

TOWNSHIP OF LOWER MAKEFIELD
PLANNING COMMISSION
MINUTES – MAY 14, 2018

The regular meeting of the Planning Commission of the Township of Lower Makefield was held in the Municipal Building on May 14, 2018. Mr. Tracey called the meeting to order at 7:35 p.m.

Those present:

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

Others: Barbara Kirk, Township Solicitor
 Andrew Pockl, Township Engineer
 Dan Grenier, Supervisor Liaison
 Mike Kirk, Code Enforcement Officer

Absent: James Majewski, Director Planning & Zoning

APPROVAL OF MINUTES

Mr. Halboth moved, Ms. Burke seconded and it was unanimously carried to approve the Minutes of April 23, 2018 as written.

#663 – CADDIS HEALTHCARE REAL ESTATE ASSISTED LIVING FACILITY
PRELIMINARY LAND DEVELOPMENT PLAN DISCUSSION AND MOTION TO
APPROVE

Mr. Edward Murphy, attorney, was present and stated they were last before the Planning Commission in January when they presented a Sketch Plan for the consolidation and re-development of two adjacent parcels on Dobry Road. He stated that following the meeting with the Planning Commission, they had a similar meeting with the Board of Supervisors in February and received at both meetings comments from not only Board members but also residents. Mr. Murphy stated subsequent to those Sketch Plan reviews, they made a formal submission of a Preliminary Land Development Plan in mid-March. He stated from late March to May 1, they have received eight review letters from various consultants both inside and outside of the Township commenting on the Plans.

He stated over the last few weeks, the Applicant has had a chance to look at those comment letters. He stated they believe at this point that they have no issue with the review letter comments they have received so far, and they are all “will comply” issues. He stated based on all the review letters, they do not believe there are any Zoning Variances required for any aspect of the Plan.

Mr. Murphy stated there are issues that impact the project that are somewhat outside of the Applicant’s control. He stated the issues do not impact the Land Development Plan on the property itself, but do have an impact on the project.

Mr. Murphy stated the first issue to be recommended by the Township is the extent to which Dobry Road will be expanded and improved. He stated that has been the subject of discussion with the Township staff and the Township traffic consultant. Mr. Murphy stated last week it was suggested that the Applicant submit to the Township’s traffic consultant their idea of how to balance the need for the reconstruction of Dobry Road, the extent to which it will be widened, not just in terms of cartway width but also how to expand the right-of-way on both the south side and north side of Dobry recognizing that there is an existing home on the south side of Dobry along the developer’s frontage that will be impacted by that widening, and the extent to which the neighboring property owner on the north side will cooperate with the Township to allow for some right-of-way to be acquired on that side so that Dobry Road can be re-aligned. Mr. Murphy stated this is an issue that requires feedback from consultants other than the Applicant.

Mr. Murphy stated there has been discussion with outside consultants and Bucks County Water and Sewer Authority about ultimately where public sewers will be provided to service this facility. He stated that would be true whether it is this facility or whatever other use would get developed on the property. Mr. Murphy stated the Applicant has received conflicting information as to which direction sewer flows should go, and they are waiting for direction from Lower Makefield’s sewer consultant, the Township’s Public Works Department, and Bucks County Water and Sewer as to how to obtain sewer.

Mr. Murphy stated the third question involves the proposed right-in/right-out access on Oxford Valley Road which has been discussed previously.

Mr. Murphy stated when they first were before the Planning Commission in January they acknowledged items for which Zoning relief would have been required including the height of the building, the existence of a surface road within the buffers, etc.; and all of those issues have now been eliminated.

He stated the height of the building is now two stories instead of three and the service road that rings the building has been pulled out of the buffer area. He stated in the reviews they have seen, he does not feel there are any reviews that suggest that there are other Zoning issues of which they have yet to be made aware of that would be an issue. He stated they have submitted a Waiver letter which they can discuss.

Ms. Burke stated the Remington Vernick letter indicates that there are at least three Variances required as did later review letters. Mr. Murphy stated each of the comments on Page 2 of the Remington Vernick letter acknowledges that it is an existing non-conformity; and while they state that a Variance may be required, it is the Applicant's view that because they are existing non-conformities, no Variance is required. Ms. Burke noted Items #7, #8, and #9 on Page 3.

Mr. Murphy stated with regard to Item #7, they have already met with Mr. Majewski and he provided comments to them last week about the extent of the wetlands buffer. Mr. Pockl stated he was copied on that e-mail, and the developer will adjust the limits of the wetland buffer so that it no longer requires a Variance for that item. Mr. Murphy stated with regard to Item #8 dealing with the width of parking spaces, that is not a Variance, rather it is something that the Board of Supervisors has the discretion to provide. Mr. Murphy stated with regard to Item #9, that is a "will comply."

