

TOWNSHIP OF LOWER MAKEFIELD
PLANNING COMMISSION
MINUTES – JULY 10, 2017

The regular meeting of the Planning Commission of the Township of Lower Makefield was held in the Municipal Building on July 10, 2017. Mr. Tracey called the meeting to order at 7:35 p.m.

Those present:

Planning Commission: John Tracey, Chair
 Chad Wallace, Secretary
 Charles Halboth, Member

Others: Jim Majewski, Director Planning & Zoning
 Barbara Kirk, Township Solicitor
 Maryellen Saylor, Township Engineer
 Jeff Benedetto, Supervisor Liaison

Absent: Dawn DiDonato-Burke, Planning Commission Vice Chair
 Craig Bryson, Planning Commission Member

APPROVAL OF MINUTES

Mr. Halboth moved, Mr. Wallace seconded and it was unanimously carried to approve the Minutes of June 12, 2017 as corrected.

#562 – DOGWOOD DRIVE (AKA HARMONY LANE) – PRELIMINARY MAJOR SUBDIVISION PLAN DISCUSSION AND APPROVAL

Mr. Edward Murphy, attorney, was present with Mr. Ronald Monkres, engineer. Mr. Murphy stated this project has been discussed for many years. He stated this is almost fifteen acre wooded property at the intersection of Delaware Rim and Dogwood Drive. He stated the Plan was the subject of periodic reviews over the last seven to eight years. He stated they have now resolved the sewer situation which was the stumbling block for many years, and Plans have been revised and re-submitted; and what they provide is still the same five lots off a non-dedicated cul-de-sac that would extend off of Dogwood Drive. He stated the lots range in size from 6/10ths of an acre to an acre and $\frac{3}{4}$; and of the 14 $\frac{3}{4}$ acres approximately nine acres would be open space. Mr. Murphy stated the lots are proposed to be served by an individual grinder pump that would connect to a force main because given the elevation where the sewer line is located, this is the only way they could provide sewer.

Mr. Murphy stated they have received a detailed review letter from Boucher & James dated July 6 which he has reviewed, and there is nothing in the review letter that is not a “will comply” item. Mr. Murphy stated they have also seen the review letter from Mr. Ebert’s office, the sewer consultant; and there is nothing of consequence in that letter that gives them any pause.

Mr. Murphy stated late last week Mr. Majewski made him aware of two issues that were brought to his attention, and they have discussed both of those issues. Mr. Murphy stated one was the impact, if any, of an existing storm sewer pipe that is located, they believe, at the intersection of Delaware Rim and Dogwood and extends down Dogwood Drive to a point of discharge that no one seems to know where it outlets. Mr. Murphy stated Mr. Majewski indicated that over the years he has looked multiple times to see where it outlets, and cannot find it. Mr. Murphy stated they talked about the prospect of whether there would be an opportunity collaboratively to do some work outside of the normal development criteria to see if they can find out where the pipe discharges. Mr. Murphy stated that pipe is closed, and it does not impact this development’s storm sewer design. Mr. Murphy stated it is existing, and it does not permit any other water to collect into it. Mr. Murphy stated he advised Mr. Majewski that they would be willing to work with the Township to see if they can find out where the pipe outlets.

Mr. Murphy stated the second issue Mr. Majewski raised was the timeframe of Dedication of Dogwood Drive which is presently undedicated. Mr. Murphy stated in the past, and Mr. Majewski has indicated most recently, certain of the neighbors have reached out to the Township inquiring about that status as they would like the Township to assume responsibility for snowplowing, etc. Mr. Murphy stated this is out of the developer’s control, and it would be within the Township’s province to decide if and when they want to do that. Mr. Murphy stated at some point the Township can make a recommendation as part of this project or separate and apart from it as to whether they want to entertain that.

Mr. Murphy stated when they were designing the sewer system for this project, the Plan they submitted does contemplate stubbing off laterals for those parcels that abut Dogwood Drive to give those private property owners the opportunity to connect to the force main as well as two parcels on Delaware Rim where they are providing that same opportunity. Mr. Murphy stated this was an item that had been discussed in years past with the then Director of the Township Sewer Department, Mr. Hoffmeister; and they identified a total of nine parcels – seven on Dogwood Drive and two on Delaware Rim - where they would stub out and provide potential connections for those residents.

