  
                                      Dean Dickson, Member

Others:                         Nancy Frick, Director Zoning, Inspection, & Planning  
                                      Jim Esposito, Township Solicitor  
                                      James Majewski, Township Engineer  
                                      Terri Appelson, Supervisor Liaison

APPROVAL OF MINUTES

Mr. Pazdera moved, Mr. Dickson seconded and it was unanimously carried to approve the Minutes of January 12, 2009 as written.

Mr. Bush moved and Mr. Dickson seconded to approve the Minutes of January 26, 2009 as written. Motion carried with Ms. Friedman and Mr. Pazdera abstained.

AGRICULTURAL SECURITY DISTRICT RE: TAX PARCEL #20-009-003  
(37.5 ACRES) DISCUSSION AND RECOMMENDATION OF APPROVAL

Ms. Friedman noted the memo received from Mr. Fedorchak on this matter. It was noted that the property owner, Mr. Ferri, was not present at this time. Mr. Fried asked why someone would want to be in the Agricultural Security District, and Ms. Friedman stated she looked into this and the Agricultural Security District was formed under the guidelines of Pennsylvania Act 43 which allows for the formation of voluntary farmland districts at the request of local landowners. She understands that Mr. Ferri has requested to be part of that District. She stated the provisions of Act 43 do not restrict or regulate development in farm areas which continue to be converted to other uses. She stated the Act does protect farmers from various nuisance complaints and makes participating landowners eligible for State funding for the purchase of development rights. She stated

she would like to ask Mr. Ferri what he intends and would also like to know if there would be development on the land.

As Mr. Ferri was not present to answer these questions, it was agreed to defer the matter at this time.

#### #335-R – OCTAGON CENTER – RETAIL CENTER AND LOT CONSOLIDATION PRELIMINARY/FINAL PLAN

Mr. Marc Brookman, attorney, was present with Mr. Russell Tepper. Mr. Brookman stated Matrix took title to the property the end of 2006. A portion of the tract is in Middletown Township. In Lower Makefield the Plan as shown this evening has received Final Plan approval as well as being Permitted by all of the Governmental agencies including PennDOT for a series of road improvements all of which are part of the approval for Oxford Valley Road, Big Oak Road, and the re-alignment of Old Oxford Valley Road.

Mr. Brookman stated since the Township approved the Plan, it has not been appropriate to start any residential housing. He stated two of the sites are non-Residential – one called “Future Small Retail” which is the subject of tonight’s discussion and another called “Future Office.” He stated in the Consent Agreement and in the Approval for the “Future Office” they had approval for up to 40,000 square feet of development, and what they will come back with initially is a 12,000 square foot office building that is under Contract with a physician. He stated this evening they would like to discuss a pharmacy and a bank for the retail portion. He noted the area in white on the site plan which was an out parcel which has been acquired since the time of the Final Plan Approval so all of the site he showed on the Plan is controlled and owned by Matrix.

Mr. Brookman stated the whole site is subject to a Settlement Agreement, and the Parties to the Settlement Agreement are present including Matrix, Dana Weyrick as an individual, Gary Cruzan, on behalf of RAM, and the Township. He stated there was another Party – Bellemead Development – but Bellemead was only Party to the Agreement with respect to certain issues and all those issues have been satisfied so they are no longer a part of the Agreement.

Mr. Brookman showed the location of the retail site on the Plan that is approximately 15,000 square feet; and stated when Matrix looked at the potential for developing this retail site they approached the Township with the idea of not imposing the Condition of the Settlement Agreement which was to do all of the roadway improvements with the initial development. He stated when the developer agreed a number of years ago to construct all the roadway improvements, the expectation was that they would begin with the Residential phase which would have required all of the roadways improvements;

but since then, they have decided not to proceed with the Residential phase at this time. They approached Ms. Weyrick and Mr. Cruzan who were in support of this. The Board of Supervisors agreed at their last meeting that they could begin with the retail portion of the site as noted on the Plan and the road improvements associated with it. He stated there was no Condition either in the Settlement Agreement or in the Approval as to which phase would come first, but it was assumed that the Residential phase would be first because when it was being considered, there was a need for Residential development. He stated this has changed dramatically.

Mr. Brookman stated they are present this evening to seek Preliminary/Final Approval for a proposed pharmacy and bank. He noted on the Plan the intersection of Big Oak Road and Oxford Valley Road. He stated as part of the Approval, they will be re-locating Old Oxford Valley Road and moving it closer to Middletown Township and developing the two retail uses.

