

LOWER PAXTON TOWNSHIP
BOARD OF SUPERVISORS
and the
LOWER PAXTON TOWNSHIP PLANNING COMMISSION

Minutes of Joint Workshop Session held March 23, 2004

A joint workshop session with the Board of Supervisors of Lower Paxton Township and the Lower Paxton Township Planning Commission was called to order at 7:30 p.m. by Chairman William Hawk, on the above date in Room 174 of the Lower Paxton Township Municipal Building, 425 Prince Street, Harrisburg, Pennsylvania.

In Attendance

William B. Hawk, Chairman, Board of Supervisors
Gary Crissman, Board of Supervisors
William Seeds, Board of Supervisors
David Blain, Board of Supervisors
George Wolfe, Township Manager
Frederick Lighty, Chairman, Planning Commission
Richard Beverly, Planning Commission
Ernest Gingrich, Planning Commission
Denise Guise, Planning Commission
William Neff, Planning Commission
W. Roy Newsome, Planning Commission
Steven Stine, Township Solicitor
Lori Wissler, Planning and Zoning Officer
Dianne Moran, Planning and Zoning Officer
Norman Lacasse, Shade Tree Commission

Pledge of Allegiance

Mr. Hawk suspended the recitation of the Pledge of Allegiance.

Public Comment

There was no public comment.

Mr. Hawk welcomed Mr. Tom Sabler to the meeting. It was explained that he was in attendance as an A. P. Project for school.

Discussion of Ordinances 04-01; 04-02; and 04-04

Mr. Hawk noted that the purpose of the meeting was to discuss the amendments to the C-1 District, Designed Developments Standards, and the Business Campus.

Mr. Wolfe explained that staff has advertised the three ordinances referenced by Mr. Hawk for public hearing on April 15, 2004. He noted that the three ordinances have been revised to take into account the comments made by Mr. Ron. Lucas and Mr. Mark DiSanto at a previous public hearing held on February 16, 2004. He noted that the three ordinances do not include all the comments made at that meeting, or the letter, dated March 12, 2004, from Mr. Mark DiSanto. He noted that the revised ordinances were prepared in final form prior to receiving Mr. DiSanto's written correspondence, but that many of the issues have been addressed.

Mr. Wolfe explained that the Board of Supervisor instructed staff, at the end of the year 2003, to prepare amendments to the C-1 District as well as other business districts as soon as possible. He noted that, at that time, the Comprehensive Plan was almost complete, and knowing that commercial development was one of the major concerns of discussion in the comprehensive planning process, he noted that the Board of Supervisors did not want to wait to act on the changes requested as a result of the Comprehensive Plan.

Mr. Wolfe noted that the first revisions were made to the Business Campus District, C-1 District, and Design and Developments Standards. He noted that additional ordinance amendments are under consideration, such as Residential-Retirement District, the Lighting Ordinance, and the Sign Ordinance.

Mr. Wolfe noted that the Township had received criticism in relation to the C-1 District Ordinance, stating that the Township was only planning to revise the C-1 District Ordinance and that all the revisions are not comprehensive. Mr. Wolfe explained that it is the intention of Township staff to carry hem through to other ordinances as well.

Mr. Wolfe noted that at the public hearing held on February 26, 2004, comments were received from Mr. DiSanto and the Dauphin County Planning Commission that the proposed regulations were overly restrictive, causing many lots to become non-conforming in the older areas of the Township. As a result, he noted that the yard requirements were reduced to the original requirements for the C-1 District, adding the provision that the larger the building, the front, side, and rear yard requirements would increase. He explained that for every 10,000 sq. feet of building, over and above 10,000 sq. feet, an additional 5 feet of yard area would be required. He noted that these changes would carry through to the C-1 District, adjacent or not adjacent to residential areas.

Mr. Wolfe noted that these yard regulations are in effect in this format, but there are different numbers for the Business Campus District, as well.

Mr. Wolfe noted that this would hold true for future revisions for other type uses.

Mr. Wolfe noted that greater landscaping and shielding provisions have been included; the larger the building, the larger the landscaping setback requirements. He noted the biggest change in the C-1 District is the 65% maximum lot pervious area. He noted that the development community is opposed to this regulation. He noted that this was recommended by the Township Planning Commission, Dauphin County Planning Commission, and the Board of Supervisors. Mr. Hawk commented that it was good that the Dauphin County Planning Commission was in support of this.