Mr. Tracey stated Mr. Murphy had indicated that with regard to the sewer, the issues would be the same regardless of what the development might be. Mr. Tracey asked if this is related to the Neshaminy Interceptor. Mr. Murphy stated the issue is where the dividing line is between sewer flows that can be transmitted to Morrisville for treatment versus where the dividing line is for sewer flows that have to go in the other direction and be transmitted ultimately to the Neshaminy Interceptor for treatment. Mr. Murphy stated the developer was initially advised by the solicitor for the Bucks County Water and Sewer Authority that Dobry Road, which historically has been viewed as the dividing line, was not "cast in stone," and that it was somewhat flexible; and that they could go in either direction. He stated they had received that advice earlier from the Township's Public Works Director as well. Mr. Murphy stated Mr. Ebert recently sent a letter ten days ago which suggests that based on some Supplemental Agreement, sewer flows would have to go to Bucks County. Mr. Murphy stated he is in the process of trying to confirm that since that was new information.

Ms. Kirk stated she does not know either because of the Supplemental Agreement with Bucks County Water and Sewer Authority. Ms. Kirk stated because of DEP's requirements upon Bucks County Water and Sewer Authority via the Neshaminy Interceptor, the Agreement that all participating Municipalities had with Bucks County Water and Sewer had to be updated and amended to meet DEP requirements. She stated there had to be an estimate of the total flows that can go through the Neshaminy Interceptor as a result of that Agreement; and she is not sure whether these flows can be added in to what is going through Bucks Water and Sewer to the Neshaminy Interceptor or if they have to be transmitted to Morrisville Municipal Authority. Ms. Kirk stated it will be a public sewer system that will go one way or the other, but the engineers for Bucks County Water and Sewer and the Township need to determine which way they will go.

Ms. Kirk stated in Mr. Ebert's review letter he indicated that it appears that one of the Lots will have an on-lot septic system or there will be an on-lot septic system to transfer flows from Lot A to Lot B. Ms. Kirk stated Mr. Ebert made a recommendation that there be an Agreement with Caddis that the Township will not be responsible for that private pump station as proposed, and Mr. Murphy stated that is clearly understood.

Ms. Burke asked Mr. Murphy if he was aware of a letter dated May 4 from Mitchell Goldberg requesting that the dumpster be moved to the north side of the facility. Mr. Murphy stated he is aware of that. He stated the dumpster location has not changed since they originally presented the Sketch. He stated it will be enclosed in the same material that the building will be made of. He stated they have flexibility to move it only if they would receive relief to slide the whole building closer to Dobry Road. He stated in other comment letters from neighbors and prior public comments that neighbors made, that suggestion has come forward. Mr. Murphy stated they are at the limit on the Plan for the front yard setback, and moving it forward would require obtaining a Variance from the Zoning Hearing Board. Mr. Murphy stated the developer might be willing to entertain this; however, if they slide the building forward it has some impact on the ability for fire fighting purposes to make a complete 360 degree circle around the building. He stated there are implications beyond just moving the building forward; and while they could look at it, they would need to have assurance that they are not creating other issues that the Township would raise as being non-conforming.

Mr. Grenier asked if that would shrink up the width of the basin off Dobry Road, and Mr. Justin Ginotti agreed adding that any distance they would push the building forward would have to come from somewhere. Mr. Murphy stated it will also impact the property line proposed for the parcel retained by the seller. Mr. Murphy stated more analysis would be required even if the Township were to support an Application for a Variance.

Mr. Grenier stated in the back corner it would be a “back up and not a pull in;” however, Mr. Ginotti stated it would be a front in-dumpster. Mr. Ginotti stated they submitted a truck circulation Exhibit showing how the trash truck could maneuver through the site. Mr. Grenier stated they would pull up to the dumpster front end, and then would have to back up a little bit in order to make the turn; and Mr. Ginotti agreed. Mr. Grenier asked if they would be able to eliminate the “back-up beep,” and Mr. Ginotti stated he believes that would be a safety issue for the hauler.

Mr. Wallace asked if they reviewed the Bucks County Planning Commission letter dated April 19, and Mr. Murphy agreed. Mr. Wallace stated they referenced the potential for a Variance, but it does relate to Mr. Murphy’s comments regarding existing non-conformity. Mr. Wallace asked about the traffic issue and whether a traffic study will be done. Mr. Murphy stated they had discussions with TPD about the scope of a traffic study, and they understand what TPD has asked them to do, and they are in the process of doing it. Mr. Murphy stated part of it involves looking at various adjacent intersections as well as how they will reconstruct Dobry Road and managing the stormwater associated with that.

Mr. Grenier stated there were six test pits done, and he believes seven are required; and he asked if they have scheduled the seventh. Mr. Ginotti stated they ran two tests where the main road is coming in, and he showed that area on the Plan. He stated there were favorable rates right at the surface. He stated they ran four other tests in the area where the building is, and all came back exactly the same with heavy clay. He stated there were also eight borings done. Mr. Ginotti stated they had the geo-tech report done previously, and it presented the same thing; and the entire area has the exact same clay content. He stated they could do additional tests, but it will tell the same thing so they did not feel there was a need to do additional tests at that time.

Mr. Grenier asked if the Ordinance requires them in the basin itself, and Mr. Pockl stated it requires it within the area where stormwater management would be. Mr. Ginotti stated they did provide that. Mr. Ginotti stated the two tests were conducted where they are putting the bio-retention basin at the surface of the basin so they did comply with that even though it is not an Ordinance requirement.

