

**Planning Commission Board**  
**Wednesday, February 28, 2018 Meeting Minutes**

The February 28, 2018 public meeting of the Upper Makefield Township Planning Commission Board was called to order by Chair Karin Traina at 7:00 p.m. In attendance were the following members of the Planning Commission: Chair Karin Traina, Vice Chair Kathleen Pisauo, Member Bud Baldwin, Member Phil Feig, and Member Ken Rubin. Also, in attendance were Township Solicitor Mary Eberle, Board of Supervisors Liaison Dr. Ed Ford, Tri-State Engineer Larry Young, Planning and Zoning Director Dave Kuhns and Planning and Zoning Administrator Denise Burmester.

**Public Comment:**

There was no public comment.

**Approval of Minutes:**

A motion was made by Mr. Feig and was seconded by Ms. Traina to approve the January 24, 2018 minutes subject to correcting punctuation and reorganization motions and adding Denise Burmester to attendance.

**Land Development:**

**A. Philmont Property Management, LP, Preliminary Subdivision Plan. (Formerly the Arrow Subdivision Plan) – 2963 Windy Bush Road:**

Presented by John VanLuvanee representing Philmont Property Management, LP, owned by Upper Makefield resident Mike Mister. Mr. VanLuvanee provided a history of the property subdivision plans and transfer of sales. He then explained that there is no present intention of building homes on two of the three properties in the proposed subdivision. The intent is to only develop one of the lots and the reason for the requested waivers. Mr. VanLuvanee volunteered for consideration of a requirement on the plan that Land Development would be completed at the time of permitting for the two lots that are not going to be developed initially.

Mr. VanLuvanee noted that the Heritage Conservancy letter of approval for the building envelope will be available before the plan is presented to the Board of Supervisors.

Mr. Rubin ask for clarification from the Township Engineer and Solicitor on precedence of subdividing and delaying the engineering and land development efforts until a permit was requested. Mr. Young offered that there was precedence when there was a down turn in the economy. Ms. Eberle noted that there were declarations written to delay the Land Development improvements. She further explained that Declaration of Covenants were written with engineering providing an estimate of land development engineering costs to get a building permit. Since the real estate market has recovered there have not been many requests for these declarations.

Mr. Rubin expressed concern that a buyer may not see the declaration before the purchase. Mr. Rubin asked Mr. Young and Ms. Eberle for clarification of engineering and legal differences between a minor subdivision, with just a front and back lot, instead of the current plan of three lots. Mr. Young offered that the requirements would be the same except for an escrow and a well study. Ms. Eberle noted that it would require the current owner to withdraw the current plan and resubmit through the approval process.

Mr. Baldwin ask the Township solicitor if there was any legal liability to the Township if the Declaration of Covenants are put in place or a note is put on the plan. Ms. Eberle noted that this would not be a legal matter.

Mr. Rubin noted that by allowing land development to occur on the subdivision after the lots are purchased, a new type of approval for land development will be defined.

Discussion continued regarding the approval of subdivision without the Land Development compliance with reference to the Municipalities Planning Code, ordinances and conservation easements resulting in financial and practical impacts to the current owner and future buyers.

Ms. Traina called for a commission poll on the precedence that if there is an approval for a subdivision, but the lots are not developed and completed all at one time, would the commission allow the subdivision owner to take on the development of each of the lots separately and over time?

Mr. Baldwin noted the history of the Philmont property and the owner's perspective of spending money on property that will be farmed in the immediate future and how addressing some of the land development requirements would complicate the farming. Mr. Baldwin also noted and understood the future buyer's perspective and the risk to them.

Mr. Feig noted that he shared the concerns of other commission members; that they are being asked to defer a decision on the land development and allowing a decision that does not offer guidance for the Land Development and is an 'open ticket' to future development. The idea of developing the Philmont subdivision into two lots, instead of three, appeals to him, but notes difficulties with that direction as well.

Ms. Pisauro would like to see the Township Engineer's recommendation on what waivers we should do now and which we should hold off on for future Land Development.

Mr. Rubin noted that he was troubled by the precedent and the issues to the buyer of the lots.

Ms. Traina agreed that the Township Engineer's recommendation would be helpful. Ms. Traina asked for plans for changes or renovations to the existing farm house. Ms. Traina is looking for more clarity on what regulations make the most sense to address now and which to address when a building permit is obtained.

Mr. Young noted that storm water management is a consideration in every project in the Township. If the owner is to address the storm water with changes now, the requirements may change in five years and a building permit plan might have different regulations to address.

Ms. Pisauro noted that if the subdivision is granted, that it will be written in the plan that there would not be further subdivision of the lots in the future. Mr. VanLuvanee noted that this was a condition of the previous approvals.

Ms. Traina called for review of the waivers as documented in Tri-State Engineering's 1<sup>st</sup> Review letter dated February 22, 2018. Mr. VanLuvanee responded as follows:

Discussion started with a review of section B. Waivers Requested, only discussing those requests where there was a change in the status of the request in the letter:

4. Mr. VanLuvanee noted that he will comply.

8. Mr. VanLuvanee is requesting to pay the fees for Lot #1 with the Land Development efforts, but to defer the fees for Lot #2 and Lot #3 to the time of permitting for building in the future.

