

LOWER PAXTON TOWNSHIP  
PLANNING COMMISSION

August 12, 2009

**COMMISSIONERS PRESENT**

Ernest Gingrich  
Dennis Guise  
Roy Newsome  
Douglas Grove  
Robin Lindsey

**ALSO PRESENT**

Lori Wissler, Planning & Zoning Officer  
Dianne Moran, Planning & Zoning Officer  
Omar Syed, Dauphin County Planning Commission  
Steve Fleming, HRG, Township Engineer

**CALL TO ORDER**

Mr. Gingrich called the regular meeting of the Lower Paxton Township Planning Commission to order at 7:00 pm, on August 12, 2009 in Room 171 of the Lower Paxton Township Municipal Center, 425 Prince Street, Harrisburg, Pennsylvania.

**PLEDGE OF ALLEGIANCE TO THE FLAG**

Mr. Gingrich led the recitation of the Pledge.

**APPROVAL OF MINUTES**

Mr. Grove made a motion to approve the following minutes as submitted: May 13, 2009, June 10, 2009, and July 8, 2009 regular meetings, and the July 27, 2009 BID Stakeholders' meeting. Mr. Newsome seconded the motion and a unanimous vote followed.

**OLD BUSINESS**

**Noise Ordinance**

Eric Epstein, SWAN, introduced Tara Mead, 203 Knollwood Drive. Ms. Mead stated she was before the Planning Commission in May of 2008. Changes are proposed to the current Lower Paxton Township noise section of the zoning ordinance. In May 2008, she talked about the ongoing issues her family has dealt with regarding repeated and consistent violations of their rights to privacy by the actions of their neighbors, specifically, their teenage son. She presented copies of a 30 page noise log, copies of her testimony given to the Board of Supervisors in April 2009, copies of Susquehanna Township's noise ordinance and Lower Paxton Township's ordinance and a proposed version of a noise ordinance for Lower Paxton.

Ms. Mead asked the Commission to imagine the following: in traffic at a stop light, hearing the thump, thump, thump of a base or sub-woofer from a vehicle near you. It is annoying and disturbing, even painful to your ears or vibrating in your chest. You know however that it will be over once the light changes. She asked the commission to then imagine what it would be like to live next to that loud base from a sub-woofer, combined with loud revving of an engine and other vehicular noises. The noise is loud enough to make walls vibrate and rooms in the home inhabitable. Ms. Mead explained that this

has been her and her family's life since March 2008, and is what has prompted them to become involved in SWAN. SWAN is committed to ensuring quality of life for Township residents, including the right to be in their homes without having rights to privacy and peace of mind violated. SWAN has supported efforts to strengthen the current noise ordinance.

Slide 1 is Lower Paxton Township's noise ordinance. Slide 2 is Susquehanna Township's noise ordinance, which is more detailed and covers more. It doesn't rely solely on decibels, but also gives law enforcement and residents more relief and recourse, especially if someone consistently violates the ordinance. Their rights to peace, quiet, rest, and the right to be left alone in their own home. It bans the installation or modification of any vehicle designed to make that vehicle operation louder. It provides specific penalties for violators.

Ms. Mead spoke with Susquehanna Township's Police Chief Martin, about how their noise ordinance is working and what issues or problems they have had. Chief Martin made it clear to Ms. Mead that it is "absolutely good" and very effective since it was put into effect more than 10 years ago. It has been effective in giving citizens more rights, as well as giving police the guidance and enforcement when dealing with noise violations. He also told her that any augmentation of a vehicle to make it louder is a violation of the ordinance and they can be cited.

Slide 3 states that the World Health Organization (WHO) says exposure to excessive noise from boom cars can lead to high stress levels, hearing loss, hypertension, and even damage to human organs and impede a child's development. Ms. Mead stated she has a child who is 3 and one who is 12.

Ms. Mead stated she has contacted the police numerous times, as well as the codes enforcement office, the magisterial judge, state representative, and has hired an attorney just so they can be left alone in their own home. Not once have the neighbors been cited for disturbing their peace. This is beyond frustrating.

Ms. Mead suggested you could not get away from that noise, or wonder every time you come home what you might encounter. Dealing with all of that on a consistent basis creates stress and is intolerable. That frustration, paired with a lack of action from authorities, is horrific. Ms. Mead stated no one should have to go through what her family has gone through.

Ms. Mead stated that adding the suggested changes would ensure the quality of life that Lower Paxton Township would like to promote. Taking steps to enhance the ordinance in a proactive approach versus a reactive approach.

