

Upper Makefield *Township*

Planning Commission Meeting;
Wednesday, October 23, 2013

The October 23, 2013 public meeting of the Upper Makefield Township Planning Commission was called to order by Vice Chair Kathleen Pisauro at 7:00 p.m. In attendance were the following members of the Planning Commission: Chair Karin Traina, Vice Chair Kathleen Pisauro, Member Hank Lieberman, Member Ken Rubin and Member Walt Wydro. Also in attendance were Solicitor Mary Eberle, Director of Planning and Zoning Dave Kuhns and Engineer Larry Young of Gilmore & Associates

I. Call to Order – 7:00 p.m.

II. Public Comment:

Mary Melton, 23 Longmeadow Drive. Would like it put on record of the August set of minutes Mr. Carroll states the winery is “grandfathered.” She believes this to be false. Mr. Rubin clarifies that meeting minutes are a reflection of what is stated at the meeting, not whether what was stated was true. Ms. Eberle confirms the same and goes on to say Ms. Melton’s request will be seen in future meeting minutes.

III. Approval of Meeting Minutes:

A. May 22, 2013-Motion moved to approve, motion made.

B. August 28, 2013-With public comment noted above, motion moved to approve, motion made.

IV. Liaison Report: Presented by Mary Ryan.

Ms. Ryan updates the Planning Commission of the 537 Plan in the Dolington and Taylorsville Areas with the Township Engineer finding of no problems that would need any immediate action. The plan of action at this time is public education by helping residence maintaining their current systems and water use. Ms. Ryan informed the Planning Commission that through the study of the 537 Plan, the Township now has better septic and water records of the affected areas than the Department of Health. Many of the residents have chosen to participate in the study and moving forward is to a fantastic base line for future studies.

Next, two budget workshops in October. Currently the Township has spent \$250,000 less budgeted in expenses. The Board of Supervisors is establishing a five years budget plan for major capital purchases. The Board is taking \$300,000.00 to pay down Open Space debt. The budget is balanced with no anticipation of tax increase. Ms. Ryan explains to the Planning Commission about the health care plans. With the Police and Public Work covered under union contracts, the administrative non-union staff health care coverage will change in 2014 saving the Township \$45,000, making a contribution of 5% per employee contribution. The Township has made a three year, no cost, and ambulance service agreement with St. Mary’s Hospital. A Paramedic and an EMT will be on duty 24/7. They will be housed in the Fire Company on Taylorsville Road. The Board reviewed the Hess and Dunkin’ Donuts Sketch Plans sending the plans back to the applicant. The Gray Tract has started construction. The Fire Company is using the three standing structures as educational tools and the waste water treatment plant is under construction. Mr. Young adds that Dutchess Farm is entering into phase two of construction.

V. Current and New Business:

A. Santander Sign Review; Con't from. August 28, 2013 PC Mtg.

Jay Ross, CBRE, Real Estate Division, Santander Bank. Ms. Traina comments the bank has complied with the freestanding signs; the sign on the building is considerably larger and appears to be free floating, then asks Mr. Ross to confirm. Mr. Ross describes the sign is routed out of wood, painted red and is externally light from the ground. Ms. Pisauro asks if there is currently a sign on Taylorsville Road. Mr. Ross confirms there is currently a bank sign on Taylorsville Road. Mr. Ross goes on to say there is mature landscaping blocking the current sign. Ms. Pisauro feels the "blade sign" is a useless sign and there is no need for it. Mr. Kuhns interjects to clarify to the Planning Commission zoning allowances for signage, stating 10% of the façade is allowable for signage. Replacing the insert would be allowable; installing a new sign would require a variance. The ordinance does not allow for two street frontages for signage. Mr. Lieberman feels the "blade" sign takes away from historical feel of the building and character of the area. Mr. Ross requests that Taylorsville Road be the front façade of the building to allow for signage. Ms. Traina comments it is hard to make a decision based on computer renditions of what the sign may look like rather than a sketch of the actual sign. Mr. Ross offers to make a more realistic rendition if required. Mr. Lieberman asks Ms. Eberle for clarification on the ordinance for signage and corner properties. Ms. Eberle states no more than one sign shall be placed on any property held by single, separate ownership unless that property fronts more than one street, in such event one additional may be erected on each additional frontage. Ms. Eberle continues by saying two signs on the bank property are allowable. Mr. Lieberman follows up by saying the provisions are well in place with allowing two signs or a combination of. Mr. Ross questions what is allowable. Mr. Kuhns confirms that the existing non-conformity would be starting over as a new sign if it is removed, and a variance would be required; however if the existing non-conforming sign is renovated it is permissible. The signs are subject to compliance if the signs are altered even though they are already on the property adds Ms. Eberle. The Planning Commission establishes there should be three signs, two frontages and one blade sign. The red color of the sign is a Santander corporate color. Ms. Pisauro states the sign will need some greenery be placed around the Rt. 532 sign in the spring. Mr. Ross confirmed that would be done. Motion made to approve the Santander Sign application with the following provisions; three signs for approval, two freestanding signs; the Applicant is to revisit the sign color scheme on the posts, greenery around the bottom of the sign on Rt. 532; carry the molding and side detail elevation on the building onto the freestanding signs and the "blade" sign is replaced and kept as is. Mr. Lieberman adds to the motion for the sign façade to stay in 10% size compliance. Motion made, all in favor, motion passed.

