

**Upper Makefield Township Planning Commission**  
**Wednesday, March 27, 2013**

The March 27, 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 Walt Wydro, Member Greg Pitonak, Member Ken Rubin, Member Hank Lieberman and Member Bob Curtin. Also in attendance were Supervisor Liaison Mary Ryan, Solicitor Mary Eberle, Director of Planning and Zoning Dave Kuhns and Engineer Larry Young of Gilmore & Associates.

**PUBLIC COMMENT SESSION:**

There were no members of the public present to comment.

**APPROVAL OF MEETING MINUTES:** Mr. Wydro made a motion to approve the minutes from the January 23, 2013 Planning Commission meeting. Mr. Lieberman seconded the motion. All were in favor and the motion passed.

**LIAISON REPORT:** (Actually presented at the end of the meeting). Ms. Ryan reported that there have been two special meetings for purposes of the Act 537 Plan. The Board asked Mr. Zarko to return to the Board of Health to make sure our information was accurate and he found a lot of discrepancies in terms of the data that was collected for the Taylorsville area. Therefore, Taylorsville residents have been asked to participate in a fact finding survey and to sign up to have their wells and septic tested. Eighteen households signed up but twenty are needed for a good sample so the Board will attempt to have more sign up when representatives go door to door. As previously reported, the records for the Dolington area were in better shape. Our consultant has considered other alternatives to sewerage but due to the fact that these are small lots and “bad” soils, there aren’t a lot of alternatives. More public meetings will be scheduled.

Regarding the Riparian Grant Program, the Board has been working with the EAC and will be implementing a more streamlined process under the program. It is hoped that this will entice more residents to take advantage of the program. As an offshoot of the Riparian Program, the Upper Makefield Township Tree Grant Program has begun. The money will come from the Tree fund, not the Riparian fund and all Township residents are eligible to receive reimbursement of \$25.00 per tree.

The new Visitors Center has opened.

The revised Solar Ordinance has passed.

The Board decided that it wanted to implement the Deer Management Program again but changed its position because deer management was not a budgeted item.

**DEVELOPMENT ISSUES:**

**A. Pitkow Sign Review; 1005 and 1107 Taylorsville Road:** Mr. & Mrs. Hal Pitkow were present to discuss the proposed signage for the commercial properties at 1105 and 1107 Taylorsville Road. The two parcels are owned by Mr. & Mrs. Pitkow under the name Crossroads at Washington Crossing, LLP. The Applicants propose to replace the existing signage which they feel look more compatible with the surroundings. There was a discussion regarding the current versus proposed locations, the new materials including stone piers to match the building at 1107 Taylorsville and foam board which

resembles wood and the neutral colors proposed. Ms. Eberle stated that Mr. Kuhns had already explained that the application is in compliance with the zoning ordinance. Due to the fact that the application meets the requirements of the zoning ordinance and the colors meet the requirements of the Washington Crossing Sign Guide, Mrs. Pisauro made a motion for approval. Mr. Curtin seconded the motion. All were in favor and the motion passed.

**B. Pancari Lot Line Change; 1219 Eagle Road; cont'd from the 1/23/13 Planning Commission meeting:** Denise Pancari was present and provided an overview of the status of her plan. Last month when she appeared before the Planning Commission, she presented a plan which although approved would have required her to return to the Zoning Hearing Board for impervious surface relief. Instead, she opted to change the plan slightly to avoid that and explained that now; the triangular portion of the property previously discussed would be designated as in the Highest Protection Area of the Conservation Easement. This was agreed to by the current owner, James Riss, as well. The plan also incorporates some of the requests of Gilmore & Associates. Mrs. Pisauro clarified that this was just regarding the transfer of property. Ms. Eberle further clarified that this will be one building on one lot and that the Applicant/Buyer will not be required to return to the Planning Commission as part of a Land Development process though the Applicant will be required to post security for the public improvements. Regarding the Gilmore & Associates letter of March 20, 2013, Ms. Pancari said there was no problem complying with the items in the letter. Ms. Eberle interjected that in 2008, when the economy tanked, owners knew that it would be a while before they were able to sell lots and Townships allowed owners through the Declaration of Covenants to delay posting financial security until a lot was sold and construction began. Mrs. Pisauro asked if further subdivision would be allowed on the property. Ms. Eberle explained that subdivision is not allowed under the Conservation Easement and that this is a lot line change only. Mrs. Pisauro then made a motion to approve the plan subject to the conditions in the Gilmore & Associates letter of March 20, 2013. Mr. Pitonak seconded the motion. All were in favor and the motion passed.