Mr. Gingrich stated the Commission will delay action on the noise ordinance until the next meeting. He thanked Ms. Mead and noted it was revealing in the need for further review.

### **Wind Energy**

Mr. Epstein stated that his occupation is alternative energy development. He is the Vice Chairman of the sustainable energy fund, who is responsible for the first wind farm in Somerset. Some problems the Township should be aware of height ordinances, avian studies (which cost \$350,000), and the issue of renewable energy credits (RECs).

DCNR and DEP have model ordinances regarding wind energy. He cautioned that the Township may not be able to regulate wind energy on State land.

Mr. Epstein suggested the Township take note that it will probably encounter more solar fields than wind. There may also be some residential solar energy, which may have some optical issues and hook up issues, the EDCs are not very friendly. Distributed generation, which is industrial and commercial sites generating energy on-site may be an issue. Be aware that as the Township explores wind, there may be some corollary issues.

Mr. Epstein stated that someone may consider exploiting the closed landfill for methane recovery, another issue may be the biomass issue. Mr. Epstein offered his or his staff's services, based in Allentown. There are several types of alternative energy, each with their own positives and negatives.

Mr. Gingrich stated that the Commission will further discuss this issue at the next meeting.

### **NEW BUSINESS**

#### **Preliminary/Final Subdivision Plan #09-15**

##### **Leroy Smigel**

Ms. Moran stated that the purpose of the plan is to create a residential lot addition to the land of Leroy Smigel. The property is zoned R-1, Low Density Residential District and currently contains 9.75 acres. The addition of Lot 1A (zoned R-C, Residential Cluster) will increase the total acreage to 10.77 acres. No earth moving or construction is proposed with this plan. The property is served by public sewer and on lot well water. The property is located off of Crestview Road and north of McIntosh Road, west of Colonial Road. The applicant has requested the following waivers: waiver of the requirement to provide a preliminary plan; waiver of the requirement to provide curbs, sidewalks, and widening/in-fill paving along Crestview Road; waiver of the requirement to provide a Stormwater Management Plan (no development is proposed with this plan); and waiver of the requirement to provide an Erosion and Sedimentation Control Plan.

Bob Fisher, R.J. Fisher & Associates, was present on behalf of the plan. Mr. Fisher stated he has received the comments on the plan and in agreement with the comments.

He asked about the comment about the location of the on-lot septic. He noted that the property is connected to public sewer, even though it is set back off the road.

Mr. Fisher asked about the need to post financial security. Mr. Fleming stated that concrete monuments need to be set. Mr. Fisher stated he will set those.

There was no comment from Mr. Syed or the audience.

Mr. Newsome made a motion to recommend approval of the plan, subject to compliance with the comments, and recommend approval of the requested waivers. Ms. Lindsey seconded the motion and a unanimous vote followed.

**Preliminary/Final Subdivision Plan #09-16**  
**Devin C. Fortney and James Musumeci**

Ms. Moran stated that the purpose of this plan is to adjust a lot line between parcels 35-066-326 (Lot 2) and 35-066-327 (Lot 3). The properties are located north of Union Deposit Road and west of Cider Press Road, and are zoned Traditional Neighborhood Development Overlay District. Lot 2 will consist of 2.4557 acres and Lot 3 will consist of 2.4742 acres. The properties will be served by private wells and public sewer. There are no public or private improvements proposed with this plan.

The applicant has requested the following waivers: waiver of the requirement to submit a preliminary plan; waiver of the requirement to provide curb along the frontage of Union Deposit Road; waiver of the requirement to provide a stormwater management plan; waiver of the requirement to provide an Erosion and Sedimentation Control Plan; waiver of the requirement to submit a detailed hydrogeologic study; and waiver of the requirement to provide elevation contours for the project.

Mr. Jeffrey Staub, Dauphin Engineering Company, was present on behalf of the plan. Mr. Staub explained that the purpose is to basically even out the size of the two properties. He stated he received the Township, County and Engineer comments.

Mr. Staub asked about the comment addressing sidewalk requirements along Union Deposit Road. He stated that the property was originally subdivided by Gary Croft in 2006, and the sidewalks were not required at that time. The property was zoned R-1, and based on the size of the lots, the sidewalks were not required. The site has since been rezoned TND Overlay. The applicant is not proposing to develop the site as a TND, so the ordinance states that the underlying zone applies if the site is not developed as a TND. He did not feel that a waiver was necessary since the improvement is not required by ordinance. He asked for clarification. Mr. Gingrich asked for a determination from Staff and the Engineer. Mr. Staub noted that if it is determined that sidewalks are a requirement, he will request a waiver in writing.