13. and 16. There was discussion of the hydrogeological study and how it may exist based on prior permitting for the installation of wells. It was unclear if the hydro study was a requirement at the time of the permit. Planning and Zoning to follow up as well as solicitor. The well ordinance was filed July 7, 1999. The Arrow's application was submitted also in 1999. The Township solicitor recommended that even if there not a requirement for hydrogeological report, we could still do the water testing. The goal is ensure the lot can be built upon and the well is healthy.

14. Mr. VanLuvanee noted that the on-lot sewage requirement and that Larry has the waiver and the Planning Commission has seen it as well.

17. Mr. VanLuvanee withdrew this waiver request.

18. Mr. VanLuvanee withdrew this waiver request and will comply.

19. Mr. VanLuvanee conditionally agreed to give the Township Engineer anything they needed.

20, 22, 23, 24. Mr. VanLuvanee indicated that he put in these waivers but really didn't think they would apply to this subdivision, and Mr. Young agreed they did not apply.

25. Mr. VanLuvanee indicated that he will get the Penndot permit and will comply.

26. Mr. VanLuvanee indicated that he will comply.

27. Mr. VanLuvanee noted that they are not taking any trees down that are six inches or greater. No trees six inches or greater are in the building envelope or driveway. If they take trees down, a note will be made on the plan.

29, 30. Mr. VanLuvanee withdrew this waiver request.

Ms. Traina noted that this is not a large subdivision and that there needs to be continuity with the surrounding lots. This small subdivision would not have the same concerns or needs as a large subdivision. Ms. Traina also notes that the storm water management would be difficult to achieve without a building plan.

A review of section C. Joint Municipal Zoning Ordinance (JMZO) Review: of Tri-State Engineering's 1<sup>st</sup> Review letter dated February 22, 2018 had the following compliance notes:

1, 2, 3, 4. Mr. VanLuvanee will comply.

A review of section D. Subdivision and Land Development Ordinance (SALDO): of Tri-State Engineering's letter had the following compliance notes:

5, 6, 7. Mr. VanLuvanee will comply.

8. Mr. VanLuvanee noted that this is not a design issue and is still a waiver request. There was a wetlands certification done in 2000 by Tom Porter. They did get a letter of interpretation at that time and was a submitted to the township at that time.

F. General Comments:

10, 11, 12, 13, 14, 15, 16. Mr. VanLuvanee will comply.

17. Mr. VanLuvanee noted that there was a practical concern putting markers at the corners of the property for the planned farming. Mr. Baldwin noted that this could cause problems with the farming equipment. The commission discussed additional options to the monuments that would allow the farming. Mr. Young noted that he was okay with marking the buildings when the lots were developed.

18, 19, 20. Mr. VanLuvanee will comply.

21. Mr. VanLuvanee noted that this waiver had already been approved.

22. Mr. VanLuvanee noted that he will add notes to the plan for the impervious coverage and will comply.

23. Mr. VanLuvanee noted he is open to a discussion.

Ms. Traina requested feedback relating to the wetlands and well studies being completed. Ms. Traina also opened discussion regarding cost of shared resources, such as the driveway, so that the first lot owner would have to cover the cost for both. The township solicitor recommended that the driveway should be installed with the subdivision.

Mr. Baldwin noted that before the plan is approved, to move forward, he would recommend a review of the wetlands and well studies. Is there a way to ensure that prospective buyers are notified of the costs of land development? That should be part of the planning.

Mr. Feig agreed that the wetland and well studies are needed.

Mr. Rubin noted that he will not support delaying land development until the building of the homes.

Mr. Baldwin made a motion to table additional review and comment until the well and wetland studies are completed. Ms. Traina seconded. The motion carried with unanimous vote. The applicant agreed.

Zoning Matters:

**B. Medical Marijuana Ordinance, JMZO:**

Ms. Eberle gave a brief, noting that in January there was a reorganization of the solicitorship from Newtown to Wrightstown. Ms. Eberle asked for an update from the solicitors, but did not receive a response for discussion.

Mr. Baldwin motioned to table the discussion of Medical Marijuana pending a response from the solicitors. Ms. Pisauro seconded the motion. The motion carried with unanimous vote.

**Discussion Items:**

**A. 2017 Planning Commission Annual Report:**

Mr. Baldwin motioned to accept the 2017 Planning Commission Annual Report as submitted. Ms. Traina called for comment. Ms. Pisauro seconded the motion. The motion carried with unanimous vote.

**Liaison Report:**

Dr. Ford noted that he did not have a report from the board because he was absent for the last two Board of Supervisors meetings.

Ms. Traina asked if there is any discussion regarding medical marijuana. Dr. Ford responded that there has not been any discussion of the medical marijuana ordinance by the Board of Supervisors.

**Adjournment:**

A motion was made by Ms. Pisauro to adjourn the meeting and was seconded by Ms. Traina.. Motion carried by a unanimous vote. The meeting adjourned at 8:22 p.m.

Approved: March 28, 2018