Mr. Wolfe noted that Ordinance 04-02, which is the Design and Development Standards, is applicable when a land development is proposed. He noted that it is staff's intention that Design and Development Standards would be added to other industrial and commercial zones as they are revised. He noted that all intensive use zoning districts would be required to comply with the Design and Development Standards.

Mr. Wolfe noted that Mr. Lucas provided the Township with invaluable information in the development of the Design and Development Standards. Mr. Wolfe explained that Mr. Lucas referenced the ambiguous language and that staff has done their best to remove this from the ordinance. In addition, he noted that the purpose is more refined with far fewer words.

Mr. Wolfe noted that an interior layout of the building has been eliminated from the requirements. He noted that the purpose of the building plan is to note the height of the building, location of rooftop units, loading docks, and utilities running into the building, to include location and proper screening from abutting properties. He noted that the development community was adamantly opposed to underground utilities, but the Dauphin County Planning Commission found it to be a desirable function of on-site development. Mr. Wolfe noted that street trees requirements have remained the same, as well as main access drive requirements.

Mr. Wolfe noted that there was a paragraph requiring the preservation of natural features, which Mr. Lucas pointed out was vague, and depending on development, impossible to comply with. He noted that that paragraph was deleted as some of the requirements were already included in other areas of the article.

Mr. Newsome noted that there may be circumstances where a natural feature may be desirable to be kept. He noted that there should be some way to negotiate with the developer to keep a unique natural feature that may be on the land. Mr. Wolfe noted that these regulations only come into play when a land development plan is submitted. He noted that nothing prohibits a developer from clear cutting a lot or doing earth moving activities outside of a land development plan. Mr. Wolfe noted that Mr. Stine explained that tree harvesting is a permitted use, under the Pennsylvania Municipal Planning Code, for all zones. Mr. Stine stated that Mr. Lacasse explained to him that clear cutting is a legitimate timber harvesting practice. He noted

that forests are dynamic and would grow back, but the only time a forest would not grow back is when they are paved over.

Mr. Newsome suggested that unique natural resources be included on the land development plan in order for the Planning Commission to address this with the developer. Mr. Blain noted that an attorney would question the definition of unique natural resources. Mr. Neff questioned if the Township has a natural resources inventory. Mr. Wolfe noted that the Township does not have a natural resources inventory. Mr. Neff suggested that the natural resources inventory be identified and then an ordinance could be created to state that any development in this area would require a review by the Shade Tree Commission or the Board of Supervisors. Mr. Hawk questioned what the definition of a natural resource would be. Mr. Neff suggested that it could include historic items, trees, and watersheds. Mr. Beverly suggested that it would be something that could not resurface again in the future. Mr. Wolfe noted that there is a tree preservation paragraph that either requires the preservation of defined significant trees, or the replacement of the tree in-kind either on the property or at Township public property as approved by the Shade Tree Commission.

Mr. Neff questioned if the ordinance could required that the trees be staked. Mr. Wolfe responded that the Board of Supervisors noted that the Environmental Advisory Council required that they would require these regulations, but the Board of Supervisors decided that it would be going too far to regulation the land development activities of individual contractors. He noted that land development developers are required to preserve, but how they do it would be their business. He noted that land developers would have to preserve or replace the trees. Mr. Wolfe noted that the root zone protection is defined in the ordinance.

Mr. Neff questioned, on page two, section d, ii, the requirement that that a 2.5-caliper-inch tree be changed to a 3-caliper-inch tree since it would have a better chance for survival. Mr.

Gingrich suggested that the larger caliper tree would have a much bigger root ball to plant. Mr. Crissman suggested that Mr. Lacasse would be able to answer this question. It was noted that he was attending a meeting in the next room, and he was invited to address the members of this Board.

