

TOWNSHIP OF LOWER MAKEFIELD  
PLANNING COMMISSION  
MINUTES – FEBRUARY 27, 2017

The regular meeting of the Planning Commission of the Township of Lower Makefield was held in the Municipal Building on February 27, 2017. Mr. Tracey called the meeting to order at 7:30 p.m.

Those present:

Planning Commission:                    John Tracey, Chair  
                                                         Dawn DiDonato-Burke, Vice Chair  
                                                         Craig Bryson, Member  
                                                         Charles Halboth, Member

Others:                                        Jim Majewski, Director Planning & Zoning  
                                                         Steve Ware, Keystone Municipal Services  
                                                         Barbara Kirk, Township Solicitor  
                                                         Jeff Benedetto, Supervisor Liaison

Absent:                                        Chad Wallace, Planning Commission Secretary

APPROVAL OF MINUTES

Mr. Bryson moved, Mr. Halboth seconded and it was unanimously carried to approve the Minutes of February 13, 2017 as written.

HILDEBRAND PROPERTY PRELIMINARY/FINAL MINOR SUBDIVISION PLAN  
DISCUSSION AND RECOMMENDATION

Mr. Mark Eisold, Township engineer, was present and showed the Minor Subdivision Plans. He stated this is an Open Space acquisition in conjunction with the Bucks County Municipal Open Space Program; and the Township is proposing to subdivide the property which is near the intersection at Big Oak and Stony Hill Roads, and 1.5 acres will stay with the current property owners who live there. Mr. Eisold stated the remaining piece of approximately 8.5 acres will be purchased by the Township to leave it as undeveloped open space using the balance of their funds from the Municipal Open Space program and contributing some additional Township funds.

Mr. Tracey asked if the stone house on the corner is a historical building. Mr. Eisold stated he is not sure; however, the Township is not doing anything with that building.

Mr. Eisold stated the property is Tax Parcel #20-034-014 and is currently owned by John and Janet Hildebrand. Mr. Eisold stated the site is in the R-3M Single-Family District, and it is predominantly wooded. He stated there is a stream as well as some wetlands, and he showed the location of the stream on the Plan. Mr. Eisold stated everything will remain as it is today.

Mr. Eisold stated the purchase of the property is consistent with the Township's Open Space Plan as adopted by the Board of Supervisors on 8/19/09. He stated much of the land surrounding the site has been developed for Residential Development. He stated there is no physical linkage proposed to bring the public to the site, and it will not be an active recreation area. It will remain as is with no access. Mr. Eisold stated the wooded area will provide a visual and natural resource linkage to other environmentally-sensitive areas, and he noted the Guzikowski Farm across the street which is a property that the Township has obtained a Conservation Easement on to protect that property.

Mr. Eisold stated the amount to come from the Open Space fund is \$269,605, and the balance will be from Township funds in the amount of approximately \$185,395. Mr. Eisold stated the Township is scheduled to go before the County shortly to get final approval on this.

Mr. Tracey asked if anyone has surveyed the site to see if there are any borer beetle problems; and Mr. Eisold stated nothing has been done at this point, and they are buying it as it is.

Ms. Kirk asked Mr. Eisold to review the Waivers being requested by the Township. Mr. Eisold stated many of the Waivers are not applicable; however, they have requested them to be on the safe side. He noted SALDO Section 178-28.Y to not be required to show sewers, water mains, culverts, petroleum products or gas mains, fire hydrants or other significant manmade facilities as no development is proposed.

He stated #2 is SALDO 178-28.Z to not be required to show location of wells, on-site septic, stormwater management systems, or other similar features on or within 200 feet of the land to be subdivided because no development is proposed at this time.

He stated #3 is SALDO Section 178-28.AA.(2) to not be required to show the species and size of large trees standing alone or mature trees with a diameter of 15 inches or greater measured four feet above grade level since there is no disturbance proposed of those trees.

Mr. Eisold stated the last is Item #4 SALDO Section 178-40.C to not be required to dedicate additional right-of-way along Big Oak Road and Stony Hill Road for Parcel A and to not be required to widen the existing cartway to conform to Township Standards due to the historical value of the existing house and amenities.

Ms. Kirk stated the primary purpose is to secure this land for open space with no development leaving it in its natural state. She stated with regard to the Waiver for the right-of-way, the Township is not changing anything; and that parcel will remain with the current property owners with the existing house.

