

LOWER PAXTON TOWNSHIP  
PLANNING COMMISSION

October 8, 2008

**COMMISSIONERS PRESENT**

Fredrick Lighty  
Roy Newsome  
Dennis Guise  
Ernest Gingrich  
Richard Beverly  
Douglas Grove  
William Neff

**ALSO PRESENT**

Dianne Moran, Planning & Zoning Officer  
Lori Wissler, Planning & Zoning Officer  
Omar Syed, Dauphin County Planning Commission

**CALL TO ORDER**

Mr. Lighty called the regular meeting of the Lower Paxton Township Planning Commission to order at 7:00 pm, on October 8, 2008 in Room 171 of the Lower Paxton Township Municipal Center, 425 Prince Street, Harrisburg, Pennsylvania.

**PLEDGE OF ALLEGIANCE TO THE FLAG**

Mr. Lighty led the recitation of the Pledge.

**APPROVAL OF MINUTES**

Mr. Newsome made a motion to approve the minutes of the September 10, 2008 meeting. Mr. Grove seconded the motion, and the minutes were approved as submitted.

**OLD BUSINESS**

**Rezoning Request**  
**Linglestown Road**  
**35-001-005**

Ms. Wissler stated that the Township is proposing an amendment to the Township's Zoning Map for a portion of parcel 35-001-005 located north of Linglestown Road and west of Forest Hills Drive. The area is currently zoned AR, Agricultural Residential District and the proposal is to rezone it to R-1, Low Density Residential District. The AR area consists of approximately 52.29 acres.

Ms. Wissler noted that the Planning Commission previously reviewed an application for a request for three properties located north of Linglestown Road, 35-001-004, 005 and 006, which would have relocated the CO District line further south and the IN District further north, eliminating the AR District. The Dauphin County Planning Commission and the Lower Paxton Township Planning Commission both recommended approval of that proposal, however, it was rejected by the Board of Supervisors.

The subject parcel is abutted to the north by the CO, Conservation District, to the south by the IN, Institutional District, to the east by the R-1, Low Density Residential District and to the west by Susquehanna Township (Conservation District).

Ms. Wissler noted that the R-1 zoning would be a continuation of the current zoning in Forest Hills. She also noted that the 2004 Comprehensive Plan's Future Land Use Map shows the area to be Rural Residential.

The subject parcel is located north of the Sportsmen's Golf Course and is currently vacant. A mailing was sent to neighboring property owners indicating the Planning Commission would review the application.

Mr. Neff asked if the County recommended approval of this rezoning. Mr. Omar Syed, Dauphin County Planning Commission, stated they do not support this, and feels it is premature for such a change.

Mr. Lighty called for public comment.

Dr. Jeffrey Keiser, 2350 Timber Line Court, asked the logic or the rationale behind the rezoning. He noted the area of his neighborhood was developed under P-1, and had been changed to R-1 with the new zoning map. It used to be one dwelling per acre. The AR that was adopted with the new map seemed to be an attempt to compliment the P-1 area, now that is proposed to change.

Dr. Keiser stated that when the Board of Supervisors voted to reject the first proposal, they had a conversation amongst themselves, not including the neighbors in attendance, regarding a change to R-1 instead. Dr. Keiser stated he wants to see the land remain AR, to preserve the density. If it changes, there will be changes in the infrastructure, such as water supply (towers).

Mr. Lighty stated the landowner filed the original rezoning request, which was rejected. The Supervisors believed they had reached a compromise, as was presented in its current form. The Supervisors then instructed the Staff to prepare the rezoning. Ms. Wissler stated the Supervisors discussed the R-1 zoning at the last public hearing, and she got the impression, and thought the Board did as well, that the R-1 was okay with the neighbors. It was then discussed at the workshop meeting. Dr. Keiser stated it was his recollection that the residents were not in the conversation. Mr. Lighty stated the public was at the previous meetings, and the hearing, and they are invited to the next Supervisors meeting as well, so there is ample opportunity for public comment on the application.

Mr. Newsome asked Dr. Keiser to explain his fear or concern of the land going from AR to R-1, and noted that Dr. Keiser's property is currently R-1. Dr. Keiser stated that the R-1 designation is a misnomer for his neighborhood. When the properties were developed and built, it was done under the density allowed in the P-1, as the northern part of Forest Hills was done under the same density. Even though it is now called R-1, it was done after the fact, the actual density of that area is not going to change. Dr. Keiser was concerned with what that is going to do to the side of the mountain regarding infrastructure. The density is related to public sewer, public water (which cannot be obtained there

because the water pressure cannot get up the mountain). He noted that everything north of Continental Drive is on wells.