Mr. Chris Burkett, engineer from Gilmore Associates, was present. Mr. Burkett noted the Remington, Vernick letter of 2/17/09. Comment A regarding the Settlement Agreement was noted, and Mr. Brookman stated they have already amended the Settlement Agreement and acknowledged that the small out parcel is now part of this, and they would like to consolidate that lot with the remaining lot so that it is one lot versus the two which currently exist.

Item #2 under Zoning was noted with regard to parking. Mr. Burkett stated Mr. Majewski indicated that the Applicant proposes to construct 24 additional parking spaces for the pharmacy and 14 additional parking spaces for the bank. These are more than required by Ordinance, and Mr. Majewski has suggested that they have less parking and more green spaces; however, Mr. Burkett stated in this case the parking scheme is borne out of the requirements of the retail uses, and from an operational standpoint they feel that they need this many parking spaces. Mr. Burkett stated the parking requirements in the Ordinance are a minimum requirement, and they are able to stay under the coverage requirements for the overall project. He stated in the overall project, they are permitted 60% coverage on the entire site, and they are between 40% to 45% coverage. Mr. Burkett stated in this scheme they are proposing about 38% coverage for the five and a half acre tract so they are well below the overall requirements. He stated they also feel that they meet the stormwater management requirements and have come up with a way to deal with the stormwater which they feel is creative and more than meets the requirements of the Ordinance, therefore they feel they should not have to cut back on the proposed parking.

Mr. Burkett stated the stormwater plan has a central sub-surface infiltration bed located at the top of the slope on the tract of land. He stated they did test pits and infiltration testing on the site at the beginning of the project to identify soil constraints and soil

opportunities. They found conducive areas in the upper part of the site and located a sub-surface infiltration bed with a 36" diameter perforated pipe in a stone bed down 6' to 7' below the parking lot surface. Mr. Burkett stated there are also three rain gardens which take run off from the bank and pharmacy, and this ultimately ends up in the stormwater management flood control device. He stated by putting in this type of stormwater management system and not exceeding the coverage requirements either on a site wide basis or this specific site, they would ask that they be permitted to have the parking spaces as requested as they have been identified by the users as being necessary for their operations and they do not exceed any Ordinance requirements.

Ms. Friedman stated there was a note from Birdsall Engineering that there were more permeable soils 10' below the surface, but the rain gardens are only going to be at 6'. Mr. Burkett stated the BMP methodology calls for .1" per hour which is not difficult to meet, and they got ½" to 3" per hour at locations he noted on the Plan. He stated for rain gardens, they do a soil replacement for the soil underneath and at the bottom there is a drain pipe so it will drain. Mr. Burkett stated they do agree that they need to do additional testing, and they will look at the surface in the lower area.

Ms. Friedman asked Mr. Majewski if he is still concerned about their request for extra parking, and Mr. Majewski stated he is now comfortable with the proposal as discussed this evening. He stated they are also not clearing as much woods on the property as was allowed under the Settlement Agreement. He did want to make sure that they were not just trying to establish more parking than was really needed.

Mr. Fried stated that it appears they are asking to eliminate additional green area because they need more parking. Mr. Burkett stated on the Approval Plans there was a tree line, the location of which he showed on the Plan. He stated the Board of Supervisors were concerned that when they created the retail pad and the office pad that they would not meet the natural resource preservation requirements. Recognizing this, they drew in a tree line so that when the retail and office are plugged into the overall plan, it still meets the resource requirements. He stated now the proposal is that they will preserve even more of the woodlands than they were required. He stated they did this by pushing the development as far as possible into the open field on the north side of the site.

Mr. Burkett stated the approval for the access drive off Oxford Valley Road was already approved by PennDOT so they had to design to PennDOT requirements. They therefore put the smaller of the two retail facilities, the bank, on the south side of the road and the larger one, the pharmacy, on the north side to try to get the run off to go north and to preserve all the trees on the south side. He stated they are therefore preserving more green than the Ordinance requires, even though they are providing more parking.

Mr. Fried asked how much extra they are adding for parking, and Mr. Majewski stated it would be about 6,000 square feet and it is not significant in terms of the entire site.