**C. Hess Corporation Land Development Sketch Plan; 1102 General Washington Memorial Blvd.:** Present on behalf of the applicant was Robert Gundlach, Jr., attorney for the Applicant, Matt Chartrand, of Bohler Engineering and Andy Lautenbacher and Michael McAfee of Hess Corporation. Mr. Gundlach began by stating that Hess is presenting a plan for the former Sunoco Station aka M & M Towing. The property is about 1.2 acres at the corner of Washington Crossing and Taylorsville Roads and the plan proposes redevelopment of the site as a service station and small convenience store. Mr. Chartrand stated that within the existing site are two rights of way with pumping stations that are no longer being utilized. The Sketch Plan proposes a Hess Express with six stations with a total of twelve pumps and an approximately 2500 square foot retail store with fifteen parking spaces. The plan includes improvements along the frontage which will provide a softer turning radius at the intersection. As the plan proceeds through the Land Development process, other improvements such as stormwater management are also proposed. Mr. Chartrand presented an aerial view of the property superimposing the Hess Plan. Mr. Gundlach interjected that additional suggestions as a result of a meeting with Township staff are also anticipated including five foot sidewalks, water, sewer and other utilities, stormwater management and roadway improvements additional road widening and crosswalks to be incorporated as part of Streetscape. Zoning relief for a reduced right of way area will be proposed as in this case, it will be difficult to meet the right of way requirements. Discussions with PennDot have not yet occurred regarding that reduction. Mr. Young of Gilmore & Associates stated that ultimately Penn Dot will require a letter from the Township indicating agreement to that reduction. Mrs. Traina asked about whether or not the existing infrastructure (gas tanks) will able to be used and also about the placement of the pumps. Mr. Chartrand explained that the existing tanks cannot be used and that the placement of the pumps must be in front of the store for purposes of the rules regarding clear lines of site to gas pumps by attendants. In response to a questions regarding clean up of the site,

Mr. Chartrand stated that Phase One of clean up is underway and that Hess will be responsible for all clean up of the site and the closure of any issues relating to clean up. Mrs. Traina returned to the issue of pump location explaining that as a result of the Washington Crossing Development Program, the Township anticipated that in the future, buildings would be placed as close to the road as possible and maintain an historic feel. With that in mind she wondered if it would be possible to “flip” the plans. Mr. Chartrand stated that Hess could consider that but the configuration would be atypical. Mr. Wydro agreed that with Ms. Traina’s suggestion regarding the configuration of pumps in the rear with the store in the front. Mr. Lieberman asked what the Applicant’s position was regarding the abandonment of the dispensing of gas. Mr. Gundlach responded that it is the Applicant’s position that regardless of the cessation of the dispensing of gas, Hess would be continuing the non conforming use of a Service Station because even without gas dispensation, the site is still operating as a service station. Ms. Eberle stated that she wasn’t as sure as Mr. Gundlach that the Applicant has the right to pump gas despite the cessation that took place a number of years ago. At some point, that issue will need to be confronted. Mr. Lieberman continued his line of questioning by asking if the Applicant will be removing the existing underground storage tanks. The Applicant’s current position is that it is not Hess’ responsibility but that it will abide by the decision of the Township and DEP. If the plan goes forward to Phase Two, Hess will remove the tanks and install new state of the art equipment and the goal is to have a clean site. Mr. Lieberman then asked if Hess was aware of the septic failure issues in that part of the Township and what their plan was in light of that. The Applicant answered that testing has not yet been done as it is too early in the process and wouldn’t be addressed until Hess knows it has a viable project.

Discussion turned to the importance of this particular parcel of land and Ms. Traina asked how flexible the Applicant might be with respect to design and materials. She also referenced the new McAlister office building and the fact that the developer was able to accomplish the goals of the master plan. Mr. Lautenbacher responded that the inside of the proposed building is fairly standard but that the outside has been customized for this particular location. However, it is not cast in stone and Hess is willing to work with the Township on its appearance. With regard to “flipping the plan”, there are several reasons why that is not attractive to Hess. Two of the reasons are operational and marketing. It is not practical for this type of business to be designed in that way. The Applicant knows of a handful which are configured in that manner in the Northeast and none of them are doing very well. Another reason is that the mechanical equipment for this site is on the ground, versus roof mounted.