Mr. Guise noted that he does live in the area, and while he was not at the Supervisors meeting, he does agree with Dr. Keiser. AR is the more logical zone for this. He noted that Mr. Zwally raised the specter of spot zoning, but disagreed with it. Mr. Guise did not feel it was spot zoning, it is a natural progression from CO to AR to the next area. Mr. Guise noted that the realtor states that they did not request the change, they do not oppose it. Mr. Guise agreed with the County comment that the change is premature at this time. For these reasons, he will vote against the change.

Mr. Lighty stated that spot zoning is not an issue with a parcel of this size. There have been cases of parcels of five acres that were not considered spot zoning.

Mr. Guise stated the neighborhood did meet, but not with the developer. He felt it was still highly desirable for the neighbors to meet with the developer.

Mr. Neff stated he was not concerned about spot zoning with this tract. When the municipality zones properties correctly, that zoning is tied into the infrastructure, sewer, roads, et cetera. When the density is increased, it will increase the load on the infrastructure, including Linglestown Road. When land is developed with lower density, there is a larger amount of streets and roads, which impact wells. In the Zoning Ordinance, there are provisions for transferring the buildings. They can move the homes allowed in the AR to the IN zone, away from the existing homes. That would not impact wells. He felt that there are options that have not been explored. He noted the zoning change is inconsistent with the County and Township Comprehensive Plans. He will vote against the change.

Mr. Gingrich stated that the adjacent land in Susquehanna Township is Conservation District. The AR is a better fit on that side as well.

Mr. Guise made a motion to recommend disapproval of the rezoning request, and to recommend that the subject parcel remain AR, Agricultural Residential District. Mr. Grove seconded the motion. The motion carried with a 6-1 vote.

Mr. Newsome stated that this is the third or fourth instance since the adoption of the Comprehensive Plan and Zoning Ordinance, that a very close analysis shows that the Commission didn't do enough homework on this particular area of land. This comment is not derogatory toward the Planning Commission, but shows the complexity of the tasks before them. If they had the ability to look at every piece of land as they could with this one, maybe some things would have turned out differently. Mr. Gingrich stated that there was very little input from residents in that area too, which could have added to the discussions. Now there are changes being made that should have been done at the time of the Comprehensive Plan, putting the Township in a bind. Mr. Beverly stated that the Commission made the best decision at that particular time, given the information available. The Commissioners agreed. Mr. Lighty noted that the Comprehensive Plan used nomenclature different than the Zoning Ordinance, and there is often difficulty in that. Mr. Guise noted that the Planning Commission made its recommendation to the Supervisors, and it is up to the Supervisors to make the final decision.

**Zoning Ordinance Text Amendment**  
**Article 3, Commercial Uses**  
**Article 4, Additional Requirements for a Car Wash**

Ms. Wissler stated that the text amendment proposed by Triple Crown Corporation regarding carwashes was reviewed by the Planning Commission at the September meeting. The Commission recommended approval of the text amendment, with the following changes:

1. Paragraph I, make it a Special Exception in the CN District, instead of permitted by right.
2. Paragraph II.14.f(1), remove the words “In a district other than CN, Neighborhood Commercial District” and change the one acre to one-half acre, if the applicant can prove that most of the water used in the operation will be recycled on-site.
3. Paragraph II.14.f(2) be deleted.
4. Paragraph II.14.g, the words “or other decorative finish” be amended with a better wording to reflect the intent to be aesthetically pleasing and compatible to the neighborhood.

Omar Syed, Dauphin County Planning Commission, stated that this version of the ordinance is much better than the previous one, it provides safeguards with the Special Exception process, and goes before the Board of Supervisors for their input.

There was no comment from the audience.

Mr. Newsome made a motion to recommend approval of the modified amendment. Mr. Gingrich seconded the motion.

Mr. Lighty called for discussion on the motion. Mr. Neff stated that he agreed with the comments made by Mr. Newsome at the previous meeting, and felt that should be explored. He noted that the part of the ordinance about recycling water may not be necessary since they all do it anyway. Mr. Neff suggested adding signage and landscaping requirements because it deals with the CN, Neighborhood Commercial District, which is a transition zone with a mix of residential uses and commercial uses.

A unanimous vote followed.

**NEW BUSINESS**

**Special Exception 08-04**  
**T-Mobile Northeast, LLC**  
**Proposed Wireless Telecommunications Facility, PP&L Substation**  
**Spring Creek Road**

Ms. Moran stated that T-Mobile has submitted an application for a special exception that proposes a wireless telecommunications facility to be located on Spring Creek Road.