Mr. Burkett noted Item #3 of Mr. Majewski's letter which relates to the tree line already discussed. He stated this goes back to the Settlement Agreement with regard to trying to preserve existing trees along Oxford Valley Road. He stated two basins were provided for on the PennDOT Plans and he showed these on the Plans. He stated there is a wooded area located in the existing swale on the north side of the access road. He stated part of the Approved Plans showed those woods being removing so he is unclear as to Mr. Majewski's comment that the existing tree line along Oxford Valley Road is to be preserved. He stated he does know that there was a conversation about the north side of Big Oak Road and there was a concern that the residents of Yardley Corners would have a view into the residential portion of the project, and they therefore put earth berms and plant materials along there and preserved as much of the vegetation as they could. He stated he does not recall discussion about preservation of the tree line which is across from the shopping center.

Mr. Majewski stated he did not have the right-of-way plans for Oxford Valley Road to see how much they were clearing. He stated the intent of the comment was that on the north side of the access drive through the middle of the property, possibly they could preserve some of the trees in between where the basin is and where the parking lot is. He stated the Settlement Agreement does not state specifically where that tree line is, and he recognizes that the intent was more likely to satisfy the concerns of the Yardley Corners' residents. Mr. Burkett noted an area which will be regraded when the road is moved and stated it would be difficult to leave vegetation there and this is why they showed it being removed. He stated this is fairly young vegetation with 3" to 5" caliper maples and sweet gums that have grown up in the ditch in the last fifteen to twenty years. He added he did walk the site with a representative of the Environmental Advisory Council. He noted the area on the Plan where they have chosen to preserve trees, and it is the area with the large, mature trees.

Mr. Majewski stated his comment was that he needed more information to verify that this is being complied with and based on what Mr. Burkett is stating, he feels they are complying.

Ms. Appelson noted the Bucks County Planning Commission letter also mentions the tree line and indicates that the Agreement indicated that the Applicant had agreed to preserve the existing tree line along Oxford Valley Road. Mr. Brookman noted the language that appears in paragraph 3 of the Settlement Agreement which has the heading, "Open Space," which states, "Matrix is obligated to convey five acres to the Township for a future park." He stated in Section C it states, "Matrix agrees to preserve the existing tree line along Oxford Valley Road," and his recollection is that this came up in the context of the residential development on the other side of the road and the efforts to shield that development from what was proposed in that location; and what has occurred is they have met the spirit and the intent irrespective of this language because where there are trees being removed, it is necessary in conjunction with the Oxford Valley Road

improvements, but they have preserved more than the tree line as indicated on the Plan. Mr. Tepper stated there remains a woodland buffer between the basin and the bank pad as well even after the development is constructed.

Mr. Burkett stated these improvements are in PennDOT's right-of-way, and he showed the right-of-way line on the Plan. He stated there are trees in PennDOT's right-of-way so when the application was made to PennDOT for the Highway Occupancy Permit for the driveway and widening, in order to meet the drainage requirements due to the creation of additional roadway width, a swale that existed was expanded into an actual basin and this is part of the PennDOT approval that exists for the access. Mr. Burkett showed a copy of the Landscape Plan and noted that even though some trees are going to be removed there is still a fairly thick buffer proposed of new plantings that goes on the outside of the driveway. He stated there will be plantings along the parking lot to screen the parking lot from the roadway. Mr. Tepper also noted the tree line that will be maintained between the PNC Bank and the drainage basin, and Mr. Burkett showed this area on the Plan. Mr. Burkett stated the trees are large deciduous trees with not much understory so you will be able to look in under the canopy and see the building behind it. Mr. Burkett stated they feel they have done what the spirit of the Agreement called for as well as complied with the PennDOT requirements.

Item #4 was noted with regard to improvements to Big Oak and Oxford Valley Roads. Mr. Burkett stated there has been a change to this, and they will be phasing the improvements as noted earlier this evening by Mr. Brookman. Mr. Majewski has commented in his letter that the Settlement Agreement will need to be amended to allow for this change. Mr. Brookman stated this has already occurred. He stated they are not asking for relief not to do the other improvements, it is just a change as to the timing of the improvements. Ms. Appelson asked what would happen if they never go forward with the residential component, and Mr. Brookman stated if they do not go forward there will be no one to do the improvements, but there would also not be any development that would require the improvements.