Winery Discussion. Con't from the August 28, 2013 PC Mtg.

Ms. Traina refers to Ms. Eberle for summarization of the latest on the Winery situation then will open the floor for public comment. Ms. Eberle begins by reminding the Planning Commission that there was no anticipation of this returning to the Planning Commission. It comes before the Planning Commission today because Ms. Eberle feels that the Board has not deliberated the situation at the Winery with the neighbors to the fullest extent. With listening to Public Comment without interruption then deliberating, without interruption then making a recommendation to the Board it would make a more fair representation. The Planning Commission has the task of determining the following:

The ordinance be refined to define and outdoor event as any gathering involving *any* of the following; more than fifty (50) guests, the use of amplified sound, or the single use of any musical instrument including the use of the human voice except for one single stringed instrument. Discussion also included an outdoor event having more than twenty (20) guests outside in the tent; this condition was not generally supported by the majority of the Planning

Commission. These conditions were presented to the Board of Supervisors after the August Planning Commission meeting.

Ms. Traina opens the floor for a 3 minute public comment.

Mary Melton, 23 Longmeadow Drive. Ms. Melton describes to the Planning Commission the close proximity of the homes in Longmeadow to the Winery. She goes on to explain the homes were constructed prior to the Winery opening for business. She recognizes the Winery Ordinance was created for the Winery host unlimited indoor events and limited outdoor events. It was never the intention of the ordinance to have noisy events at the vineyard. There is no entertainment use, with the exception of use H-17. Ms. Melton states the number of events from 2007 to present day giving her observation, noted enforcement action taken by the Township. Going on to explain that the Zoning Hearing Board upheld the finding and the Winery appealed, moving the case on the Court of Common Pleas then on to the Commonwealth Court, where the enforcement notice to limit the twenty four (24) events was upheld throughout. . She explained that still, the Winery acts in contempt. It puts the Township in a terrible position. How do you make the vineyard come into compliance? These events drive us into our home. Ms. Melton can hear the DJ music from inside her home with the windows closed.

Ms. Traina asked Ms. Melton what she considers to be an outdoor event. Ms. Melton response by saying that during the Court ruling, a determination of an outside event was never an issue. What is an outdoor event is an outdoor wedding with chairs set up outside, events in the tent (bridal showers, concerts, and wedding ceremonies with DJ's). Ms. Melton notes that the outdoor events in the tents are the most disturbing to the neighbors. Mr. Lieberman questions Ms. Melton regarding something the owner of the Winery has brought up to the Planning Commission in previous meeting regarding the police often being called because of noise, with the Police never finding a violation. Ms. Melton has worked with the State Police, that entity issuing two citations issued for violation of loud speaker and noisy and disorderly conduct in 2011 and 2012. There were 2011 seventeen (17) loudspeaker violations issued and well as twenty (20) noisy and disorderly conduct violations issued by the State Police and confirmed by the Administrative Law Judge, then in 2012 twelve (12) loudspeaker violations issued and twelve (12) instances of noise and disorderly conduct. The Winery was issued a suspension for twenty-one (21) days, which they converted to a fine. Ms. Melton noted despite this the Winery continues to conduct themselves in the same manner.