Mr. Hawk questioned Mr. Lacasse if a 2.5-inch-caliper tree would be large enough to meet the standards required by developers for their plan. Mr. Lacasse noted that a 2.5-inch-caliper tree is a good size tree, and he explained that the Urban Forestry Council grants recommend 1.5-inch to 2-caliper-inch trees. He noted that the root ball size must be taken into consideration. He noted that a 2.5-inch-caliper tree would have a root ball of at least 300 pounds, and he explained that equipment would be needed to plant that size tree. He noted that that tree has a potential of a 15-foot planting height. Mr. Hawk questioned Mr. Lacasse if he was satisfied with 2.5-inch-caliper. Mr. Lacasse noted that he would be satisfied with it. Mr. Stine noted that these requirements are for commercial areas. Mr. Lacasse noted that equipment would be needed to plant the larger trees. Mr. Neff questioned if there would be a problem to require large caliper trees. Mr. Lacasse noted that the availability of larger trees may be a problem. Mr. Lacasse questioned if the developer would determine the type of tree to be planted. Mr. Wolfe answered that the developer would be given design standards to include a list of permitted trees which would be developed by the Shade Tree Commission.

Mr. Neff noted that the trees put in the area of the Target store still have a lot of growing to do in the area of Rt. 22. He noted that nice landscaping attracts good tenants. Mr. Lacasse noted that Rt. 22 is an east-west road and late afternoon snow would not melt on the south side of the tree. He noted that trees should be planted away from the street not to create a shade problem. Mr. Blain suggested that this could be added as a requirement. Mr. Seeds noted that the Shade Tree Commission is to review the plans as well.

Mr. Neff questioned the off-set in planting trees under the utilities. Mr. Wolfe answered that the developer would be required to install underground utilities.

Mr. Seeds questioned if a developer owed the Township 50 trees and the Township did not have room to plant the trees in a park, could the Township give the trees to the Shade Tree Commission to plant within the Township. Mr. Wolfe suggested that they could be planted on public right-of-way property.

Mr. Lacasse noted that coniferous trees should not be planted on the south side of a street. He noted that the snow does not melt, and it would be a dangerous situation if there was a stop sign in the area. He noted that the general rule is not to border a street with coniferous trees. Mr. Hawk thanked Mr. Lacasse for his input into the discussion.

Mr. Wolfe noted that the buffering and storm water basins requirements remained the same. He noted that Mr. Lucas pointed out that the screening for rooftop equipment should be revised and it has been redefined to include screening from abutting property.

Mr. Wolfe noted that the internal landscaping requirement of an island for every 20 spaces is problematic for winter maintenance activities, and this was removed.

Mr. Newsome questioned why there was a reduction in the amount of required parking area. Mr. Wolfe answered that it was not a reduction in the amount of required parking, but allowing a smaller area to be paved, reserving certain areas for future parking if needed. Mr. Newsome questioned if the developer would be required to meet the number of required parking spaces. Mr. Wolfe answered yes. Mr. Wolfe noted that the Township would allow a developer to build only 80% of the parking area initially if he could prove justification for this. He noted that the developer would be required to leave the additional 20% of property in pervious coverage. Mr. Neff noted that this seems to be a special problem for churches, and suggested that a base be installed at the beginning of the project.

Mr. Hawk questioned if the section for decorative was changed. Mr. Wolfe noted that it was redefined.

Mr. Lightly questioned what the definition was for rooftop equipment. Mr. Stine noted that satellite dishes are not included, and are governed by the Federal Communications Act. He noted that homeowner associations cannot regulate satellite dishes; he explained that this section covers HVAC equipment.

Business Campus District

Mr. Wolfe noted that the same type of front, side, and rear yard restrictions, and landscape setbacks are required for the Business Campus District as are for the C-1 District. He noted that most of the comments received at the public hearing concerned the amount of ancillary commercial or retail use that would be permitted in the business zone as a conditional use. He noted that the previous ordinance permitted 1,500 sq. feet per individual conditional use up to a maximum of 6,000 sq. feet. He noted that newest draft increases the 1,500 sq. feet to 3,000 sq. feet per retail conditional use up to 6,000 sq. feet total. He noted that the ordinance allows for conditional use for retail purposes to have their own separate entrance and exit to the building so their hours are not dependent on the primary building. He noted that the conditional use is not required to maintain the same hours as the primary use.

Mr. Neff questioned what the definition of a “story” was. Ms. Wissler noted that it is defined in the definition section.