Ordinance 08-13 was recently approved allowing an antennae/tower that is located on a public utility substation as a special exception in the R-1 zoning district. A copy of Ordinance 08-13, as well as correspondence from the applicant showing compliance with Article 4, Subsection 402(a)(16), were submitted to the Planning Commissioners for their review.

Michael Reed, Mette Evans & Woodside, was present on behalf of the application. Mr. Reed stated that everything is summarized in the letter to the Zoning Hearing Board, dated September 29, 2008. The plans are attached to the letter. The letter goes through the requirements of the new ordinance and states that the facility, as designed, complies with all requirements. There are no variances necessary for the substation.

Mr. Lighty asked the actual height. Mr. Reed stated it is 120 feet, and 123 feet after the antenna is attached.

Mr. Neff questioned the application since the ordinance was already passed. Mr. Guise explained that the Planning Commission reviews special exception applications and makes a recommendation to the Zoning Hearing Board, who will ultimately make the decision

Mr. Neff questioned the sign at Mountain Road and Allentown Boulevard. That site is under construction, but the sign remains from the Dutch Pantry many years ago. It should have lost its grandfathering but the sign ordinance says it could stay. Ms. Wissler stated that Solicitor Stine advised the Township that the grandfathering remains as long as there is an active pursuit to sell or develop the property. Mr. Neff felt that was an area of the ordinance that should be looked at.

Mr. Neff stated that the reason for the question, is that section 402.A.16.e, page 2, could clarify the term "active use". There is still an old antenna sitting on the old Nike site along the Turnpike. This would help to avoid a situation like the Dutch Pantry sign. He suggested defining it as transmitting and receiving of signals.

Mr. Reed agreed to that, as long as it doesn't apply to the construction time period. He noted that there is a provision that requires removal within six months of discontinuing use of the tower. "Use" is what Mr. Neff wants clarified.

Mr. Neff suggested that when that point is reached, there is a misinterpretation of grandfathering, he suggested that the new user be made to reapply. As development occurs and things change, the Township can have a second look at it before it goes back into service. Mr. Reed had no objection to that.

Mr. Guise stated that would require another amendment, which could be done in the future, but cannot be done tonight, this application is for the special exception.

Mr. Lighty asked where the substation is located. Ms. Wissler stated it is near the McDevitt site (35-077-021).

There was no comment on the application from the audience.

Mr. Grove asked about the appearance of the proposed tower, and referenced Section 402.A.16.B.9, which says to minimize the visual intrusiveness. He noted that area is not overly residential, but asked how the applicant plans to comply. Mr. Reed stated it is a monopole, not lattice style. It will be slightly wider at the base than the top with a triangular configuration at the top. There is no plan to disguise it as a tree or flagpole.

Mr. Syed stated Hampden Township requires towers to look like a flagpole. Mr. Reed stated they have built some like flagpoles, but Lower Paxton Township's ordinance does not require it, and the site it's on may not be appropriate for that anyway.

Mr. Guise made a motion to recommend to the Zoning Hearing Board, that the Planning Commission has reviewed the special exception application 08-04, and finds it to be unobjectionable and further recommend that the Zoning Hearing Board encourage the applicant to minimize the visual intrusiveness, as required by the ordinance. Mr. Newsome seconded the motion, and a unanimous vote followed.

Mr. Newsome asked why the Township can require a cell tower to be removed in six months, but cannot require the same for a sign. Mr. Lighty deferred to the Township Solicitor. Mr. Newsome would like an answer to that. He noted he has seen another sign that is covered up but the cover is torn to pieces.

Mr. Neff suggested that the Township Solicitor misguided the Township on the Dutch Pantry sign. The lettering is long gone, there is nothing more than a pole structure, so he does not think it is a sign any longer.

Mr. Lighty stated that the intent of the pole is signage. Signage is treated differently because of the first amendment. Mr. Guise stated that there is something in either state or federal case law that says municipalities can require removal, and there is something that gives specific authority. Mr. Neff stated that when the transmission ceases, it no longer comes under federal regulations.

**Community General Osteopathic Hospital, Oncology Center**  
**Preliminary/Final Subdivision and Land Development Plan 08-13**

Ms. Christine Hunter, H. Edward Black & Associates, was present on behalf of the plan.

Ms. Hunter stated that they have submitted a plan for the Oncology Center, and have since made some minor changes to the plan. They met with Township Staff and Engineer, who agreed it was not enough of a change to require going back through the approval process. However, they wanted to inform the Planning Commission of the change.

Originally, a power plant was planned along Arlington Avenue to serve the Hospital campus. After the submission, Pinnacle was not comfortable with the location of that sort of function. The entire campus is full, so they began to look to the adjacent property that the Hospital has purchased to the north, where Sussex Court Apartments currently exist.