Mr. Majewski asked what improvements they are currently proposing, and Mr. Burkett stated they will move the roadway 12' to 14' in order to get an accel lane with a right in and a right out. He showed on the Plan the area to which they will move Old Oxford Valley Road, and this will line up with the future access driveway of an office building to be located across the street. Rather than tying into the new curb lines, the roadway will tie in at the existing curb line, so that the existing curb line will be preserved. They have designed this so that when the curb does get pulled back, there would be room for everything. He stated on the other side of the road, the existing alignment will stay as it currently exists. The main difference that will be noticed is that Old Oxford Valley Road will be re-aligned and it will come in at a 90 degree intersection instead of an angled intersection as it does now. It will be widened and utilities will be placed.

He stated most of the development that was proposed down Big Oak Road was associated with the new entrances for the residential community, and without those, the road widening is no longer necessary. He stated the Level of Service at the intersection will be the same as it is currently.

Mr. Brookman stated the re-location of Old Oxford Valley Road will generate approximately another 150' of stacking potential at the intersection of Oxford Valley Road and Big Oak Road by re-locating the road.

Mr. Bush asked if there is a Plan B for the residential part of the project in case the economic climate does not change in the next five to ten years. Mr. Brookman stated there is not. He stated they do plan to come in shortly with a plan for the office building previously noted. Mr. Dickson stated because of the Settlement Agreement, he does not feel they can consider anything other than the residential development; and Mr. Brookman stated there cannot be a change without coming back to the Township.

Mr. Burkett noted Item #5 which refers to off-street loading facilities. He showed on the Plan the loading area for the pharmacy which meets the dimensional requirements of 12' by 40'. He stated there is no off-street loading area proposed for the bank as the bank does not have a need for a lot of loading. Mr. Majewski stated a loading area is required for the bank as they do have different types of box trucks and FedEx trucks that will come to the site, and they will have to provide a place on the Plan where this would be located. Mr. Majewski stated it would need to be 12' by 40' and he does feel there is room for this. Mr. Burkett agreed to look into this further.

With regard to the Subdivision and Land Development Comments, Mr. Burkett stated they will comply with Items #6 through #23. With regard to Item #24 which has to do with parking lot lights, Mr. Burkett stated this relates to parking that was discussed so this would no longer be an issue.

Mr. Majewski noted Item #8 regarding core borings for the road, and he recognizes that eventually they will be re-constructing the road. Mr. Burkett stated he believes the borings were done, and Mr. Majewski asked that he provide these.

Mr. Burkett stated they will comply with all items listed under Item E – Stormwater Management. Ms. Friedman noted Item #33 regarding the curve numbers and the fact that some of the areas were a larger spread than 5. Mr. Burkett stated they will prepare an Exhibit which they will provide to Mr. Majewski's office. He stated this relates to the software that they use.

Mr. Burkett noted the 1/27/09 Remington Vernick Sanitary Sewer Review letter, and they will comply with all items in that letter.

The Birdsall Engineering letter of 1/27/09 was noted, and Mr. Burkett stated the first issue relates to the rain gardens, and they will comply with that and do additional testing. On the second page it indicated that no infiltration tests were provided, and Mr. Burkett stated they will be expanding the infiltration test pits and infiltration testing. He stated their next comment relates to the depth of the testing, and they will comply with that. He stated the last comment discusses a mass balance capacity calculation and requests that the Applicant be prepared to demonstrate the anticipated performance of the disposal system for the design storm events. They have also indicated that a groundwater infiltration stormwater mounding analysis be provided and demonstrate that no seepage or ponding is expected which will negatively impact adjacent lower-lying properties. Mr. Burkett stated there is no provision for this in any of the Stormwater Management Ordinances. He also stated that given the fact that the property is totally surrounded by roadways and there are no adjacent properties that would be impacted by a groundwater mounding or seepage from the infiltration device, he would request that they not have to provide this information. He stated he feels this is an expense that the Applicant should not have to bear since it is not in the Ordinance.

Mr. Friedman asked about any possible impact to the gas station in the area, and Mr. Burkett showed the location of the gas station on the Plan and reiterated that all the stormwater is sent north.

It was agreed by the Planning Commission that the Applicant would not have to comply with this request from Birdsall Engineering.