Mr. Newsome stated that there are no sidewalks in the area.

Mr. Staub stated that HRG comment #15 requests as-builts for public improvements. He did not think that was required under the current ordinance. Mr. Gingrich asked if public improvements are planned. Mr. Staub stated there are none unless sidewalks are required.

Mr. Newsome asked about the overhead lines. Mr. Staub stated he thinks the lines are Bell/Verizon, not power lines.

Mr. Syed asked that the lot being conveyed be dimensioned and labeled. Mr. Staub agreed to do that.

Mr. Guise asked if Lots 2 & 3 have access across Lot 1. Mr. Staub stated that is correct, and there is no other access. An easement agreement is in place, and is signed and executed. If it is not recorded, it will be as part of this plan. He will provide a copy of the agreement to Ms. Moran.

Ms. Moran suggested that a waiver be requested and put in writing as to not delay the applicant. If it is later determined that the waiver is not needed, it can be withdrawn.

There was no comment from the audience.

Mr. Guise made a motion to recommend approval of the plan, subject to compliance with the comments, and further recommend approval of the six requested waivers, and recommend approval of the waiver request for sidewalks if a written request is submitted to the Township. Mr. Grove seconded the motion and a unanimous vote followed.

**Preliminary/Final Land Development Plan #09-17**  
**Mid-Penn Oral and Maxillofacial Surgery**

Ms. Wissler stated that the purpose of the plan is to develop Lot 53, consisting of 0.567 acres, as a medical office for oral and maxillofacial surgery. The property is located north of Linglestown Road and east of Dover Road and will be served by public sewer and public water.

The applicant has requested a waiver of the requirement to submit a preliminary plan and a waiver of the requirement to install sidewalks along Linglestown Road and Dover Road.

Dr. Dinello, applicant, and Christopher Pecora, Hartman & Associates, were present on behalf of the plan.

Mr. Pecora stated he will clean up the plan in accordance with the majority of the comments. He questioned the comment regarding the sidewalk waiver. Mr. Pecora explained that the site is unique because the Dover Road portion drops off and there is a large tree in the area where the sidewalk would be placed. They would prefer to not remove the tree because it screens the site from the homes across the street. Linglestown Road only has sidewalks at the Graystone Bank site. The traffic signal pole is in the way of where the sidewalk would be located.

Mr. Guise stated there are sidewalks at Sheetz. He noted that the Township has a long-term goal of getting sidewalks all along that side of Linglestown Road. If it is waived, the Township will never achieve that goal. Mr. Pecora asked if there is a possibility of stopping the sidewalk similar to what Graystone Bank did because of the pole on their corner of the intersection. Mr. Guise did not have a problem with that, but would defer decision to the experts. Regarding Dover Road, Mr. Guise stated the goal is still to get sidewalks in the area. Mr. Pecora asked about returning the sidewalk around Dover Road come down to a point in front of the tree. Mr. Fleming stated that the intersection has painted crosswalks to all four corners, and there are no pedestrian ways along this side of Linglestown Road. Neighboring sites have been made to put in sidewalks or pedestrian access ways. Mr. Newsome stated the issue of the tree and the sidewalk are both minor planning and landscape architecture issues and the goal of sidewalks in the Township is strong and is increasing. Mr. Pecora asked about the requirements for Graystone Bank since they did not provide handicap ramps from the sidewalks to the crosswalks. He

noted that if they do have to put in ramps and depressed curbs, they will have to tear up the street at least a little bit. Mr. Newsome stated that two wrongs do not make a right.

Mr. Fleming stated that PennDOT recently changed the ADA requirements for intersections to require accessing both streets instead of a shared single ramp. Mr. Pecora stated that the crosswalks come together at a single point at the corners.

Mr. Pecora stated that a PennDOT permit will be necessary if the sidewalks are installed in the right-of-way, and asked if the Commission would be opposed to sidewalks located on private property. There is a directional sign and a utility pole that the sidewalk would have to extend around. Mr. Fleming stated that an HOP will be required anyway to address the corner.