Mr. Grenier stated with regard to stormwater management they will meet the Township requirements and PADEP requirements for the State, but the issue is more conveyance of the stormwater leaving the site. He stated everything from the existing driveway/existing house and east toward Oxford Valley Road is going to be conveyed to PennDOT's right-of-way. He stated everything west of that is going to be conveyed down Dobry Road toward the Railroad tracks to an existing swale. He stated there are roadside swales there now that are not operating properly; and they will have to either run a pipe down to the swale with minimum cover which he and Mr. Pockl have discussed, or rebuild the roadside swales to carry the water off the site. Mr. Ginotti stated it is an improvement that is required beyond the Applicant's site, and the entirety of Dobry Road needs to be improved since the water is just sitting on the side of the road and not being properly conveyed. He stated it is a global stormwater issue not related to this Application.

Mr. Pockl stated the area is flat, and it is approximately 500' from the property line down to the swale. Mr. Ginotti stated it would be 3' or 4' of fall that they would have to run a pipe to meet the swale. He stated they are looking at potentially running a pipe with minimum cover, and he is working on these details with Mr. Pockl as to the best way to handle this as a Township improvement.

Mr. Grenier asked the percent slope over the 500', and Mr. Ginotti stated if they were to run a pipe at that slope it would probably be less than .25%. He stated in talking to the Public Works Director he indicated that a pipe with minimum slope is better than no slope at all. Mr. Ginotti stated they need to know what is going to be done at Dobry Road to see if they are going to be able to tie into inlets that will convey it downstream or will it be roadside swales carrying the water down.

Mr. Bryson stated they indicated that they were going to take the trash dumpster that is currently located on the south side and screen it and put it into some type of structure. Mr. Ginotti stated there is a detail on the Plan that shows that it is a fully enclosed trash enclosure with masonry walls which will have the same façade as the building. He stated they also have extensive buffer plantings between the property to the south and to the west which further buffers and screens the dumpster. Mr. Bryson asked if they will control the pick up to an appropriate time, and Mr. Ginotti agreed.

Mr. Grenier asked the height of the structure versus the height of the vegetation around it from a screening perspective. Mr. Ginotti stated the walls on the trash enclosure are eight feet tall. Mr. Grenier asked if there is a roof, and Mr. Ginotti stated there is no roof. He added while he does not have heights on the plantings around it, they are extensive; and there is a minimum height requirement in the

Ordinance. Mr. Grenier stated if it has to be there, he feels they would want a minimum of eight feet, and Mr. Ginotti agreed they would adhere to whatever direction they were given. Mr. Grenier stated it should be evergreens, and Mr. Ginotti agreed. Mr. Ginotti stated the Township's Type I Buffer requirement that is planted along the southern property line is extensive and requires a certain amount of spacings for evergreens. He stated it is the most strict buffer requirement in the Township's Ordinance, and they are complying with that as well as the screening of the dumpster.

Mr. Bryson moved to recommend to the Board of Supervisors approval of the Preliminary Subdivision and Land Development Plan with the Condition of resolving all review letters issued as follows:

Remington & Vernick letter dated 5/1/18
Ebert Engineering letter dated 4/30/18
Traffic Planning & Design letter dated 5/1/18
James Yates, Fire Protection Consultant letter dated 4/9/18
Tom Roche, Traffic Safety Officer letter dated 3/27/18
Bucks County Planning Commission letter dated 4/19/18

Ms. Kirk asked if there will be a recommendation as to the requested Waives or will they defer that to the Board of Supervisors. Mr. Bryson stated he has reviewed the Waivers requested, and he found nothing "alarming;" and they are the standard Waivers that are often given. Mr. Tracey stated he feels this would be more the purview of the Board of Supervisors.

Mr. Fred Falk, 253 Truman Way, stated he read in the Zoning Ordinance that for a facility of this type, the Zoning requirement is that it is on a ten acre Lot; and he asked if there would be a Zoning Waiver required since this is smaller than ten acres. Mr. Murphy stated the Zoning Ordinance permits a facility like this on a minimum of five acres, and they discussed this early on in the process with Mr. Majewski who confirmed that this size Lot is appropriate for this facility. Mr. Falk stated a lot of the issues that have come up are due to the size of the Lot versus the size of the facility itself.

Mr. Bryson stated Mr. Falk is confusing Tract with Lot; and according to the definition in the Zoning Code a Tract is an overall piece that is then separated into Lots, and the Lots are five acres. Mr. Bryson stated this is a Lot that is greater than five acres. Mr. Murphy noted Article 8 under the Definition of Nursing Home, it specifically calls out the area and yard requirements for a Nursing Home of which this would meet the definition. He stated the Ordinance indicates the minimum Lot area is five acres per Sub Section 26C 1 of the Zoning Ordinance.