Ms. Eberle educates the Planning Commission that the State Police regulate the liquor control regulations which is outside the Township zone of authority.

Ms. Traina asks Ms. Melton is she considered Yoga an outside event. Ms. Melton confirmed that she did as the number of cars coming and going from the parking lot where usually large numbers. This was a particularly a disturbing event as she is unable to sit outside on her deck on a Saturday morning. There has been no yoga at the vineyard this year.

Ms. Melton approaches the "grandfathered" issue with the Winery. Ms. Traina explains that the "grandfathered" term really refers to an entity being allowed to operate in such a manner prior to the ordinance being established. Ms. Melton feels to change the language on the outdoor events ordinance will comprise the ordinance.

Mike Evinski, 6 Longmeadow Drive. Mr. Evinski notes that he was the person who approached the Board six years ago and asked what could be done about the Winery. Mr. Evinski expresses to the Planning Commission how the Winery has affected their quality of life

with the excessive noise in the neighbor hood. He recognizes that the Township does not own a noise calibrator and an Noise Engineer was hired to determine the noise levels at the Winery, which were found to be excessive. He reads from the noise ordinance Part 4. He wants no changes to the existing ordinance. Changing the ordinance will give the Winery “legal wiggle room.”

Ms. Eberle informs the Planning Commission the neighbors have submitted a spreadsheet listing the 24 outside events to the Township. In her professional opinion, she would have concerns going to court with some of the events counted against the allowed twenty four. Every Morning the neighbors contact Dave Kuhns relaying the weekend events at the Winery and the Police are given the task of checking on the Winery, keeping tabs on the weekend events. The two lists are not corroborating. The Police are not listing the Winery over twenty five. Regarding noise, decibel readings by Certified Audiologist were performed on the Winery, there were found to be in excess, however not by very much. When you go to court is must be in a very clear violation. Judges instinctively lead to not finding a violation, unless that violation is exceedingly clear.

Mr. Wydro asks Mr. Evinski if noise is the noise coming from the Winery is his main concern. Mr. Evinski confirms the only time he considers it an outside event, is when he can hear the event with his house windows closed. He doesn't count yoga. He notes some parties are being stacked back to back, starting at 12n and going on until 10pm. with cars circling the neighborhood to park.

Mr. Rubin would like to see quantitative suggestions from the neighbors on the direction the Planning Commission should with an enforceable ordinance

Carol Evinski, 6 Longmeadow. Mrs. Evinski continues the noise discussion by telling the Planning Commission that Rosebank Winery, La Stella Restaurant and Neshaminy Picnic Park do not have amplification because of neighbors. She feels that the Winery is operating as a catering hall. She notes that parking is limited; headlights shine into her house continuously. The Winery buses patrons for events with over 300.

Diane Lampone, 4 Longmeadow Drive. Ms. Lampone notes that she lives the furthest from the vineyard and is affected by the vineyard by hearing it. She would like the Planning Commission to know that she met with the Audiologist when he performed the two studies at the vineyard last year. The events he did the studies were quiet events. She goes on to say that the weekend the Winery celebrated their anniversary it was the entire weekend full of noise, Friday night, Saturday and Sunday the neighborhood had to tolerate the noise. The visitors to the Winery are raucous and I can't enjoy my backyard.

Mr. Lieberman acknowledges the residents pertinent concerns with the Winery and believes that a clear definition to an outside event is required.

Mr. Wydro adds that the parking issue brought up this evening may need to be address even though it may be “grandfathered.” Ms. Eberle interjects that not something for the Planning Commission at this time. Mr. Wydro goes on to say the number events purely related to the parking, traffic and noise levels.

Mr. Curtain feels that is doesn't matter the number of events because the level of the noise. He can't figure out a way to appease the neighbors with parameters.

Ms. Traina recognizes that the neighbors to the Winery have their definition of what constitutes an outdoor event if there was a way to translate that for the Planning Commission that would be a fantastic tool in creating a definition of an outdoor event. Moving forward, would changing the ordinance compromise the neighbor's efforts keeping the Winery in compliance? Ms. Eberle confirms that it would not. What can the Township do to support to enforcement of noise, amplification?