Mr. Majewski asked if the lot is serviced by public sewer or septic, and Mr. Eisold stated he feels it is public sewer. Mr. John Hildebrand was in the audience and stated it is served by public sewers. He also noted that the house is a historic home through the County Register.

Ms. Burke asked if this amount of money is the remainder of the money available; and Mr. Eisold stated the Township gets an allotment of County funds, and this is the remaining money. Mr. Benedetto stated they had a deadline of the end of 2016 to use these funds, and this will use the rest of the funds that the Township was allotted. He stated the Township had identified the Hildebrand property as a target to purchase.

Mr. Bryson moved and Mr. Halboth seconded to recommend to the Board of Supervisors approval of the Preliminary/Final Minor Subdivision Plan for the Hildebrand property as set forth by the Township engineer with the approval of the four Waivers as requested.

Mr. Tony Kehoe, 476 Liberty Drive, stated there is currently an on-going effort to preserve open space; and he asked what constraints are being placed on this land so that in the future they do not have people coming in later asking that it be permanently preserved in case the Township wants to sell it. He asked what constraints guarantee preservation. Ms. Kirk stated there are no absolute guarantees other than the requirements under the Open Space Program; and generally when funds are being used under the Open Space Program to acquire property, the Township cannot re-sell it absent approval from the County Open Space Program or else forfeit having to re-pay all those monies back to the County Program. Mr. Kehoe asked if they would have to re-pay with interest. Ms. Kirk stated she does not know the specifics of all of the regulations; however, she does

know that once land is purchased with County Open Space Funds that is in perpetuity, and you cannot re-sell it without County approval. Mr. Kehoe stated they would have to get County approval and reimburse the County, and Ms. Kirk agreed.

Motion carried unanimously.

#### DISCUSSION OF COMPREHENSIVE PLAN

Mr. Tracey stated he is the only current Planning Commission member who was on the Commission when they worked on the Comprehensive Plan finalization. He stated the last revision does discuss the build out of Edgewood Village and maximizing pedestrian connectivity, and he does feel that has changed to some degree since the end of 2014; however, that was under active consideration at the time. He stated he is reluctant to start re-crafting a document from a perspective that is different from the one that was done at that point in time.

Ms. Kirk stated she has a memo from her associate, Ms. Hanks, who was present on her behalf at the last meeting when this was discussed; and she understands that one of the questions was whether there was a possibility that Capstone could go in front of the Board of Supervisors to either apply for Use Variances or seek a re-zoning of the property, and she stated those two options are still open.

Mr. Bryson stated he does not feel that was the specific question, and it was more of a discussion of re-doing the Zoning Code to enable those things as a Special Exception. Mr. Bryson stated while a Comprehensive Plan is great, it does not change policy; and the Zoning Code still dictates what you can and cannot put there.

Ms. Kirk stated part of the overall thought process at the time that this update was developed was that the areas along the I-95 corridor would remain offices and/or research, and not to include any sort of Residential District. She stated Mr. Dwyer did make a point that with today's technology it is more virtual offices than professional office space being required. She stated she had a brief discussion with Mr. Majewski, who started today as the Director of Planning and Zoning, that possibly in addition to keeping the O/R District with offices and professional services, there might be a way to include some sort of provision that would be a similar extension of what is being done in Edgewood Village where you would permit smaller Retail Development and possibly consider a single apartment use above a Retail storefront. Ms. Kirk asked if the Planning Commission would be inclined to allow Mr. Majewski some time to look at that Section and come back at the next meeting with a proposal. She stated if this is done, that provision of

the update would have to go back to Bucks County Planning Commission or alternatively, they could make a recommendation as to the update as it is currently written. She stated any time you make a modification to a final version of any type of Zoning or Land Use Planning, it has to go to the County's Planning Commission for review and comment.

Mr. Tracey asked if doing this, would it leave open some sort of re-definition of the Zoning Ordinance for O/R. Ms. Kirk stated while it may not leave it open for re-definition, it may require an Amendment to that definition to include additional uses that would otherwise not have been thought of ten to twenty years ago. Mr. Tracey stated at the last meeting Mr. Bryson made a good point that whatever they do they need to have something in the O/R Ordinance that specifically addresses those points, and Ms. Kirk agreed. She noted Page 46 of the Plan which discusses the issue of high vacancy rates with respect to more home-based employment etc. She stated if the Comprehensive Plan was crafted to include even a paragraph that included wording stating in light of more home-based employment, less use of formal office space, and a more constructive use of the O/R District that the Zoning and Plan for the Township be expanded to include a type of Traditional Neighborhood Retail area with less generation of traffic along major highways, but still a tax-based generating income.