Ms. Saylor stated the cul-de-sac is proposed to be Dedicated to the Township, however the infiltration/detention basin underneath the cul-de-sac is proposed to be owned by the Homeowners' Association; and the Township engineer's office is unclear as to how that would work with Recording, Easements, etc. Mr. Murphy stated he and Mr. Monkres did discuss this today, and they agree that it should probably be the province of the HOA to be responsible for that as opposed to the Township being responsible. He stated they will revise the Note to eliminate that uncertainty so that the HOA would be responsible for the storm sewer system.

Ms. Kirk asked if the Township would still be offered Dedication of the cul-de-sac; and Mr. Murphy stated he believes that is the way it was always intended. He stated this is an innovative design which was one of the first ones that was to be a "green" street based on the Ordinance that was adopted a number of years ago. Ms. Kirk asked if there would be a joint Agreement between the Township and the HOA similar to an Easement to access the piping if need be; and Mr. Murphy stated there would be to the extent that there needs to be. Mr. Monkres stated there is a General Note further on that speaks to the sewer piping, and they will clarify this. He stated if the basin is going to the HOA, the pipes going to the basin should go to the HOA as well.

Ms. Saylor stated she feels Mr. Murphy and Ms. Kirk will need to determine the logistics of this since the Township is being asked to accept the right-of-way with the basin being owned by the HOA. Mr. Murphy stated they would prefer to Dedicate all of it; however, they know the Township would not do this.

Mr. Benedetto asked about the Waivers, and Mr. Murphy stated they are designed to sync up the design of the "green road/low-impact development roadway specs" with the actual design.

Mr. Benedetto stated this is a wooded lot, and the Tree Replacement Ordinance was not discussed in the engineering notes. He asked what the requirements are. Mr. Murphy stated the result of the calculation is "outlandish;" and this is an issue that the Supervisors will ultimately have to discuss. He stated based on the calculations that Mr. Monkres has provided, if there was strict adherence to the Tree Replacement Ordinance, the developer would be required to provide \$379,000 worth of new trees for this five-lot subdivision. Mr. Monkres stated Sheet #10 in the Plan set shows the number of replacement trees required based on the caliper size of the trees being removed. Mr. Monkres stated they are putting back as many trees as they possibly can, which is sixty-six trees, within the proposed limit of disturbance which reduced the number which would other wise be required.

Mr. Tracey asked Ms. Saylor if there are any invert or percolation issues that arose from her analysis, and Ms. Saylor stated they did not have any problems with that.

Ms. Saylor stated with regard to the existing pipe that is buried under the road, she stated they understand that they are going to look at this during the course of construction to see if there is a way to remedy this. Mr. Monkres stated they are going to reach out to a utility locator in cooperation with Mr. Majewski to try to find out exactly where the pipe is and where the outfall is. Mr. Murphy stated while it is beyond the scope of what the developer is obligated to do, he had advised Mr. Majewski that while they are out there doing other work, they will see if they can find out where the pipes comes out.

Mr. Farzin Lackpour, 15 Sunnyside Lane, stated he is concerned about the quality and quantity of the water since he and his neighbors have wells. He stated they will be building five additional houses here as well as five additional houses on the other side of his property so that will be ten more houses tapping into the aquifer if they are going to use wells as their source of water. Mr. Murphy stated these five new homes will have public water so it will not impact the existing wells. Mr. Lackpour asked about the detention basin where they will collect rain water, and he asked if there will be swales leading to that. Mr. Monkres stated there will be a number of systems they have designed, and he reviewed how the stormwater management system will work. Mr. Lackpour asked about the sewers, and Mr. Murphy stated these homes will have public sewers.

Mr. Cameron Lackpour, 28 Sunnyside Lane, asked why the Township would give a Waiver for tree replacement. Mr. Murphy stated the Ordinance would require the payment of almost \$380,000 for a five-lot Subdivision, and he does not feel this Ordinance would withstand scrutiny. Mr. Tracey stated this issue of the fairness of the Tree Ordinance has been going on for some time, and there are people on both sides of the issue who feel strongly about it. He stated from a development perspective, the developers have the right to feel that perhaps the issue of tree replacement and the way it is presently promulgated is a “taking.” Mr. Wallace stated there is also precedence now as there have been several projects where Waivers have been granted specifically to the Tree Ordinance so it is understandable that the developer is asking for this Waiver.