Mr. Falk stated with regard to traffic safety and the right-in/right-out access road proposed, during the February 21 Board of Supervisors meeting this was discussed; and during the meeting it was stated that with regard to the entrance on Oxford Valley Road, the facility in general does not generate a lot of traffic volume, however, some of the residents do drive, and some may not be the best drivers. Mr. Falk stated he is concerned about people who are not necessarily the best drivers as it relates to right-in/right out only onto a road that has heavy traffic and does not provide any type of stopping point to prevent a person from improperly either making a left off of Oxford Valley Road or turning out onto Oxford Valley Road to the left given the number lanes of traffic one would have to cross. He stated he is concerned because School buses go by there and there is a lot of other traffic with people not necessarily driving at slow speeds as they go past this intersection where the road is being proposed. He asked that the Planning Commission consider whether it is appropriate to have this Applicant create a median in Oxford Valley Road that is either an earthen median or some kind of a barrier that would prevent any kind of left turn either in or out if this road gets approved as proposed so as to provide additional safety to the residents of the Township who use the road on a regular basis.

Ms. Burke asked if that would be feasible, and Mr. Murphy stated it is although they are subject to PennDOT and TPD's recommendation. He stated there will be the need for a "pork chop" or something at the entrance to insure that there will be no left in or left out at that proposed access point. He stated this is fairly common, and they would comply with that request.

Mr. Bryson stated the Plan does show a "pork chop." Mr. Falk stated he is not talking about that, and he stated he is talking about in the middle of Oxford Valley Road. Mr. Bryson stated there are neighbors who live on Oxford Valley Road, and that would be restricting them from being able to make a left turn into their home. Mr. Falk stated he feels given the nature of the type of driver at this facility, they should consider this as a safety measure for the general public.

Mr. Falk stated with regard to the roadway that will go along the southern and western borders of the property, he understood from comments made at the Board of Supervisors meeting that the purpose of this road is a fire safety issue. He stated they have also talked about the placement of the dumpster; and from a residents' perspective, a majority of the people that are effected would have this as an abutment to their properties if the dumpster stays there along with the generator pad. He stated he strongly feels that there needs to be other options considered for their placement. He stated the placement of the loading zone is also clear on the Plans in the southern part of the facility which would mean that they could potentially have trucks idling there as well as back-up noise from the trucks.

He stated it is up against the majority of the people who will be living adjacent to this property. Mr. Falk stated he would proposed that they re-locate all of those things to a different part of the facility, and that the road be made into an emergency-access only road similar to what they have at Regency at Yardley where there is an emergency-access road for their facility that runs all the way out to Big Oak Road; however, it looks like a grass field. He stated it has an underlying support structure that would enable an emergency vehicle to transverse the roadway, but it does not give access to any other vehicles because it looks like it is just a grass field. He stated that would be a more neighborly way of creating this facility that would lessen the impact on the residents' daily lives once it is built. Ms. Burke asked Mr. Murphy if that would be feasible; however, Mr. Murphy stated he did not know.

Mr. Falk stated he understands that the development on the other side of Dobry has run into some roadblocks with regard to their proposal; and he asked if that development does not proceed, would the Planning Commission consider "enticing" this Applicant to look at that bigger lot across the street which does not have any residential neighborhoods abutting it so that it may be a more feasible location for a facility of this size. Mr. Murphy stated that would not be possible since the project across the street has not met any roadblocks and is a viable project which the Planning Commission will be seeing again soon.

Mr. Richard McCune, 249 Truman Way, stated he has lived in this area since 1952. He stated at the last meeting, a retired Supervisor noted an area he showed on the Plan which was preserved property that was voted on by the Township Board of Supervisors twenty-six years ago, and it cannot be violated without a "voted Variance." Mr. McCune stated Mr. Murphy had indicated that "nothing was needed." Mr. Murphy stated the property is not "preserved" and it was acquired by the Township as part of the Oxford Valley Road improvement project, and it was specifically acquired by condemnation for traffic improvement purposes in the Township. He stated it is not preserved as open space. He stated they do need some acknowledgement by the Township to either acquire it or cross over it; however, it is not open space that needs to be preserved. Mr. Murphy stated he agrees that Ms. Grace Godshalk was present at the meeting and stated what Mr. McCune just stated. Mr. McCune stated the Board voted that this cannot happen. Mr. Murphy stated that is incorrect. Mr. Murphy asked Mr. McCune if he looked at the Declaration of Taking that was filed, and Mr. McCune stated he spoke to the Supervisors who did it at the time. Mr. McCune stated the Planning Commission and Board of Supervisors should check into this. Mr. Grenier stated the Township solicitor will go through it and confirm either way as the Board needs to know this. Mr. Grenier stated he is familiar with the triangular parcel/easement, and Mr. Murphy stated it is 186 square feet.

Mr. Grenier stated from what he has read himself about it, the former Supervisor may be incorrect; however, they need the Township solicitor to confirm that.