Mr. Wolfe noted that the Planning Commission and the Board of Supervisors are being bombarded by both sides of Wal-Mart Development. He noted that Wal-Mart has taken a great offense that the Township is in the process of adopting these regulations as a result of the Comprehensive Plan. He noted that this puts the Planning Commission and members of staff in a

difficult position. He noted that both sides of the Wal-Mart plan would be present at the April 15th public hearing.

Mr. Guise questioned if the changes in the C-1 District for land development would affect the subdivision plan for the Wal-Mart plan. Mr. Stine answered that if the plan was filed as a subdivision/land development plan, the C-1 District would not affect the plan unless the plan was denied or withdrawn and was filed later. He noted that the current plan is a pre-existing non-conforming use, and Wal-Mart does not like this.

Mr. Blain noted that the Township advertised to conduct the hearing for the new ordinances prior to Wal-Mart submitting their plan, and questioned if there was case law that Wal-Mart would have to comply with the new ordinances. Mr. Stine answered that the ordinances have been changed since then and have been re-advertised. Mr. Stine noted that the land development plan for the out-parcel would be affected by the new ordinances, unless Wal-Mart would file the land development plan prior to the effective date of the new ordinances.

Mr. Blain noted that the Planning Commission tabled the plan in mid-March, and the remainder of the plan would be presented once Wal-Mart has filed the revised plan as a result of the file comments. Mr. Guise questioned when the deadline was for Wal-Mart to file the revised plan. Ms. Wissler noted that the plan must be filed by March 31, 2004.

Ms. Wissler noted that there are two issues in dispute. The first is the conditional use requirement, and the zoning officer's interpretation of the front-yard set back requirements. Mr. Lighty questioned if Ms. Wissler would have a decision prior to the Planning Commission meeting. Mr. Stine answered that once the Zoning Officer makes a decision, then that decision could be appealed to the Zoning Hearing Board. Mr. Stine explained that if the Zoning Hearing Board would deny the variance request, then an appeal could be filed to the Court of Common Pleas.

Mr. Wolfe questioned if the Wal-Mart Plan appears before the Planning Commission and Wal-Mart has not address the Zoning Officer's two comments, could the Planning Commission recommend denial based on that. Mr. Stine answered that the Planning Commission could recommend a denial based on the two shortcomings with regards to zoning ordinances as decided by the Zoning Officer. He noted that Wal-Mart must appeal the decision within 30 days of the date it was made, or they would be precluded from any future appeals. Mr. Wolfe questioned if Wal-Mart appealed the Zoning Officer's decision, prior to coming before the Planning Commission meeting, is the Planning Commission obligated to give the plan more time. Mr. Stine answered that they would be. Mr. Stine noted that he would rather error on the more restrictive side, allowing for a future appeal.

Mr. Hawk had a questioned regarding Mr. Steve Snyder's letter. Mr. Stine noted that his letter was not accurate regarding land use issues.

Mr. Neff questioned if there were any gray areas in case law regarding ordinances. Mr. Stine answered that the Municipalities Planning Code requires that a written denial letter must be prepared setting forth all the plan deficiencies, stating what the ordinances states, as regards to the requirement, and the cite for it, and then state how the plan does not comply. He noted that if a plan is in conformance with the requirement, it cannot be denied.

Mr. Guise questioned if the general performance standards would be a reason for denial. Mr. Stine explained that you cannot rezone a property after the plan has been filed, and the specific reasons must be stated. It could not be denied for health, safety, and welfare standards.

Mr. Seeds noted that he and Ms. Wissler attended the Walnut Street Corridor Study meeting this date, and explained that originally the study was to end at Colonial Road. Ms. Wissler explained that as a result of the Wal-Mart development, it has been extended to the full

length of the corridor. She noted that this decision was made at the request of Representative Ron Marsico.

Mr. Seeds explained that the new statewide building codes would require construction for new single family homes to have an outside cellar entrance. Mr. Stine noted that this would only be required if there is living space in the basement.

Adjournment

There being no further business, Mr. Hawk made a motion to adjourn the meeting. Mr. Crissman seconded the motion and the meeting adjourned at 8:37 p.m.

Respectfully submitted,

Maureen Heberle

Approved by,

Gary A. Crissman
Township Secretary