Mr. Lackpour asked how the Planning Commission decides whether or not to grant the Waiver. Ms. Kirk stated the Planning Commission does not grant Waivers. She stated the Planning Commission reviews the Application in light of the review letters by the Township professionals, and they will then make a recommendation to the Board of Supervisors. She stated the actual hearing on the proposed Subdivision has to be scheduled in front of the Supervisors after

appropriate notice to residents, and the Supervisors make the ultimate decision as to whether or not the Waivers should be granted. Mr. Lackpour stated it is the Planning Commission's recommendation that influences the Township; however, Ms. Kirk stated it is a recommendation that is made, but whether the Township Supervisors abide by that recommendation is wholly within the Supervisors' own discretion.

Mr. Benedetto stated he is on record that the Tree Replacement Ordinance is "way out of line." He stated the Ordinance in place was written by the Environmental Advisory Council, and they determined the numbers which he feels are arbitrary; and in practice it has not worked as it should have worked. Mr. Benedetto stated while it has been applied in some cases, more frequently, it has not been applied. He stated in this case 211 trees are being lost on the lot, but the Tree Replacement Ordinance would require them to replace 1,204 trees; and he feels this is "extortion." Mr. Benedetto stated he has asked that the Tree Replacement Ordinance be placed on a Supervisors' Agenda for six months since it is not a workable Ordinance. Mr. Benedetto stated this Ordinance did come before the Planning Commission which indicated that the decision should be made by the elected body which is the Board of Supervisors. Mr. Wallace stated he does not feel the Ordinance has ever been applied when it was not modified to his knowledge. Mr. Tracey stated until they make a decision on changing the Ordinance, the way it is dealt with is through the Waiver process.

Mr. Jeff Fogel, 12 Dogwood Drive, asked for more details about the sewers being stubbed out. Mr. Monkres stated the Plan for public sewer connections is consistent with the last public discussions. He stated the five n3w lots will be serviced by the new force main, and the lots on Dogwood Drive will have the potential to tie in if they want to. Mr. Murphy stated they will provide a stub for those property owners to connect if they want to adding that not all of the property owners expressed an interest in connecting because they did not want to become members of the public sewer system; but the developer will provide the opportunity for those that do to have their own private plumber extend the line across their front yard to their home.

Mr. Fogel stated he felt there was a Township Ordinance that called for everyone to be connected to public sewer and water by 2008. Mr. Murphy stated the Township has always taken the position at prior meetings that they were not going to enforce that, and that they were going to try to be fair and equitable to those property owners that did not want to incur that expense. Mr. Tracey stated if the stub is there, it would be the option of the property owner whether they want to pay to make the connection.

Ms. Kirk stated to her knowledge the Township has been cognizant of the cost for private tie-in to public sewer and has been willing to work with the residents for those who want the tie-in now as opposed to those who do not so that is why there is leeway.

Mr. Fogel stated with regard to where the water comes out of the pipe coming down the street, that street is not a Dedicated street and those who live on it service and maintain it. Mr. Majewski stated a portion of the street will need to be Dedicated to the Township to allow the stub road they are proposing to hook into it, and he would suggest that the residents request that the entire street be Dedicated so that the entire width would be plowed, etc. Mr. Fogel asked who that proposal would go to, and Ms. Kirk stated it should go to the Board of Supervisors.

Mr. Fogel stated where the run off is proposed to come out at the bottom of the street, where he lives there is a trench to prevent it from pooling at the bottom. Ms. Saylor stated they recommended that the surveyor go out and get additional topo to pick up elevations of the swales, and to re-direct the outlet pipe in order to get it into the swales; and the developers have agreed to comply. Mr. Murphy stated that detail would be included in their revised Plans, and Ms. Kirk stated it would have to be included in the Final Plan that gets Recorded at the Court House.

Mr. Scott Fegley, 12 Delaware Rim Drive, asked for more information about the public sewers. Mr. Monkres stated as previously presented, it will come down Dogwood Drive to Delaware Rim and go in a northerly direction where it hits the existing mains for each. Mr. Fegley asked where the existing public water and sewer is located from Chanticleer, and Mr. Monkres stated it is 200' away from the intersection.