With regard to staff comment #7, Mr. Pecora stated the parking is to be shared between the two uses. They will include Dr. Geyer's and Dr. Dinello's offices together for parking calculations. It includes parking for four doctors, 11-12 employees. The total number of parking spaces is over the required number when calculator. The lots are listed as tract 1 & 2 on the same deed, and Dr. Geyer has a strip of parking across the lot line. The two lots do not stand alone. Mr. Fleming stated he does support the parking calculation with the combined uses, because the ordinance in this zone promotes shared access and shared parking. The cross easement needs to be shown on the plan and recorded at the Courthouse. Mr. Pecora did not have an issue doing that. He noted they prefer to hold to the one access from Dover Road because it lines up with the driveway across the street which serves shared parking for the uses there.

Mr. Syed asked that cross easements be shown on the plan.

With regard to Staff Comment #8, Mr. Pecora stated they are not over the 100 trip threshold. Ms. Wissler asked that they provide a letter stating the results of the ITE trip generation study.

Mr. Pecora stated there were several comments about lighting. He explained that there will be subdued lighting, in keeping with the character of the neighborhood. There will be lighting for the building, probably on the wall, but no high bright light standards in the parking lot. The use is a daytime use, so they propose only to do minimum necessary lighting as needed to satisfy the ordinances. Mr. Grove asked if all proposed lighting will be on the building. Mr. Pecora stated the majority of it will be, because of the use and hours of the office. Mr. Grove asked if the lights will be on for certain hours overnight, and if they will be controlled by a switch or a timer. Mr. Pecora stated he believed that the only over night lighting will be subdued lighting. There may be some "can" lights under the canopy overnight. It will not be directed outward into the parking lot or towards the properties across the street.

Mr. Gingrich asked about addressing the comments regarding the hydrogeologic study. Mr. Pecora would like to meet with Mr. Fleming to work on that.

Mr. Fleming noted that the layout will change substantially when the parking lot and building are reversed. Mr. Pecora stated they do have the required buffer between the street and parking area. Mr. Fleming stated that in the BC, Business Campus District, it is required to orient a property in such a way as to shield the parking from the street so that the building is prominent, not the parking lot.

Dr. Dinello asked about options for the sidewalk along Dover Road. He noted that the land would have to be built up to install the sidewalk in the area where it slopes down. He suggested running the sidewalk up to the driveway and stopping it there. He would like to keep the tree if possible. The sidewalks on the east side would be higher as well. The topography is a challenge. Mr. Newsome suggested the engineer for the plan work within the parameters as discussed. He noted that neither the engineer nor the applicant was convincing enough to get the waiver for the sidewalks. He was also concerned about flipping the building/parking layout.

Mr. Newsome noted his appreciation of the supporting documentation that accompanied the plan submission.

There was no comment from the audience.

Mr. Newsome made a motion to table consideration of plan #09-17. Mr. Guise seconded the motion and a unanimous vote followed.

**Preliminary/Final Subdivision Plan #09-18**  
**Pine Hill Road**

Ms. Wissler stated the purpose of the plan is to subdivide tax parcel 35-076-059 into two residential lots. The existing lot is 16 acres and contains a single family dwelling with access off of Pine Hill Road. Lot 1 will have frontage on Spring Creek Road and Lot 2 will have frontage on Hawthorne Road. The parcel is located north of Spring Creek Road and east of the Twin Lakes development, and will be served by public water and public sewer.

A variance was granted from minimum lot width for Lot 2 by the Zoning Hearing Board on July 23, 2009.

The applicant has requested the following waivers: waiver of the requirement to provide a preliminary plan; waiver of the requirement to provide curbing along Hawthorne Road and Spring Creek Road; and waiver of the requirement to provide a stormwater management plan.

Paul Herbert, applicant, and Bud Grove, Grove Associates, were present on behalf of the plan. Bud Grove stated that the plan is a simple two lot subdivision so that Mr. Herbert can sell a portion to his brother. Bud Grove stated he reviewed staff comments and has no problem with them. He stated they have reviewed HRG's comments, and in general do not have any issues with them, but do have a few questions. With regard to the waiver of curbing along Hawthorne Road, Bud Grove stated that there are no curbs in the Twin Lakes Park at all, except at the entrance where Twin Lakes Drive intersects Spring Creek Road, there is an old section of curb return and old sidewalk that is overgrown. There is curbing on the opposite side of Spring Creek Road, but none on the left side of the road, and none within the development. The applicant feels that the request for a waiver is justified for curbing

Bud Grove stated there is a comment that states that sidewalks are required along both road frontages, however, according to Section 905.O.3, Table A, sidewalks are not required because the density is less than one per acre. There are two units on 16 acres. He requested that the comment be determined to be not applicable.

