

Upper Makefield Township Planning Commission
Wednesday, May 22, 2013

The May 22, 2013 public meeting of the Upper Makefield Township Planning Commission 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 Pisauro, Member Greg Pitonak, Member Hank Lieberman, Member Bob Curtin and Member Ken Rubin. Also in attendance were Solicitor Mary Eberle, Director of Planning and Zoning Dave Kuhns and Engineer Larry Young of Gilmore & Associates.

PUBLIC COMMENT SESSION:

Joseph Mathews, M & M Sunoco Towing, 1102 General Washington Memorial Blvd.

APPROVAL OF MEETING MINUTES:

Mrs. Pisauro pointed out a spelling error. Following that, Mr. Lieberman made a motion to approve the minutes with the correction. Mrs. Pisauro seconded the motion. Messrs Rubin and Curtin abstained. All other members were in favor and the motion passed.

LIAISON REPORT:

As Ms. Ryan is on vacation, there was no Liaison Report.

CURRENT & NEW BUSINESS:

A. Young Lungs at Play, Consider Ordinance Developed by Mary Eberle; continued from the April 24, 2013 Planning Commission Meeting:

Ms. Eberle began by asking the group if the 150 foot distance from active recreation areas was satisfactory. Mrs. Pisauro stated that she thought there should basically be no smoking in parks or a small designated area for smokers. Ms. Traina and Mr. Curtin agreed. Mr. Pitonak stated that he doesn't agree with smoking but that he also doesn't agree with chastising those who choose to smoke and was in favor of providing a designated area for smokers. Mr. Rubin felt that the 150 foot language was a problem with pushing smokers onto adjacent private properties and felt "active recreation area" was too ambiguous. Discussion continued regarding minimum and maximum fines and the problem with enforcement. Following discussion, Mrs. Pisauro made a motion to accept the ordinance with the changes of having a designated smoking area and a minimum fine of \$250.00 and a maximum fine of \$400.00. Ms. Traina seconded the motion. All were in favor and the motion passed.

B. Winery Discussion; Outdoor Events; Cont'd from the April 24, 2013 Planning Commission Meeting:

Tom Carroll, Jr. was present for the discussion. Mr. Carroll, Jr. is the President and Co-founder of Crossing Vineyards. Presenting some history, he explained that when the winery began, the property was under an Agricultural Use and Mr. Carroll Sr. was very involved with the Township in the development of H-17 which is Public and Retail Use Accessory to a Vineyard or Winery. H-17 limits the number of outdoor events in any calendar year to 24. However, he explained that H-17 doesn't really define an outdoor event. This has created a problem, and an enforcement issue as some neighbors observing certain activities such as someone going outside to smoke, tours of the grounds or a few people congregating outside are considering those as outdoor events. This is why the Winery is asking for assistance in defining an outdoor event but are not questioning the limitation which they feel is reasonable. Referencing the letter which the Carroll's wrote to the Board of Supervisors, they asked the Township to consider using amplification as a barometer as to what is an outdoor event.

Ms. Traina asked if the Carroll's could improve the buffering under the current ordinance. Mr. Carroll explained that during the construction of Longmeadow, the Winery had requested being buffered from the subdivision and felt that in the end, the buffering which was approved is not sufficient. However, despite their willingness, the neighbor that seems to have the biggest problem with the events at the Winery sits up higher than the Winery and look down on it. So, even though they have a great buffer, due to the elevation of the home, the trees do not provide the buffer that those neighbors require.

Following discussion of the history of the Winery, Mr. Carroll stated that they have installed a sound suppression system in the tent when there are events with amplification.

Referring to previous debates with amplification as the criteria, Ms. Traina stated while that would alleviate things for the Winery, the Township may have neighbors who feel that the Township is being more permissive and suggested polling the members regarding their views.

Mr. Lieberman stated that he and Mr. Wydro were in agreement that there should not be any restrictions whatsoever on the number of outdoor events. The fact that we have a noise ordinance that controls the noise levels. The fact that events are over at 10:00 pm, that controls the amount of time events can go on. He supports the idea of a buffer created by the Winery. And since there seems to be a general feeling that events should be restricted to 24, I could be persuaded to keep the number at 24 as long as the definition is what Mr. Carroll is proposing, the is an amplification definition and no more. He is not in support of a 90 minute duration restriction or defining an outdoor event because it doesn't matter. An outdoor event would be one where the amplification is "fill in the blank." That is what he would support.

Mr. Curtin agreed with Mr. Lieberman and stated that he asked whether 24 events was enough because he enjoys having the Winery in the neighborhood and understands that it must sustain it's business. He is leaning toward eliminating the restriction of 24 because he thought there were enough restrictions but if that is going to open up a new can of worms and Mr. C is okay with that number, then he agrees with Mr. Lieberman.

Mr. Pitonak stated that if the goal is to not have to deal with complaints he is not sure amplification is going to solve the problem. He though the group was on a good path in defining other events that were not going to be considered outdoor events that would give Mr. Carroll a lot more flexibility while preserving the 24 major events with music amplified or not and in his opinion, that would mean less complaints for the Winery and fewer enforcement issues for Mr. Kuhns.

Mrs. Pisauro asked if the Court decided yoga was an outdoor event and Ms. Traina responded that it was, based on the township Ordinance. Mrs. Pisauro continued that an event such as yoga with no music being considered an outdoor event was not the intent of the ordinance originally and therefore, the ordinance needs to define "Outdoor Event."