Mr. Bryson stated he feels what is being suggested is an Overlay District for a mixed-use, and Ms. Kirk stated that is possible. She stated she recognizes that the Township is having difficulties with the land in the O/R District, and there is also an issue as to what is the best way to address this. She stated changes would need to be made to the Zoning Ordinance dealing with the O/R District; and rather than doing it in a piecemeal fashion like Capstone was asking, she feels it would probably be best for the Township to include it in its Comprehensive Plan and have an Overlay District that could be applicable to more than one plot of land. Ms. Kirk stated with Mr. Majewski coming in who was formerly the Township engineer and worked with many of the Boards, she would suggest that they give him the opportunity in the next couple of weeks to look this over and come up with a proposal that would satisfy what needs to be done to develop the O/R District instead of having the vacant land.

Mr. Benedetto stated if you review prior meeting Minutes, Mr. Dwyer came back to the Planning Commission and the Board of Supervisors and specifically stated that the mixed use would not work at Capstone Terrace. He stated he came up with two different Plans – all Retail and the original idea which was apartments. Mr. Dwyer stated the Capstone property was too small of a space to work for mixed use.

Mr. Bryson stated he feels Mr. Benedetto is under the impression that they would have to build Retail in conjunction with Residential on the same site. He stated it is dangerous when they start requiring certain percentages so that it would have to be 10% Residential, 50% food oriented, etc. Mr. Bryson stated they should come up with a set of uses that they feel fit best in there and put them in as an Overlay. He stated the Traditional Mixed Use with Retail and Office or Residential on top has had mixed success. Ms. Kirk stated what is happening in Newtown Borough has been a big success. She stated Capstone is very close to Edgewood Village. She added that while she understands Mr. Dwyer's prediction as to a Mixed Use, he was presenting it in a light most financially favorable for his client; and that does not mean it is most feasible for the Township.

Mr. Halboth stated there is no way that there is a pedestrian connection between Edgewood Village and Capstone, and he feels they should put that to rest. Ms. Kirk stated she was not talking about walking between the sites, rather she was talking about the characteristics of the sites. Mr. Benedetto stated the distance is not that great; and the developer proposed to build the connection. Mr. Halboth stated a person is not going to walk across I-95 on a three-foot wide bridge that does not now have what a person would consider adequate protection from out-of-control vehicles. He stated to put that protection in would further inhibit the passageway you would have.

Mr. Benedetto stated he is in favor of the apartment complex, and he feels it fits in with the area. He stated Mr. Dwyer has indicated that they will build a bike path/walking path, and you cannot state that no one will ever use it. Mr. Halboth stated if he is going to build it, he will have to widen the overpass; and Mr. Benedetto stated Mr. Dwyer has indicated that he would do that. Mr. Halboth stated he does not think he will do that. Mr. Halboth stated he feels that whatever is proposed needs to stand on "its own two feet," and not be premised on what he considers to be a highly-tenuous connection to something else.

Mr. Benedetto asked if they feel that if Retail is put there it will compete with the Retail of Edgewood Village. Mr. Halboth stated he does not know what the Retail would be, but any Retail would compete with any other Retail. Mr. Benedetto stated this is what Mr. Dwyer did not want to do. Mr. Benedetto stated Mr. Dwyer has indicated that if they put Retail there, it will hurt Edgewood Village; and this is why he did not want to do it. Mr. Benedetto stated from a financial perspective, the best use for the developer would be Retail. Mr. Halboth stated they discussed a Trader Joe's for this location, and there would not be enough space for that in Edgewood Village so it would not result in competition. Mr. Halboth stated he wants to put there whatever has the best chance for success.

Mr. Benedetto stated there is a need for apartments, and currently there is a “fill rate” of over 90% at the apartments that are on that street. He stated with regard to a Trader Joe’s, he has had discussions with Mr. Jim McCaffrey asking him the impact of a Wegman’s or a Trader Joe’s at this location; and Mr. McCaffrey indicated that the absolute result would be the closing of one of the three supermarkets in the Township.

Mr. Majewski stated Mr. Dwyer indicated he did not need to have the pedestrian connection to make the apartments work, and he had indicated that if he put in apartments, it may help Edgewood Village work.