Mr. McCune stated he worked with the Army Corps of Engineers, and he is well versed in stormwater management. He stated he moved from Middletown Township where he lived near an area where St. Mary's constructed a hospital/rehab. He asked who would be responsible to maintain the berms and the storm run off when it erodes and who is responsible to "beautify" the area. Ms. Kirk stated if this project is approved by the Board of Supervisors, there will be a variety of Contracts that need to be signed including a Developer's Agreement, a Financial Security Agreement, and a Maintenance Agreement for not less than five years with funds available for the Township to draw against in the event any of the improvements require repair or maintenance. Mr. McCune stated he moved to Lower Makefield Township because in Middletown Township water started coming down into the residences. He stated now he will be exposed to the same thing here that he just left.

Mr. Grenier asked Mr. Ginotti what is the direction of flow from the southern section. Mr. Grenier stated Mr. McCune's development is to the south of this property. He stated the back of the adjacent development's roofs drain to a swale that is collected by inlets. He stated there is a portion beyond the swale which will drain directly onto the Applicant's property which they are going to accommodate; and it will go into their drainage system and be channeled to Dobry Road. Mr. Ginotti stated that all of the flow from this site goes from south to north, and he showed on the Plan how half the site goes in one direction and half goes the other. He stated the dividing line of the site is the existing driveway of the existing house. Mr. Ginotti stated everything is going away from the adjoining development.

Mr. Bryson stated reading the Grading Plan it shows that this property is 7' below the adjacent residents, and Mr. Ginotti agreed. Mr. Bryson stated he does not feel Mr. McCune should be concerned about water getting onto his property.

Mr. McCune asked if they have done a prevailing wind study. Mr. Grenier asked if they had to get an Air Permit for the back-up generator, and Mr. McCune stated he would have to check the Codes on that although he does not believe it was required. Mr. McCune showed on the Plans how the winds blow, but a study would show the speeds and how the winds blow. He stated whether there is an 8' enclosure or not trash generates heat, and heat rises; and when the wind blows it will hit the residents. Mr. Murphy stated they did not do a prevailing winds study.

Mr. Albert Scalone, 247 Hoover Way, showed the location of his home on the Plan. Mr. Scalone stated the treed area on the right is the water run-off area, and a quarter of the Lot is not developable so they really have a Lot that is only four and a half acres that can be used; and they are “shoehorning” a big facility into a smaller Lot. He stated it is unfortunate that the landowner wants to retain all of the other space against Dobry Road. Mr. Scalone stated it is not a six acre Lot that they are building on, and it is a much smaller space; and this is why it is so difficult for them to move the building and the road because it is too small of an area. He stated they need to consider if this is what they want to do in the Township and have big developments on small pieces of land. Mr. Scalone stated this will reduce his property value and his quality of life. Mr. Scalone stated he feels the value of his property will go down 20% to 25% when this development goes in. He stated he knows that when Commercial development goes next to Residential development, there is a “domino effect” of lower property values. He stated there are two hundred homes in the Regency at Yardley community which average \$600,000 each, and if everything is effected 10% that would be a \$12 million negative financial impact.

Ms. Burke stated while she agrees with Mr. Scalone, if the Zoning allows for this, and there are no Variances required, she questions how they can stop it. Mr. Scalone stated he does not feel they can look at the treed land as developable property as it is not, and it is watershed area that will not be built on. Mr. Tracey stated it is able to be included as part of the Lot, and they do meet the five acre minimum for this type of development so they are in compliance. Ms. Burke stated that is true if Mr. Majewski is correct. Ms. Burke stated there are two engineers who agreed with the first gentleman that spoke and said that ten acres was required; however, Mr. Majewski disagrees and indicated that it is only five. Mr. Scalone stated he feels it is only four and a half and not five acres.

Mr. Bryson stated even if it was 100% “good land,” there is still a certain percentage you have to meet as green space. He stated in this case they are using the natural resources that are restricted from development and calling it open space. Mr. Bryson stated this property has been Zoned C-3 “forever;” and if you buy a home and do not look to see what the Zoning is next door, the potential was there when they purchased their home that the property could be an office building, a facility like this, or other uses. He stated no one was hiding anything from those purchasing adjacent to this property. He stated the property is Zoned C-3, and the Applicant meets the requirements.

Mr. Scanlon stated there is a fiduciary responsibility to protect the values of the adjacent properties, and a development of this size in such a small area will negatively effect their property values and quality of life. Mr. Bryson stated this Use is less intense than a lot of other Uses that could be put there. He stated he feels that what is proposed is one of the best alternatives because it is low impact in terms of traffic, noise, etc. He stated almost every Use that is in the Zoning Code permitted for this property would have what this Use has but a lot more traffic, more intense parking, and more air pollution based on more cars coming in and out of the site. Mr. Bryson reiterated that this site was Zoned C-3 when those at Regency purchased their homes.

Mr. Scanlone stated looking North on Oxford Valley some of the Commercial Developments to the North are basically one or one and half story office buildings, doctor's offices, etc.; and those have a lot less impact than a building like this. He stated if a developer came in with that, they would not be dealing with emergency access roads and all of these other things. Mr. Tracey stated the initial proposal for this building was three stories, and they have brought it down to two stories; and they are completely in compliance with the C-3 requirements.