Mr. Rubin suggested that Outdoor Event be defined as: 1. where sound is amplified or 2. music is played or performed. Mr. Carroll interjected that the Winery has had complaints where just the wedding ceremony was outside with a single unamplified harpist.

Mr. Curtin stated that the Township cannot write an ordinance to satisfy one neighbor who will never be satisfied. And that the Township needs to write an ordinance that makes sense and not worry about the one neighbor. Mr. Rubin then suggested an amendment to his suggestion to "music which is played or performed by more than one instrument. Ms. Traina said she was leaning toward Mr. Rubin's suggestion.

Ms. Eberle said she thought the group was on to something with the 90 minute idea and thought that got the job done. She liked the concept of sound which is amplified or music is played or performed outdoors but that is going to be up for interpretation. Ms. Traina suggested the addition of “when members of the public are present. Mr. Curtin stated that he had difficulty including a harpist in a garden and a band in the same category.

Mr. Rubin then suggested defining an outdoor event as one in which sound is amplified or music is played or performed vocally or with any instrument other than a single stringed instrument. Ms. Eberle thought Mr. Rubin’s suggestion was a good start but that there needed to be some type of wedding exception.

Ms. Traina then suggested they use a combination of amplification and a time limit because that would take weddings out of the equation anyway. With that in mind Ms. Eberle suggested the definition of an outdoor event as any event at which sound is amplified or music is played or performed vocally or with any instrument other than a single stringed instrument and the event lasts more than 45 minutes. Mr. Pitonak and Mr. Lieberman were not in favor of the time limit

Finally, agreement was reached on the following definition: An Outdoor Event is one which is attended by the public or a private event attended by individuals other than the family members of the owners or employees of the Winery wherein 1) sound is amplified or 2) music is played or performed either vocally or with any instrument other than a single stringed instrument. Mr. Lieberman made a motion to accept this definition. Mr. Pitonak seconded the motion. All were in favor and the motion passed.

Ms. Eberle will revise the ordinance and forward it to the Board of Supervisors with copies to the Planning Commission

C. Service Station Ordinance, JMZO; Consider Revisions to Distinguish Service Stations from Gas Stations:

Ms. Traina stated, referring to Ms. Eberle’s memo which she found very helpful, that there are several questions which the Planning Commission needs to answer. The first is in which districts should each use be permitted and should the use be a P (Permitted by Right), SE (Permitted by Special Exception) or CU (Permitted by Conditional Use). Ms. Eberle interjected that the group should just concentrate on which districts are within Upper Makefield Township as some of the districts do not exist in Upper Makefield. Currently, the Service Station Use is permitted in the PS2, VC2, CC, TC and O-Li districts all as Conditional Uses. None of these districts exist in Upper Makefield Township and therefore, with respect to Service Stations, it will be left the way it is in the ordinance. The other members of the Jointure can decide for themselves if they desire any changes with regard to the districts within which to allow the use.

Ms. Traina asked which entity carries the convenience store use and Ms. Eberle responded that it goes with the Fueling Station.

The second question is whether or not the sale of diesel fuel should be limited to certain districts due to the fact the availability of diesel attracts trucks. Planning Commission agrees that having the sale of diesel fuel would lead to added truck traffic in the Township.

Ms. Eberle points out to the Planning Commission most new gas stations are no longer a combination gas/auto shops. A member of the public, Mr. Joseph Mathews, who owns

M &M Towing Sunoco property at 1102 General Washington Memorial Blvd stood to speak, confirming the same.

Mr. Mathews offers his comments regarding the draft ordinance; he would like the ordinance to include stricter regulations regarding water supply and hazardous materials. Ms. Eberle informs Mr. Mathews that there are already regulations in place much stricter than these ordinances, which require the water supply be regulated.

A member brought up perhaps now would be a good time to include electric and natural gas into this ordinance. Ms. Eberle suggested the complete this ordinance, then research for a future alternative source ordinance.

Ms. Triana asks if a fueling station goes out of business, would this new ordinance address the unused tanks? Ms. Eberle confirms this ordinance would address the unused tanks.

The Planning Commission asks about if canopies are regulated in this ordinance. Ms. Eberle suggest to include that the canopy be A-line, rather than flat topped, include recessed lighting and writing counts as a sign. The Commission liked Warkwick Township Ordinance Section, C, with mention of pitched roof and limited height. Ms. Eberle will take that into consideration when drafting Upper Makefield Township Ordinance.

The Commission is in agreement, two days may be too short of a time for a car to left outside of the Service Station for storage. It may take longer than two days for a part to arrive. It was decided that seven days with screening seemed reasonable.

Townships generally limit the number of fueling stations (pumps). Some larger gas vendor will not build without the ability to have a minimum of twelve (12) fueling stations. The Planning Commission would like to leave this up the municipalities this effect.

Ms. Eberle reminds the Planning Commission that the ordinance will be revisited at a later date for revisions and keep in mind that not items in this draft will affect Upper Makefield Township and will impact others in the Jointure so please recognize and adjust as the Township sees fit.

Mr. Mathews asks about section 18 which includes tobacco and smoking products, he goes on to asks about the availability of smoking products to children.

D. JMZO, Determining of Net Building Site Area, Consider Amending Ordinance to Change Base Site Area Calculation: Larry Young.

Held over to next meeting.

Motion to adjourn, 9:40p.m. Second, all in favor.

Approved: October 23, 2013.