The letter from Mr. Yates, the Fire Marshall, dated 1/16/09 was noted. Mr. Burkett stated Item #1 relates to adequate access and indicates that this should be determined by the Township engineer. With regard to water supply for fire protection, Mr. Burkett stated they are currently showing a public water main that would be extended from the east side of Big Oak Road where the shopping center is located, and they will extend the water main as shown on the Plan up Old Oxford Valley Road. Mr. Burkett added that since they are pulling back on the amount of improvements at the intersection, constructing the water main through there may not be a good option given the general water use for a pharmacy and a bank which is very low. He stated they are currently evaluating the option of installing wells for those two locations for the near term as opposed to installing 1500 feet of 16" or 12" water main through an intersection. He stated the facility will be sprinklered, and they would need to meet the requirements for this. He stated the gas station does have an on-site source. Mr. Bush stated he assumes that if they do this, once they install the water main for the rest of the development, they will connect these up; and Mr. Burkett agreed. Mr. Burkett stated they will comply with the Miscellaneous Fire Protection items listed.

The Bucks County Conservation District letter dated 2/11/09 was noted, and Mr. Burkett stated they will comply with all comments.

The Historic Commission letter dated 1/19/09 was received, but there were no review comments to comply with.

The Bucks County Planning Commission letter dated 2/11/09 was noted. Mr. Burkett stated they are asking for demonstration of consistency with the overall Approved Plan, and he feels they can do this with some additional notes. He stated the site capacity calculations were on the old Plan, and they could transfer this to the cover sheet to provide a better explanation of the old Approval and how the new proposal fits into the old Approval requirements. Mr. Burkett stated Item #3 refers to preserving the existing tree line on Oxford Valley Road which they have already discussed. He stated Item #4 relates to impervious surface, and the Bucks County Planning Commission has indicated on Page #3, second paragraph that the proposed impervious surface for the site is 41%; and Mr. Burkett stated that was for the old Approval. He stated 60% is permitted. He stated they will provide a calculation to show that they will be below the 60% that is permitted.

Item #5 regarding the pedestrian access was noted, and Mr. Burkett stated the Bucks County comment is suggesting that sidewalks be provided along the perimeter of the site. He noted the Section they have cited, Section 178.47A, indicates there are different kind of road classifications (arterial, collector, local – with Oxford Valley Road being an arterial, Big Oak Road being a collector, and Old Oxford Valley Road being a local road). Mr. Burkett stated there is no other sidewalk located in the area. He noted a path on the Plan which goes through the Yardley Corners project. He stated there is no sidewalk north or south of Big Oak Road, and there is no sidewalk associated with the existing shopping center in the area. He showed on the Plan the open space of five acres that was dedicated to the Township the purpose of which is to be some kind of park. He stated some of the walkways in the townhouse community feed into that park; but it has not yet been designed. He stated he does not feel putting sidewalks on Oxford Valley Road is a good idea given the volume of traffic and given the fact that there is no inter-connectedness. He stated this is also the case with regard to Big Oak Road. He stated no sidewalks are proposed with the already-approved road improvements to go on Big Oak Road to the west down to the Middletown Township line. He stated the only place it may make sense for sidewalks would be directly across the access road where there could be a walkway that would connect this into the proposed townhouses in the area he noted on the Plan.

Mr. Bush stated if they are going to do something in the future, he would want them to do it now. Ms. Friedman stated they are now proposing two retail businesses, and the residents from Yardley Corners may want to walk over to these businesses as well as to the proposed physician's office. She stated she is less concerned with development of the back area which connects the proposed park and the age-restricted development which she feels should be done when that residential development occurs. Ms. Friedman stated she is more concerned with a way to get to the bank and pharmacy on Big Oak Road and Oxford Valley Road. Mr. Pazdera asked if there was a pedestrian crossing proposed at the intersection, and it was noted there was not. Mr. Dickson stated he feels there was discussion on this, and Mr. Majewski stated he believes a Waiver was granted for this. Mr. Majewski stated he feels this goes back to the comment both he and Bucks County made in that the Applicant needs to add more Notes about how they are complying with all the Conditions of Approval; and if they did get a Waiver, this should be indicated.

Mr. Brookman stated the two non-residential pieces did not get Preliminary or Final Plan Approval so they would need a Waiver. He stated they may have received a Waiver for the Residential component, and they will check on this. Mr. Bob Rodgers indicated that the Approval for Oxford Valley and Big Oak Road does not call for sidewalks.