Mr. Scanlone stated any comments by the developer about operational issues should be ignored since they will not be the operators of the facility as they are real estate developers; and once this gets built, they will turn it over to an operator. Ms. Burke stated perhaps the Board of Supervisors could make a Condition of the transfer and the approval that there be a Deed Restriction put in the Deed that there could only be operation of trucks at certain hours. Mr. Scanlone stated he believes they would have to do that.

Ms. Burke stated while she would like to help Mr. Scanlone, she feels their "hands are tied" because what they are proposing, the Zoning allows for; and the Planning Commission does not have authority to say "no."

Mr. Scanlone stated it is misleading on the drawing with regard to the existing right-in/right-out at the Regency at Yardley community. He stated it will sit less than 100' from the proposed right-in/right/out. Mr. Ginotti stated it is over 200', and they meet the Ordinance separation for driveways. Mr. Scanlone stated he feels it is still too tight. Mr. Scanlone stated one of the recommendations that was in the attached letters was that this road should be only an emergency exit and not used for general traffic.

Mr. Murphy stated with regard to the developer not being the operator, that is not accurate; and they will be the owner/operator and will be able to control the timing of deliveries, pick-ups, etc. Mr. Murphy stated they could have a Condition attached to any Approval that will also dictate that. Mr. Murphy stated Mr. Bryson is correct; and as far as he can remember, this property has been Zoned C-3 which is General Business and Industrial. He stated it is rare to find properties that have yet to be developed that have that kind of Zoning classification. He stated if you look at the list of permitted uses, there are a lot of uses listed, many of which he feels would be far more undesirable to be a neighbor to than what is being proposed. Mr. Murphy stated this is not the first Assisted Living facility he has been involved with, and most places welcome a facility like this as an appropriate transition use between Resident and non-Residential uses because of the low traffic impact and low impact generally. He stated he believes that the Supervisors and the Planning Commission know that this is not the first Application that has been presented for the properties on either side of Dobry Road. He stated there have been proposals for convenience stores and other larger Retail uses proposed. He stated there is an auto body repair/paint shop there now which is a permitted use, and there are other permitted uses which he feels would be more difficult to be neighbor to than what they are proposing. Mr. Murphy stated he believes that this property has been Zoned C-3 for at least thirty to forty years. He stated it is under heavy pressure now and it will be under pressure until it is developed. He feels this is a use that people should really welcome given the other alternatives.

Mr. Lee Pedowicz, 247 Truman Way, showed on the aerial view the date of March, 2018; however, he stated there are houses they are not showing which are there now so he does not see how they can date a print March, 2018 if it is not a true depiction of what is in the neighborhood. Mr. Ginotti stated the Plan itself is dated March, 2018 which was their submission date, and the aerial is from Google Earth, and was the most recent aerial footage available to them. He stated they recognize that there are houses there now. Ms. Burke stated there are comments included that indicate if they are going to use an aerial like this, it is okay provided that someone certifies that there have been no changes so they will have to do a corrected aerial. Mr. Pedowicz stated he is a professional engineer, and he would not date a print like this. Mr. Tracey stated there are a number of professional engineers present this evening. He stated Mr. Pedowicz made this same point previously, and it is not a valid point. He asked that Mr. Pedowicz move on.

Mr. Pedowicz stated they have talked about the stormwater run off going toward the Railroad tracks, and he would like to know if the Railroad has been contacted since he does not know what the drainage is like there; and if there is a chance to undermine the Railroad tracks. Mr. Bryson stated as a professional engineer Mr. Pedowicz should understand that stormwater management regulations require that there be no increase in rate leaving the site than there is today.

Mr. Ginotti stated there will actually be less going there than there is currently according to DEP and Township requirements.

Mr. Pedowicz stated with regard to the berm that will be separating this property from Regency, he feels water will collect behind the berm. Mr. Bryson stated there is a 7' drop from Regency down to this site, so he is not concerned about water going from this site onto the Regency property. Mr. Pedowicz stated he feels water will collect behind the berm. Mr. Bryson stated they have inlets there. Mr. Bryson stated the only transfer of stormwater is actually Regency going onto this property.

Mr. Pedowicz asked if there will be noise associated with the back-up generator, and will it be tested. Mr. Ginotti stated it will be tested, and they did provide specs. Mr. Murphy stated typically they are tested at Noon on a Saturday for fifteen minutes. Mr. Grenier asked the fuel source, and Mr. Ginotti stated it will be natural gas.

Mr. Pedowicz asked if the Township would ever consider having a solar power plant at this location because these fields would be ideal for that use, and they would not have stormwater run off problems. He stated they could probably get funding from the State and Federal Government, and the Township could make money.

Ms. Grace Godshalk stated she has appeared at previous meetings of the Planning Commission and the Board of Supervisors. She stated she was involved twenty-five years ago when the Township bought and paid for this parcel of land to improve Oxford Valley Road. She stated there was a remnant remaining which at that point the Township solicitor, Jeff Garton, suggested that they give it "to the place behind;" however, she advised the Board that we should keep it since they had to stop any more entrances onto Oxford Valley Road. She stated Oxford Valley Road is turning into "Street Road," and she feels this is an illegal entrance which the taxpayers of Lower Makefield own it even though it says on the map "for road improvements." Ms. Godshalk asked how they can go through here.