Ms. Hunter displayed a rendering of the power plant along Arlington Avenue and the apartment site where they now want to locate it. There is also a rendering of how the power plant will fit onto that site. One small apartment building will be condemned. That entire lot will eventually be developed as part of the hospital campus, and this is the beginning of that.

Mr. Guise asked if the size is the same. Ms. Hunter stated it will be the same size as when it was to be on Arlington Avenue. It will be different, however, in the grading. There is significant grading between the Hospital and the apartment site. The plant will be a two-story building, that will look like a one-story building from the Hospital and a two-story from the apartment site.

Mr. Newsome asked about the 100-year flood plain. Ms. Hunter showed on the rendering the line for the Township flood plain district, north of the site, and the FEMA flood plain line is further away.

Mr. Neff asked if the site will be accessed by trucks. Ms. Hunter was not sure what trucks might access the building, but any service vehicles would enter the site through the driveway through the Hospital campus.

Mr. Lighty asked the function of the power plant. Ms. Hunter stated it will be a steam plant for heating and air conditioning. Mr. Lighty asked if there will be chimneys or stacks. Ms. Hunter stated there will be cooling towers. Mr. Lighty stated he has seen the cooling towers for large air conditioners, and they put off a good bit of vapor. He asked where they are located on the drawing. Ms. Hunter stated they are outside the building, on the yard.

Mr. Lighty asked about the building materials. Ms. Hunter stated that was not yet specified. Mr. Beverly asked if the building will be in conjunction with the apartment buildings, or if it will stand by itself, and if it will look like apartments. Ms. Hunter stated they would design it more to match the Hospital campus since the apartment site was purchased with the intent of allowing expansion of the hospital. Mr. Beverly asked if they would eventually eliminate those apartments. Ms. Hunter stated they will, and noted that they do own the last four buildings, not the ones along Arlington Avenue.

Mr. Beverly stated the detention basin will be located quite far from the power plant. Ms. Hunter stated that everything on the Hospital campus drains to the detention basin, and the apartment site will continue to drain to the east. There will be less impervious cover on the apartment site than there is currently.

Mr. Syed asked about the noise level and how that will impact the remaining apartments. Ms. Hunter stated that the Township has a noise ordinance and states what level is allowed at the property line adjacent to residential uses, and the engineers will design the plant to meet that ordinance. Mr. Lighty was concerned about the Lakewood Hills apartments that are about 25 feet from the power plant site. The vapor and sound will need to be dealt with, as well as installation of some sort of screening. Ms. Hunter stated there is existing vegetation, and they propose additional screening. Mr. Lighty suggested that more than shrubbery or trees may be needed. The apartments at Lakewood Hills are very close to the site. Ms. Hunter stated that there is a little more space on this site than on the site next to

Arlington Avenue. Mr. Lighty appreciated the change in location, but wanted to make sure the Hospital is considerate of the neighbors on that side as well.

Mr. Newsome asked if the facility will be full-time. Ms. Hunter stated it will, it is not a back-up facility, and it will eventually replace the existing utilities. Mr. Newsome asked if it is oil-fired. Ms. Hunter did not know.

### **PUBLIC COMMENT**

There was no further public comment.

### **COMMISSIONER & STAFF COMMENT**

Mr. Lighty reminded the Commissioners that there is a joint meeting with the Supervisors on October 14<sup>th</sup>. There will be an improvement district presentation and discussion regarding the Subdivision and Land Development Ordinance.

Mr. Neff will not be able to come to the joint meeting. He offered the following comments regarding McDevitt. On Sheet 11 of 15, it shows overflow parking on the practice field. If there is a wet period, and the cars park there it will be a mess. He suggested they put 3-4 inches of gravel or stone under the sod. Mr. Gingrich stated that the soil is shale soil, and is not high clay soil. Mr. Guise asked if HRG will be at the meeting. Ms. Wissler stated they will.

Mr. Newsome will not be able to come to the meeting either. He requested that the plan be shown on one sheet, it is too difficult to navigate six sheets. He noted that closing Spring Creek Road is going to make a very long cul-de-sac. Mr. Lighty stated it would be better if they could get direct access through the parcel to the north to tie into Union Deposit Road. Traffic on the back roads is going to be dangerous. Getting that access could be a better place to spend the money instead of improving Page Road.

Ms. Wissler stated there is a Flood Plain Management Workshop, and asked the Commissioners to let her know if they want to go.

### **ADJOURNMENT**

The next regular Planning Commission meeting is scheduled for November 12, 2008, at 7:00 pm at the Lower Paxton Township Municipal Center, Room 171.

Being no further business, the meeting adjourned 8:11 pm.

Respectfully Submitted,

Michelle Hiner  
Recording Secretary