Mr. Halboth stated the first resident expressed concern about drinking water for those in the area who have wells, and the response was that there would be a new water main provided. Mr. Murphy stated they are extending the existing public water system. Mr. Halboth asked why they are doing that if everything is okay with respect to the existing water supply as to potable water. Mr. Halboth stated if there are no adverse impacts contemplated as a result of this project to the aquifers and the drinking water supply, why is the developer supplying a new water main. Mr. Murphy stated years ago the Township insisted that if this property was ever going to be developed public water and public sewer would have to be extended to service the development and not to depend on on-lot wells and on-lot sewers.

Ms. Kirk stated in the Bucks County Planning Commission review letter paragraph 3 recommends protective fencing along the area of proposed tree line of a height of at least 48", and she asked if they will comply; and Mr. Murphy stated they will.

Ms. Kirk stated Bucks County Planning Commission is also discouraging use of the red oak for trees because of an infectious disease that has been hitting red oaks, and she asked if they will comply. Mr. Murphy stated he assumes they will comply although he is not sure of what the current EAC mix of approved trees is as they frequently differ from what the County recommends. He stated they will comply with what the Township requests.

Mr. Benedetto stated Note 25 discusses the Deed Restriction on Lot #6, and Mr. Murphy stated this would restrict it from further Subdivision. Mr. Benedetto stated it discusses Dedication as open space, and he asked if they would consider a Conservation Easement for that preserved open space of almost nine acres; and Mr. Murphy agreed.

Mr. Fogel asked if that buffer space will be changed in any way. Mr. Monkres stated everything on the other side of the limit of clearing will be protected as it is today. He stated a Conservation Easement will be Recorded with the Plan. Mr. Benedetto stated none of the trees that will be coming down will be coming from that open space area, and Mr. Monkres agreed.

Mr. Fogel stated he reviewed his notes from 2009 with regard to a traffic study for Delaware Rim, and he did not see that one was ever done. He stated currently Delaware Rim is very narrow; and if cars are parked on both sides, emergency vehicles could not get through. Ms. Kirk stated the Township's traffic engineer has reviewed the Plans and has issued a memorandum to the Applicant with instruction of modifications to deal with traffic impact on Dogwood Drive. Mr. Fogel stated Delaware Rim is the access road to get into Dogwood. He also stated the road right now is not in shape to handle construction trucks. He asked if assuming Dedication comes first, would they work on the road and then have the construction. Mr. Murphy stated they are not proposing any modifications to Delaware Rim, but they are proposing improvements to Dogwood Drive.

Mr. Fogel was provided information this evening on the road improvements proposed.

Ms. Chrystal Molnar, 38 Delaware Rim, asked if her home will be stubbed for sewers, and Ms. Kirk agreed. Ms. Molnar asked if public water will also run along that same route, and Mr. Monkres stated the public water will be following the same path as the sewer. Ms. Molnar stated she assumes at some point she will have the option to hook into water if they wished to in the future, and Mr. Monkres agreed although they are not showing stubs for water.

Ms. Chris Guerrero, 27 Delaware Rim, stated his home is on the corner of Delaware Rim and Dogwood. He asked if environmental studies have been done as far as wildlife, and he noted the wildlife he sees on the property. Mr. Monkres stated as part of the Permitting process they have to file with the State DEP, wildlife species are identified; and they did receive Clearance from them and a Permit was issued two to three months ago. Mr. Guerrero asked if there will be a fire hydrant now that they will have public water in the area, and Mr. Monkres stated there will be at least one and possibly two.

Mr. Scott Machlovitz, 7 Delaware Rim Drive, stated the attorney had indicated that it was beyond the developer's scope to find out where the discharge of stormwater goes; however, he feels they should find out where it goes because the stormwater management could cause an issue to one of the houses on the street. Mr. Machlovitz stated he would like the advisory board to make it mandatory for the developer to locate where the water will get discharged and make sure that it does not impact any of the houses on the street. Mr. Murphy stated that could have been done over the last twenty years, and it has nothing to do with this Applicant. Mr. Machlovitz stated he just moved into the property, and he has a lot of water issues. He stated there is a lot of water behind the houses, and if this project creates more water issues behind their houses, he questions who he should turn to.