Ms. Kirk stated if there is an agreement reached between the property owner and the Township that permits an accessway over that land, then they will be permitted to do it. Ms. Garton asked if there is an agreement in writing now that she could see that the Township has agreed to, and Ms. Kirk stated she is not aware of one at this time. Ms. Godshalk asked how much the Applicant is paying for it, and Ms. Kirk stated that part has not yet been discussed as this is Preliminary Land Development. Ms. Godshalk stated she feels this should be turned down because of that.

Ms. Godshalk stated there is a major development by Bill Scanlon coming in on Dobry road, and he had first delayed his Plan until December 1 and now it is September 1. She stated that road should be improved since three quarters of a mile of buildings will be built on Dobry Road. Ms. Godshalk stated this Applicant's building should only take access off Dobry Road. She stated if this is approved, they are in the sight triangle for Regency for the acceleration and deceleration lanes; and this is "completely illegal and wrong."

Ms. Burke asked Mr. Murphy why they could not just have access off of Dobry Road and eliminate the Oxford Valley access all together. Mr. Murphy stated the absence of Warrants for the signal at Dobry and Oxford Valley Roads makes the right-in/right out movement especially important because it helps to modulate and spread out the traffic. He stated this is why the Township's traffic consultant has endorsed the idea.

Ms. Godshalk stated she disagrees with this, and she feels they are adding hazards to Oxford Valley Road which is a "speedway." Ms. Godshalk stated she has an office at 301 Oxford Valley, and it is sometimes difficult to get out of there. She stated it is "absurd" to have any kind of further entrance on Oxford Valley Road. She stated Dobry should be improved, and possibly there could be a traffic light although she feels it may be too close to the one at Makefield Quarters. Ms. Godshalk asked that the Planning Commission not approve this Plan.

Mr. Mitchell Goldberg, 249 Carson Way, stated the rendering of the map is "skewed," and he showed the location of his home which is shown on the Plan "as a tree." He stated he will be right in front of the dumpster. He stated trucks will be coming in all day and all night, they back up, and "they do what they want." He stated there are also loading docks and garbage, and they will be going back all night and all day; and he is concerned about the smell and the noise. He stated it is not just the value of his home, it is the quality of life. He stated when you move to Yardley it because it is bucolic and has beauty. He stated he understands about what Mr. Murphy stated as it relates to C-3 and a nursing home; and it is not a bad thing to have this facility and he agrees there is a need. He stated he can accept that it will be here; however, it does not make sense to have the road coming in. He noted on the Plan where they could have the road instead as well as a different location for the loading dock. He stated if they would "flip it," they would not be inconveniencing twenty to thirty residents who live around this. He stated he understands that will take some time to do this, but the adjoining residents are going to have to live with this for many years. He noted a road which he feels should be eliminated and just have the road coming off Dobry.

Mr. Mike Quinn, 1654 Dobry Road, stated his property is across the street and he does not have a problem with the proposed development. He asked that someone come out and talk to him especially about the curbing since he needs an extra wide driveway. He stated he hopes they bring in sewer and water, and he would like to know what part of his property it will come in on.

Mr. Larry Madak, 1648 Dobry Road, showed the location of his property which is on the corner of Oxford Valley and Dobry Road. He stated he does not have a problem with the proposed development. He stated with regard to the condemnation of the land that was used for Oxford Valley, that was his family's land which they had owned for almost one hundred years. Mr. Madak showed the location of Bill Scanlon's development, Erin Development, where he understands they will put a 55 and over community. He stated originally Beazer was going to build that development, and they were going to put a walkway out to Oxford Valley Road to the bicycle path; and he does not know if that is in these Plans. He stated it was to be on the north side of the land. He stated he is not sure older residents would want to walk out to Oxford Valley Road or take a bicycle out to the path that runs along that area. Mr. Madak stated he does make a lot of lefts coming into his property as a family member lives there.

Mr. Madak stated from the light at Makefield Executive Quarters to the beginning of Oxford Valley Road, he has clocked people at between forty to forty-five miles an hour, and that is with the light red at Makefield Executive Quarters. He stated if there is no red light, the speeds are higher; and they need to slow the drivers down if they are going to be making turns on Dobry Road.

Mr. Jim Anderson, 253 Johnson Way, showed on the rendering where he lives. He stated Mr. Murphy indicated he could not move the dumpster; however, Mr. Murphy stated he did not say that, rather he had stated that they could only do it if they could move the building toward Dobry Road which would require a front yard Variance. Mr. Anderson noted an area on the corner where he feels the dumpster could be located. Mr. Murphy stated he does not feel they would want to put a dumpster at the entrance to the project when the kitchen is at the back of the building. Ms. Burke asked why they could not put the kitchen in the front of the building. Ms. Burke stated this is a new development where there is already an existing development, and she feels they should do it with the least disruption possible to the neighbors. She stated at the other end there are currently no neighbors, and when those neighbors come in, they would see what is there. She stated she feels they should flip it and put the kitchen on the north end along with the dumpster and loading facilities. Mr. Grenier stated from the aerial view it seems that it would be simple to do this since it is a pretty symmetrical building.