Mr. Fried stated he feels it makes sense to put a sidewalk on the back side of re-aligned Old Oxford Valley Road since they will be ripping this up now; and Mr. Burkett stated the Ordinance calls for a 5' landscaped area and a 4' wide sidewalk so there would be sufficient room. Mr. Fried asked if there are any large trees in the area, and Mr. Burkett stated if they are in the right-of-way, they would have to be removed to provide for the swales. He stated there is no curb proposed for the new road and everything will sheet off into the swales off the road. Mr. Fried asked how many homes are proposed for the south side of Big Oak Road, and Mr. Burkett estimated there could be 150 to 200 people. Mr. Fried stated he feels there could be a safety issue with this number of people /potentially walking across this road.

Mr. Burkett stated access to the Township's property by vehicles has not been designed; and it is unlikely that they will develop this open space and not have any parking for vehicles. He stated it is possible there could be a parking area for those wishing to use the five acre open space area, and he showed on the Plan the location of logical alignment for this which would be off Old Oxford Valley Road directly across from the proposed driveway. Mr. Fried stated he feels this is another reason why some sort of safe pedestrian walkway along the retail side of Old Oxford Valley makes sense.

Mr. Tepper stated it appears they are suggesting connecting the open space to the retail along Old Oxford Valley Road with a sidewalk; and they could take wherever the connector road intersects Old Oxford Valley Road where the driveway is, and put a future crosswalk and a sidewalk landing of some length along Old Oxford Valley Road. Mr. Burkett stated he felt he would be able to fit this in.

Mr. Pazdera asked if it makes sense to take it all the way down Big Oak since when they build the homes, it would give a path from back behind the community building to be able to walk to the pharmacy without having to go out to main Oxford Valley Road.

Mr. Burkett showed an aerial photograph, and stated a connection across Oxford Valley Road does not seem reasonable, but a connection on the other side of the roadway to the rest of the project does make sense as well as the connection to the open space which has already been dedicated.

Mr. Tepper stated they would seek a Waiver for the rest of the sidewalk required by the Ordinance. Mr. Brookman stated it appears that they have agreed to a sidewalk which would begin at a point where the current access point would connect to the re-aligned Old Oxford Valley Road and go north about half way toward Big Oak Road. This was acceptable to the Planning Commission.

Mr. Burkett stated the next comment is with regard to stacking lanes asking that they show the imprint of a car on the Plan, and they will comply with this.

Mr. Burkett stated Item #7 involves stormwater management, and he has already indicated that they will comply with all the stormwater management requirements.

Mr. Burkett stated Item #8 relates to the sewage facilities. He stated the 537 planning has already been done for the project, and he has letters from DEP approving the square footage for the retail. He stated they will provide a letter regarding this.

Mr. Majewski noted the TPD review letter dated 2/2/09, but Mr. Tepper and Mr. Brookman stated they had not received this letter. A copy was provided, and the Applicants were given an opportunity to review this letter at this time.

#### AGRICULTURAL SECURITY DISTRICT – RECOMMENDATION REGARDING TAX PARCEL #20-009-003

Mr. Ferri was now present to answer questions of the Planning Commission.

Ms. Friedman stated according to ACT 43, this allows the Applicant to get State funding if he is seeking development rights, and she asked if he is considering development. Mr. Ferri stated he has no plans at this time for development, and he intends to make this a personal homestead for his family. Ms. Friedman asked if he is currently farming the property, and Mr. Ferri stated he is in a limited way. He stated he owned a piece of ground on Big Oak Road which is currently under development; and this was a forced sale over which he had no control. He stated he did have greenhouses on that property, and he would like to re-erect them but they cannot do this until they receive this Approval and consider the drainage problems as well.

Ms. Friedman noted the Plan submitted and asked what is around the property.

Mr. Ferri stated the property is about 38 acres, and there is a large bit of forest, but much of it is damaged, and he is losing a lot of trees. He would like to work on this as a wood lot, and improve that forested area, and grow new trees. He stated a number of the trees are maxed out, dying, and falling down. He stated the gas pipe line goes through the back of the property. He stated he is very close to Jug Hill Tree Farm to the side.

Mr. Ferri stated his own property goes from the Golf Course to Taylorsville/Mt. Eyre and back again. He stated he is working in coordination with Mr. Majewski on some water drainage and road damage. He stated they were wholesale growers for sixty years in the area, and they would pre-finish vegetable and ornamental flowers, and they would sell them to retail and other growers including Shady Brook. He stated they would like to continue to do this.

Mr. Fried asked why he is requesting the Application, and Ms. Frick stated he felt that he was already in the Agricultural Security District, but it was found out that he was not.