Bud Grove stated that they will provide the Township with a stormwater management plan, because they will be over 5,000 square feet of impervious coverage. He stated they are withdrawing the waiver request pertaining to the stormwater management plan.

With regard to the comment about scale and page size, Bud Grove stated that it is not required to be in 60-scale by ordinance, and asked that this not be required since the ordinance does not require it. Mr. Fleming agreed it is not required, only recommended.

Bud Grove assured the Planning Commission that they will not be using Hawthorne Road for access. It would require significant work with DEP, and the applicants will access the homes as shown on the plan via access easements, which will be executed and recorded prior to recording of the plan. A copy of the recorded easement agreement should be provided to the Township. Mr. Fleming asked that a note be added to the plan stating that Hawthorne will not be used.

Bud Grove stated they will provide financial security if public improvements are required.

Mr. Guise asked about the driveways off of Pine Hill Road. Bud Grove stated there are driveways for Mr. Herbert and for the adjacent parcel off Pine Hill Road which at some point was probably designed to be a roadway through an extension of Twin Lakes Park.

Mr. Fleming asked if curbing is not proposed along Spring Creek Road. Bud Grove stated that is correct. Mr. Fleming stated there is curbing and sidewalk along the Spring Creek Estates development on the opposite side of the road. His recommendation for denial of the waiver request is based on the improvements in the area. Bud Grove stated the existing physical conditions of Spring Creek are such that if you go off Spring Creek Road you will be in a deep ravine. Currently, the stormwater sheet-flows off the road down to the natural drainage way, from an engineering stand point, it does not make sense to impede natural drainage. Bishop McDevitt will be using Spring Creek as their personal driveway. Mr. Newsome stated the roadway will not be open except for emergencies. Bud Grove agreed, and suggested his client shouldn't have to make improvements to a roadway that only McDevitt will use.

Mr. Gingrich asked if curbing will be provided on Hawthorne Road. Bud Grove stated he is not proposing curbing on Hawthorne either because there are no curbs anywhere in Twin Lakes Park. Mr. Fleming agreed there is no curbing in the development. Mr. Guise asked if there is curbing on Twin Lakes Drive. Bud Grove showed the Commission where there is a small section of curb return.

There was no comment from the audience.

Mr. Guise made a motion to recommend approval of the plan, subject to compliance with the comments, and recommend approval of the preliminary plan waiver, the waiver to provide curbing along Hawthorne Road and Spring Creek Road due to the unusual circumstances, with the understanding that the waiver request regarding the stormwater management plan is being withdrawn and noting that HRG comment #11 is a recommendation and not a requirement. Ms. Lindsey seconded the motion and a unanimous vote followed.

### **Business Improvement District**

Mr. Gingrich stated that dates need to be set for the next workshop meeting, as well as the next stakeholders' meeting. Commissioners agreed to meet Monday, September 28, 2009, at 5:30 pm, with a light meal available at 5:00 pm. Commissioners agreed to meet with a second group of stakeholders on Monday, October 26, 2009 at 6:45 pm, with a light meal available at 6:00 pm.

Ms. Lindsey asked if the Township has received any additional feedback from the business owners. Ms. Wissler has not heard of any. Mr. Epstein commented that he heard it was a good meeting for something that is not an easy process and is a novel concept. Mr. Guise agreed that there was a good turnout and positive discussions. Ms. Lindsey requested information from the Lancaster BID that Applebee's representative talked about. Mr. Grove suggested it might be along Route 30 in Hempfield Township. He noted that even the negative comments are helpful.

### **COMMISSIONER COMMENT**

Mr. Newsome noted his appreciation of Mr. Epstein's comments on alternative energy. He suggested that an organized part of each Planning Commission meeting be dedicated to alternative or green energy, because this field is growing rapidly. He suggested the Commission could meet prior to a regular meeting and bring in someone on the issue.

Mr. Epstein suggested inviting John Costlow from his organization, who had previously worked with Florida Power & Light. He could offer some guidance and talk about the hurdles he has faced with solar, but also wind and other types of energy. Mr. Epstein stated that the CFL light bulbs contain mercury, so they are a good way to save energy but they create a problem.

### **PUBLIC COMMENT**

There was no additional public comment offered.

### **ADJOURNMENT**

The next regular Planning Commission meeting is scheduled for Wednesday, September 9, 2009, at 7:00 pm at the Lower Paxton Township Municipal Center, Room 171.

Being no further business, the meeting adjourned at 8:25 pm.

Respectfully Submitted,

Michelle Hiner  
Recording Secretary