Mr. Pockl stated there are two rows of parking along the north side of the building; and if they flip it, those rows of parking will be on the south side of the building. Ms. Burke stated she feels they would rather have parking than dumpsters, etc. Mr. Pockl stated he feels more vehicles will be using the parking area than there would be vehicles using the loading area and trash. Mr. Ginotti stated he agrees with Mr. Pockl, and as proposed the only people accessing the rear of the building would be trucks and trash pick up, which are infrequent. He stated if they were to flip the building with the parking in that location, would involve the shift workers using it on a regular basis. He stated if they were to flip the kitchen to the front, all the utilities are coming out of the kitchen out of the back including the grease trap. He stated all of those utilities would be going where the existing stormwater basins will go so it is not as simple as it may seem to flip it. He stated they would have the façade from the street, but also the underground utilities that are of concern and the functionality of the building itself.

Mr. Pockl stated he understands that they could not put the stormwater management system in the back because that is the high point of the site, and Mr. Ginotti agreed adding they are dealing with minimum cover already on this site so the stormwater facilities need to be located as close to Dobry Road as possible. He stated they are very limited as to where they can put the stormwater facilities, and they are maxed out on the site with stormwater to meet the Township's and DEP's requirements. He stated the kitchen needs a grease trap; and you cannot have the grease trap, which is a substantial underground structure, in the middle of an underground stormwater structure. He stated you also do not want to put sanitary sewer lines near stormwater lines, and there is a separation distance that is required. Mr. Ginotti stated the parking is also an even bigger issue because they have a minimum parking requirement that they are meeting; and if they were to flip the building and put the loading dock and trash enclosure at the top of the building, the parking spots would be in the rear of the building. Ms. Burke stated she feels the neighbors would prefer the parking in the back. Mr. Ginotti stated all of the parking is head-on to the building and they took into consideration making sure that the parking spaces were not facing the neighbors but facing the building which from an operational standpoint is not desirable; and they put the burden on the building versus on the residents around the property.

Mr. Grenier asked how many trucks trips they anticipate per day, and Mr. Ginotti stated it would be one two trucks per week for the food delivery. Mr. Grenier asked about emptying the dumpsters, and Mr. Ginotti stated it would be once a week. With regard to laundry, Mr. Eric Rider, Caddis, stated they have a commercial laundry inside the building.

Mr. Anderson stated he has not seen any elevations; and Mr. Murphy stated they showed them previously at the January and February meetings, and they are available if people wish to see them again. Mr. Anderson stated what he saw in January was a concept, and Mr. Murphy stated that is still the case. Mr. Anderson asked when will the elevations be available; and Mr. Murphy stated probably not until they have a better sense of when the Plans will be approved, and until they have a higher sense of comfort that this will be moving ahead, they will not commit the additional funding to do all the architectural plans.

Mr. Anderson stated when the trains go past, the traffic southbound becomes a “race track,” and drivers are coming down quickly.

Mr. Grenier asked if they will have elevation views relative to the buffer and the berm so that people who back up to this will be able to see what it will look like in their back yard. Mr. Ginotti stated they could do that.

Ms. Godshalk showed on the Plan the area she feels is Lower Makefield open space, and she does not feel it can be sold without going out to public bid. She stated she feels the Planning Commission would be remiss approving this Plan tonight until they see what is going on with this piece of property which she was involved with twenty-five years ago saving the property for the taxpayers of Lower Makefield so it would not have any entrance to Oxford Valley. She stated she feels Mr. Garton should be brought in and “put on the stand,” and he will agree with her.

Mr. Goldberg stated what he has heard is that it would not be that difficult to flip this because of the way it is configured; however, Mr. Tracey stated he does not feel that was what was stated. Mr. Goldberg stated he agrees it was indicated that it is not as simple as it seems because there were issues related to drainage. He recommended that the Planning Commission not move forward with approval and recommend a study to see if it could be flipped.

Ms. Burke stated she does not feel it would be a problem to require Mr. Murphy to go back to Mr. Ebert and see if it would be feasible to flip it around and have the kitchen in the front and have everything else reversed. Mr. Tracey stated he disagrees, and he feels the way it is presented is the best alternative especially when you consider that the grease trap needs to be where it is presently located. He stated it needs to flow, and it needs to be properly separated for stormwater management purposes. Ms. Burke stated that is what is being represented to the Planning Commission; however, she feels it should go back to Mr. Ebert to confirm that.

Mr. Halboth seconded the Motion and the Motion carried with Mr. Bryson, Mr. Halboth, and Mr. Tracey in favor and Ms. Burke and Mr. Wallace opposed.

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There being no further business, Mr. Wallace moved, Mr. Halboth seconded and it was unanimously carried to adjourn the meeting at 9:05 p.m.

Respectfully Submitted,

Chad Wallace, Secretary