Mr. Lieberman wants to know is there a way to abate some of these problems.

Ms. Eberle brings the conversation back around to defining and event.

Mr. Rubin feels the definition that has been proposed by the Planning Commission is reasonable and clear. He feels the Winery should submit to the Township an "Event Notice" prior to the event taking place. This notice would contain the type of event, and the time, negating whether the event is outside or inside or if the event has been stacked time wise with another event. This will not solve the problem there will always be a gray area. He thinks it's time to move forward by making a recommendation to the Board of Supervisors.

Mr. Wydro agrees with Mr. Rubin.

Mrs. Pisauro feels that the Planning Commission need something quantitative to base the definition of an outdoor event. Mrs. Pisauro also likes Mr. Rubin's suggestion of the Winery submitting an Event Notice.

Ms. Traina suggests taking ideas from the neighbors of the Winery. The Planning Commission has heard plenty from the Winery and has only begun to hear from the neighbors. Ms. Traina also likes Mrs. Rubin's idea of the Event Notice.

Mrs. Pisauro asks for advice from Ms. Eberle in direction for the Planning Commission.

Mr. Lieberman feels the Planning Commission should stay with what was proposed in September as defining an outdoor event with the addition to the Winery submitting an Event Notice to the Township prior to and event occurring. Ms. Eberle goes on to read what the Planning Commission is recommending to the Board of Supervisors as an outdoor event consists of any of the following:

>More than fifty (50) guest.

>The use of amplified sound or use of any musical instrument, including the human voice, except a single stringed instrument.

In addition the Winery shall inform the Township of any planned event no later than forty-eight (48) hours prior to the occurrence of the event provided the notification shall occur during regular business hours. The notification shall provide the purpose of event, the hours of the event, and approximate number of attendees to the event and the name of the host of the event.

The Planning Commission agrees the change the number to attendees the greater than twenty five (25) guests.

Motion made to recommend to the Board of Supervisors amends the ordinance for the definition of an outdoor event at the Winery by any event:

>Greater than twenty-five (25) guest.

>The use of amplified sound or use of any musical instrument, including the human voice, except a single stringed instrument.

>The Winery shall inform the Township of any planned event no later than forty-eight (48) hours prior to the occurrence of the event provided the notification shall occur during regular business hours. The notification shall provide the purpose of event, the approximate hours of the event, and approximate number of attendees to the event and the name of the host of the event.

Motion made, all in favor, motion passed.

C. Zaveta/Ryan Lot 1 Planning Module, 116 Buckmanville Road.

The Planning Commission has a discussion of a approving a second septic system on Lot 1 for an accessory apartment over a detached garage. Ms. Pisauro asks why this is a community system is allowed for private subdivision. Mr. Curtain clarifies it's called a community system because two homes use one system. Mr. Kuhns goes furthers and states that is called a community system because two homes use one facility however the tax payers would not be held accountable if it were to fail. Mr. Young explains to the Planning Commission it will most likely be a sand mound system, meeting the requirement of the Health Department. This was the old Benita Ryan Subdivision. The plan is recorded. No other approval is needed from the Planning Commission other than approval for the Planning Module for the septic. Ms. Traina asks Mr. Young and Mr. Kuhns for concerns on the parcel. Mr. Kuhns informs the Planning Commission that Mr. Zarko, the Township Water and Septic Engineer has reviewed and approved this application. The Planning Commission makes motion to approve the Planning Module for Zaveta/Ryan Lot 1, 116 Buckmanville Road. All in favor, motion passed.

D. Base Site Area Calculations.

Planning Commission discusses with Larry Young the definition of a base site area in reference to impervious surface ratio. Possibly removing items from the Jointure Ordinance regarding base site area calculations Ms. Eberle states from a legal standpoint this raises many issues. Ms. Ryan suggests maybe visiting a revised impervious surface definition. This is moved to next meeting agenda.

E. End of Year Meeting Schedule.

If necessary meeting will be held December 18, 2013.

V. Adjournment

Motion made to adjourn 10:04 p.m., all in favor, motion passed.

Next meeting, if needed, December 18, 2013, 7:00 p.m.

Approved at the February 26, 2014 meeting.