Mr. Ferri stated he was in the Agricultural Security District when he had the property on Big Oak Road, and he felt that being in the Act 319 would automatically put him in it. He stated Act 319 is a tax consideration, and he is trying to find out the pluses in being in the Agricultural Security District other than having the Township endorsement.

Mr. Esposito stated some of the benefits are that it limits the Township as to what they can do with regard to condemning any part of the land. He stated it also does not allow the Township to pass nuisance Ordinances that would limit farming. Mr. Ferri stated he is familiar with this Act, and added they do not intend to do anything radical although some people may not like to see trucks, tractors, or greenhouses which are required in this kind of operation.

Mr. Pazdera moved, Mr. Fried seconded and it was unanimously carried to recommend to the Board of Supervisors approving the request to place Tax Parcel #20-009-003 into the Agricultural Security District.

#### #335-R – OCTAGON CENTER DISCUSSION (CONTINUED)

Mr. Brookman stated they reviewed the comments in the TPD letter and feel they can resolve these issues with them. He stated they will contact them after this evening's meeting to get clarification on these comments, and he assumes they will issue a revised letter. He stated all of the highway improvements were previously reviewed by TPD, and were Permitted by PennDOT so he questions why they are going back and revisiting this.

Mr. Majewski stated they may just need clarification on the phasing of the improvements and would like to know what the developer is proposing now versus what the Plans show. Mr. Tepper stated the Amendment to the Settlement Agreement requires them to deal with all of the other agencies before they proceed.

Mr. Brookman asked if the Planning Commission would recommend approval subject to the developer's compliance with the TPD review letter except in the event that TPD does not issue a clean letter in which case, they would come back to the Planning Commission. Ms. Frick stated if the Planning Commission is not in favor of this, the developer would have to provide an Extension.

Mr. Bush stated they also need to go over the EAC letter, and Mr. Majewski stated they also have a PennDOT letter which indicated that they need more information.

Mr. Tepper stated after the comments were received from the EAC, they had a site tour where a lot of those comments were discussed. Mr. Burkett stated the EAC had six comments which were sent in an email dated 2/6/09 from Mr. Goll. Mr. Majewski stated there were two e-mails – one at 10:52 a.m. and the other on 9:14 p.m. both with the same date. Mr. Burkett stated there was a question about whether this was under the purview of the new LID Ordinance or as a result of the pre-existing Settlement Agreement, and Mr. Burkett stated it is under the purview of the pre-existing Settlement Agreement.

Mr. Burkett stated Mr. Goll had also asked that the Township undertake their own wetland delineation on the site. Mr. Burkett stated he feels that after walking the site with Mr. Goll and pointing out that there are no wetlands on the site, that Mr. Goll later agreed that they already had a jurisdictional determination, copies of which had been provided to him. Mr. Goll had comments in the e-mail about what he considered to be significant water courses on the site adjacent to Oxford Valley Road and had suggested that there may be regulation by the Corps and DEP, but when they walked the site, Mr. Goll came to understand that there are no water courses on the site. Mr. Burkett stated Mr. Goll had felt that the site was lower than the roads that surrounded it, but it is in fact several feet higher.

Ms. Friedman stated she felt there were water courses where the age-restricted community will be built, and Mr. Majewski stated they are in the area where the trees are located. Mr. Burkett stated he feels that once they walked the site, Mr. Goll agreed that there were no issues.

Mr. Burkett noted Comment #4 where Mr. Goll asked for documentation of infiltration testing, and they will provide this information.

Mr. Burkett stated there is a comment about the curve number issue which they discussed with Mr. Goll on the site, and they have agreed to provide additional calculations.

Mr. Burkett noted Item #6 regarding stormwater run off discharge, and Mr. Burkett stated this has to do with the fact that when you have underground infiltration, you need to try to filter out the silt before it gets into the infiltration bed. He stated their inlets will be sunk so that there is 1' from any pipe that leaves the basin, and this area 1' below the pipe

allows the water to “swirl and still” in this area which is where the silt builds up. He stated this is a method of pre-treatment that is proposed in the BMP Manual, and it is a method they will employ on the site. They explained this to Mr. Goll and, Mr. Burkett stated he feels this was satisfactory to Mr. Goll. He stated they did generate meeting Minutes which had been sent to the Planning Commission.