Mr. Machlovitz stated while he did not have the opportunity to read the Traffic Study, he lives close to Woodside Road; and there are bus stops all along his street. He stated they already have an issue with the width of the road, and one of the private schools picks up their students on Woodside and does not come down Delaware; and all of the residents who do not live close enough to Woodside drive their children to the end of the road and park at the corner of Woodside and Delaware Rim. He stated this creates a very bad traffic hazard because no one can turn in or out of that street when the cars are there on both sides of the street. Mr. Machlovitz stated there are forty-nine houses on Delaware Rim and the side streets, and this project will add 10% more houses which will be 10% more cars and create a much greater problem. He asked if the Township has considered creating a buffer at the end of his street or considered the impact of all of the cars at Delaware Rim Drive and Woodside. He stated there is also speeding on the street. Ms. Kirk suggested that Mr. Machlovitz file a report with the Police Department, and Mr. Machlovitz stated he has done that many times. Ms. Kirk stated the Police Department has to do the reviews to make a recommendation to the Board of Supervisors as to whether or not it warrants further traffic study reviews. Mr. Machlovitz stated he has made calls and his neighbors have made calls. He stated the road is not big enough to handle the traffic or the emergency services.

Mr. Machlovitz stated with regard to the stormwater management system and the water line, he has been advised that when the Golf Course was built there were issues with water and the aquifer; and the developer put in monitoring wells to help monitor the water, and it is tested all the time. He asked if this developer will be doing anything like that because if there is an issue with the water, he feels there should be monitoring wells since they are all on wells and septic systems. Mr. Machlovitz stated they should insure that there will not be a change with all the construction and movement with pipes going in. Ms. Kirk stated the Township engineer generally does the overview of the construction so she is not sure whether there is a need for monitoring. Mr. Murphy stated they will not be impacting the wells because they are going to have public water and sewer for these new lots. Mr. Machlovitz stated the aquifer will be impacted by the construction, roads being torn up, and water lines going in. He stated whenever there is construction, it will change where the water comes from and the way the water moves. He stated years ago when they built the Golf Course, the developers put in monitoring wells to make sure there was not an issue with the drinking water; and he would like to know if this developer will do something like that to protect the existing residents or will the DEP come in to require this. Ms. Saylor stated this is not something that they typically see with a development of this scope that they would have to monitor wells in the area. Mr. Machlovitz stated he is asking for this, and he will also call the Department of Environmental Protection to send a letter since he feels it is necessary.

Ms. Carolyn Fogel, 12 Dogwood Drive, stated she is the house at the end of Dogwood Drive; and when there is a heavy rain the stormwater comes down, and she feels the two hundred trees that will be taken out had roots that absorbed that water. She stated that while there may not be a problem now, there may be one once the development is built.

Mr. Calvin Day, 1 Sunnyside Lane, stated there were monitor wells at the end of Sunnyside and Spur Road when the Golf Course went in; but he is not sure they are still active or not. Mr. Day stated when the Golf Course went in it was dropping the aquifer quite a bit when they did the irrigation there.

There was no further public comment, and Ms. Kirk recommended that the Planning Commission close Testimony.

Mr. Tracy moved, Mr. Wallace seconded and it was unanimously carried to recommend to the Board of Supervisors approval of the Subdivision as submitted for Dogwood Drive (Harmony Lane) Preliminary Plan for parcel #20-20-008-025 subject to:

- 1) Compliance with the requirements as set forth in the Township engineer's review letter of 7/6/17 with deferral of the Waivers to the Board of Supervisors;
- 2) Compliance with the recommendations of the Township sewer engineer, Fred Ebert, in his review letter dated 7/6/17;
- 3) Compliance with traffic engineer's review letter dated 7/6/17;
- 4) Compliance with the Bucks County Planning Commission letter dated 5/26/17 dealing with tree protection fencing and proposed tree type and the rest of the review recommendations have been reflected in the Township engineer's review.

Ms. Kirk stated this matter will go before the Board of Supervisors. Mr. Murphy stated they do not know the date that this will be scheduled. Ms. Kirk stated notice will be sent to property owners within a certain distance as required by the Ordinance when this Preliminary Plan will go before the Board of Supervisors.

There being no further business, Mr. Wallace moved, Mr. Halboth seconded and it was unanimously carried to adjourn the meeting at 8:40 p.m.

Respectfully Submitted,

Chad Wallace, Secretary