Mr. Bryson stated he feels they are getting too specific when they talk about a Comprehensive Plan, and he feels they all agree that they need to put something beyond the uses of O/R in there. He stated he has seen some good Overlays with Mixed Use used by other Townships. He stated he feels they should capture everything they would potentially want, and put it in the Comprehensive Plan and then follow it up with Zoning changes. Mr. Bryson stated this would also impact the Aria piece which is O/R. Mr. Bryson stated he feels they all agree that they want some type of apartment/rental type use; however, Ms. Burke stated she does not agree. Mr. Bryson stated that is one Planning Commission member who disagrees with the apartment use; however, they would also be in favor of Retail and the O/R use. Ms. Burke stated at one point it was noted by someone that they were not convinced that the office space was “really dead.” She stated down the street in Newtown, they are thriving with Office; and she feels it is more a matter of making it nicer Office space. Mr. Majewski stated he feels Office is changing the way it is working. He stated it would be ideal if they could find a corporate presence, and they could put it where Aria is and take up the Capstone area as part of their campus. Mr. Bryson stated the ICT building just went vacant.

Mr. Benedetto stated he feels at some point if they only allow O/R a Cause of Action could be filed because it would be felt the Township was not allowing them the proper use of their property and it is basically a taking. Ms. Kirk stated this would be a Curative Amendment. Ms. Kirk stated she is not saying they should eliminate the O/R District; rather she feels they should allow Mr. Majewski, with comments from others, to come up with some kind of Overlay that may enhance it. Mr. Benedetto stated he was saying a Curative Amendment could be brought if the Township does nothing. He stated there are 50% vacancy rates down the street, and they are only getting Class B and C tenants. He stated he feels the Township should try to solve the problem by expanding the uses.

Ms. Burke stated she feels it is up to the owners to come up with an idea and then go to the Zoning Hearing Board. Mr. Halboth and Mr. Benedetto agreed.

Mr. Bryson stated studies have shown that the suburban markets like Lower Makefield are losing residents because the millenials cannot afford housing in Lower Makefield. Ms. Burke stated older residents cannot either because of the taxes. Mr. Bryson stated he feels they both need a place in Lower Makefield, and he feels that upper level Resident rental units with Mixed-Use Retail is ideal for the Capstone site.

Mr. Benedetto stated he feels it would be better for Mr. Dwyer to go to the Zoning Hearing Board because he has not really received an answer from the Board of Supervisors. Mr. Bryson stated it would then be out of the hands of the Planning Commission and the Board of Supervisors.

Mr. Majewski stated he feels the problem with the Capstone proposal was that it was too site specific, and the whole Zone should be looked at; and Mr. Bryson agreed.

Ms. Kirk stated she does not feel Capstone will go to the Zoning Hearing Board because they will not be able to prove a hardship necessary for a Use Variance since financial profitability is not enough for a hardship. She stated it is not just the Capstone property, and there are other properties in the O/R; and rather than do it piecemeal, it may make sense to do an Overlay. She stated while it delays the Comprehensive Plan, it gets it closer to what everyone believes would be more appropriate for the Township.

Mr. Benedetto stated he feels the Board of Supervisors is looking for a recommendation from the Planning Commission indicating there are some challenges with the O/R District and to come up with some recommendations of what possible uses they would see as suitable for the area and not just Capstone Terrace.

Mr. Bryson stated he feels they need to come up with variations of a suggested Overlay. Ms. Kirk stated Mr. Majewski can look into this. Mr. Majewski agreed to look into this. He stated with regard to the Comprehensive Plan, they could state that they feel the following alternatives should be explored; and the Board could direct the Planning Commission or a Sub-Committee to take a closer look at which ones they prefer.

Mr. Halboth stated he would be in favor of some kind of entry-level housing.

Mr. Bryson stated he and Mr. Majewski can look at some other Zoning Ordinance examples. Mr. Majewski stated there are places where these alternatives have worked. Mr. Bryson stated Newtown is one of them. Ms. Kirk stated they would then not have to re-do the whole update, and it could be inserted on Pages 45 and 46 where it says, “future needs and recommendations for action.” Mr. Bryson stated they can then discuss what they really want in there later. Mr. Bryson stated he feels it would be a compromise for everyone.