Mr. Brookman stated there was a second set of comments sent by Mr. Goll on 2/13, and Mr. Tepper stated the meeting Minutes were revised on 2/16/09 to reflect the Mr. Goll’s 2/13/09 comments. It was noted the Township did not receive these, and the Applicant agreed to provide these to the Township.

Mr. Burkett stated he feels they are in general agreement on the environment aspects, and he does not feel they are out of conformity with any of their wishes.

Mr. Tepper stated the PennDOT letter was a request for information from the developer in order for PennDOT to become comfortable with how they want to phase the road improvements, and they are working with them to provide the information they have requested.

Mr. Tepper stated they would request that the Planning Commission recommend approval of the Application to the Board of Supervisors subject to the developer’s professionals working with the Township professionals to finalize any issues that remain as discussed this evening.

Ms. Friedman stated the missing piece is the TPD paperwork, and the Planning Commission rigorously analyzes that part of the development. She stated she feels since they are lacking this, it should be updated and the Planning Commission be part of that next piece of the review. She stated she is not in favor of recommending approval this evening. Mr. Pazdera agreed.

Ms. Frick stated they do need to request an extension in writing.

Mr. Dickson stated he has no problems with the proposal from an engineering perspective, but he is concerned that there is a significant amount of empty retail in the area which he understands is going to get worse. He stated he questions from a business perspective, the wisdom of this project at this time. He stated there are businesses failing and banks consolidating. Mr. Brookman stated this retail was already part of the Octagon Center. He stated they have end users who have signed leases for the pharmacy and bank location. He stated they will be coming before the Planning Commission with a physician’s office which is a purchase/sale agreement with a substantial deposit. He stated both the pharmacy and bank have expressed strong interest to be in this location. Mr. Dickson stated while he is fully aware of this, he is concerned that as the

economy continues to deteriorate, they are looking at businesses fail and he does not agree that they should only consider the fact that these are tax ratables as he does not feel it is a good business move at this point. Mr. Brookman stated the landlord and tenants have reached an agreement, and he feels it is fortunate in these very difficult times that there are responsible institutions that have confidence in the Lower Makefield market and have agreed contractually to locate in these areas.

Mr. Bush asked if CVS has indicated if they will keep open the other CVS locations in Lower Makefield, and Mr. Brookman stated it is their understanding that they will keep open the other locations in the Township. Ms. Frick stated this will make three in Lower Makefield. Ms. Friedman stated there is also one in the Oxford Valley Mall.

Mr. Dickson stated when the Oxford Oaks Shopping Center was built, they convinced the Township that a supermarket would succeed at that location, but it closed very quickly and was vacant for a number of years.

Mr. Brookman stated at any given period in time, there are cycles in the economy and since this is an excellent location, these retailers feel that this is a place where they want to make a capital investment. Mr. Brookman stated he is hopeful that by the time these businesses are built and are open, they will be going through an early stage of a recovery and by incurring traffic improvement dollars, construction improvement dollars, and creating jobs, this will help turn the economy around.

Ms. Friedman asked when they propose to start the office building portion, and Mr. Tepper stated they plan to come in with a Plan in approximately one month. Mr. Dickson noted the number of office properties already in the Township or under construction; and he stated he feels there is a surplus of office space in the Township now. Mr. Brookman stated this is a “build-to-suit” as the doctor has agreed to acquire the building. He stated the developer is not proposing to build anything of a speculative nature.

Mr. Fried asked how much disruption there will be on Oxford Valley and Big Oak Roads during construction. Mr. Brookman stated there will not be much of a disruption with respect to what has been reviewed this evening; however, when they do the full set of improvements, there will be significant disruption. Mr. Rodgers stated there are staging plans for the more significant traffic improvements. He added the intent is that the entire construction phase will be one season.

Mr. Fried asked their thinking about the residential component, and Mr. Tepper stated it is currently on hold as there is no demand as people are fearful of their ability to sell the homes they own; and if they cannot sell their homes, they cannot move to an age-qualified community.

Ms. Friedman asked if they are considering phasing the residential portion of the property, and Mr. Tepper stated it was always intended that it would be phased; and they would be bringing to market some of each of the product types over time. He stated their approval for the residential accommodated this and the fact that they would enter into Land Development Agreements with the Township for the particular phase they wanted to build at that time.

Mr. Brookman stated the Applicant will grant a sixty-day extension and will confirm this with a letter tomorrow.

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

Respectfully Submitted,

Mark Fried, Secretary