Mr. Tracey stated he feels it would be a page to a page and a half of re-crafted text. He asked at what point they should bring in the Bucks County Planning Commission; and Ms. Kirk stated once it is brought to a point where the Board is happy with what is being proposed, it should be submitted to the Bucks County Planning Commission for their review and comments. Ms. Kirk stated it may be that they include under “recommendations for action” one to three alternatives, and the Bucks County Planning Commission could review this, and it would give guidance to the Lower Makefield Planning Commission. Mr. Tracey stated they have been accommodating in the past.

Mr. Bryson asked that Mr. Majewski e-mail the Planning Commission members his proposals so that the Commission can discuss it at their next meeting on March 13.

Mr. Bryson stated he feels that the document is well written; however, some of the statistics they are looking at are five to six years old, and he asked if they are going to update them. He particularly noted how many acres are available for each Use, and he would like to see those numbers updated. Mr. Bryson noted while statistics are throughout the document, he particularly noted Pages 26 through Page 40. Mr. Majewski agreed to update figures. Ms. Kirk stated they should also update the second page where it lists the Board of Supervisors and Planning Commission members. Mr. Ware stated they will also need to update the date on the cover and the maps.

Mr. Bryson stated the Sewer section also needs to be looked at. He stated the red-line plan cut out a lot of the details; however, with the upcoming sewer situation, he feels they should have detailed information on what we have and what goes where should be put back into the Comprehensive Plan. Ms. Kirk stated she does not feel much has changed; however, Mr. Bryson stated what has been described has been cut down, and he feels they need the details they had in there before. Page 11 was noted, and Ms. Kirk stated it indicates they are waiting for information. Mr. Tracey stated he feels they may not have received the information because at the time it was finalized, they were still waiting for information from the Sewer Authority. Ms. Kirk stated she feels Mr. Watson, the Sewer Administrator, should look into this.

Mr. Halboth stated with regard to the Transportation section, he feels the way it is written it leads him to believe that the approach to transportation is completely dependent as contrasted to a subject that is actually being managed in a proactive manner. He asked if this was the intent. He stated he feels this section falls off, and Ms. Kirk stated this may be due to the locale and nature of the Township's development that it is not easily accessible by public transportation, etc.

Mr. Halboth stated when he thinks of transportation, he also thinks of traffic issues; and asked if that should be considered in this document. Mr. Halboth stated there are virtually no statistics in this section. Mr. Benedetto stated it does discuss traffic calming, although he agrees it is a little "light." Mr. Benedetto stated there is a Citizens Traffic Commission, and all of the Boards and Commissions were given the opportunity to weigh in on the document. Mr. Bryson stated maybe they should take a look at this again. Mr. Ware stated the Bucks County Planning Commission did have multiple people working on this which is why some of the formats are different, and they then tried to combine it all back into one document.

Mr. Halboth stated he would expect to see some information with respect to the adequacy of intersections and what intersections fail PennDOT criteria, etc.

Mr. Halboth stated things of that nature would provide general guidance and information. Ms. Kirk asked if the Planning Commission would like someone from the Citizens Traffic Commission review this section and update it.

Mr. Benedetto stated he is the Liaison to the Citizens Traffic Commission. He stated the traffic problems in the Township include cut-through traffic through certain neighborhoods, intersections at Oxford Valley and Big Oak Road, and truck traffic coming off of I-95 through Yardley Borough and Lower Makefield.

Mr. Bryson asked if they have applied for any Grants. Mr. Majewski stated additional money will be available as a result of raising the Gas Tax; and if the Township traffic engineers be looking into certain projects where there may be money available to address some of these issues.

Ms. Kirk stated the intersection at Big Oak and Oxford Valley was developed in connection with Regency, and it was done through a PennDOT review previously. She is not sure to what extent there would be a new review. Mr. Bryson stated he feels it is more of a regional issue looking down Oxford Valley and getting all of the signals timed.

Mr. Benedetto stated Edgewood Village is also a traffic issue particularly with DeLorenzo's opening and the house on the point. He also noted Taylorsville and Dolington. Mr. Benedetto stated he will discuss Grant money with Mr. Wursta. Ms. Kirk asked that Mr. Wursta be provided this Section of the Comprehensive Plan so he can provide input.

It was suggested that Mr. Benedetto have discussion with Mr. Warren at the State level.

Mr. Ware stated if anyone has suggested changes to the Comprehensive Plan, they should send them to Mr. Majewski.

There being no further business, Mr. Bryson moved, Mr. Burke seconded and it was unanimously carried to adjourn the meeting at 8:35 p.m.

Respectfully Submitted,

John Tracey, Chair