The discussion turned to traffic concerns and site issues. Mr. Young was particularly concerned with tanker trucks and emergency vehicles being able to successfully maneuver from the site. Hess has already conducted a traffic turning analysis which the Applicant offered to provide. The Applicant also stated that it would be eliminating the two existing driveways as part of the development of the site and anticipates that would allow for better site lines. In addition, PennDot will be reviewing plans for site clearances. Ms. Traina expressed her concern about safety with respect to this issue as currently there is not a lot of traffic going in and out of the business but the new business would have significantly more traffic.

Mrs. Pisauro returned to the issue of the existing non-conformity and asked if the Applicant anticipated expanding that non conformity. The Applicant acknowledged that they were going to require zoning relief for the development of the plan and one of those items requiring relief will be a special exception to expand. Mr. Rubin inquired as to the flexibility of reducing the number of pumps. The Applicant explained that the reason for the number of pumps proposed is to prevent stacking and not necessarily to serve as many customers as possible.

Mr. Young asked about the hours of operation. Hess responded that they typically like to operate 24 hours per day. If economically not viable at this location then hours could be reduced. With respect to lighting the Planning Commission indicated that will be a big issue.

Mr. Wydro asked about the distance of the well from the seepage bed. One hundred feet is required but the current distance is 80 feet. The Applicant indicated that there is room on the site to comply with the distance required by the ordinance. With respect to the fact that the site has a large amount of impervious surface, the Applicant indicated that the infiltration and detention facilities will be required to be underground and this issue will be addressed in more detail during the Land Development process.

The issue of signage was also raised and the Applicant is aware of the restrictions regarding signage in the overlay district.

At this point in the meeting, it was suggested that the public be provided the opportunity to comment on the application.

The first resident to speak was Joseph Mathews who asked if it was true that Hess was getting out of the retail market. Mr. Chartrand responded that was true but that the intention is to keep the brand and the operations of the retail businesses will be operated by the same people. He also asked about other businesses such as Dunkin Donuts which might also be housed within the convenience store. Mr. Chartrand stated that there will not necessarily be Dunkin Donuts but that it is typical to have other companies operate from the convenience store as well. In general, Mr. Mathews was concerned about the increase in traffic.

Mary Ryan commented regarding the canopies proposed for over the pumping stations. She wanted to remind the Planning Commission that when the Sunoco Station installed canopies over their gas pumps, there was a public outcry resulting in their removal three weeks later. Regarding the plan being shown this evening, she said that it appears the corner intersections are being rounded off. As someone who was involved with Streetscape for many years, that was something the Township was trying to avoid and preferred keeping the intersection small to give it more of a quaint feeling.

Martin Pflieger of 1088 Taylorsville Road said he was concerned with traffic stacking when cars are leaving the site, the issue of impervious coverage which is a major stormwater management issue and does not agree with the fact that that due to the abandonment of the pumps years ago and the fact that no retail use currently exists, that this would be a continuance of a non-conforming use. Regarding the 537 Plan, he felt that the Hess plan had not taken that into consideration. With respect to the right of way, an additional width may be required to accommodate the sewer line.

With no other members of the public wishing to comment, Ms. Traina expressed her concerns with the retail use and whether or not that will change the use for the future.

Ms. Eberle responded that would not necessarily be the case and that is one of the issues that will need to be addressed during the process. She continued that she thought the Board of Supervisors was not necessarily looking for a specific recommendation from the Planning Commission today but rather hearing the topics of concern and direction and flow of the conversation.

Mr. Curtin also expressed concern regarding traffic and could not think of any configuration would not result in a traffic nightmare.

Mr. Lieberman acknowledged that this was going to be a difficult project but that does not mean it can't be done and is personally willing to work with the Applicant due to the fact that what is there now is horrible.

Mr. Wydro reiterated his position regarding the attractiveness of reversing the facilities and the need for the number of pumps proposed as there is another gas station across the street. He also reiterated his concerns regarding the septic issues, stormwater management and traffic issues.

Mr. Pitonak gave an example of certain areas in North Carolina's Outer Banks where they have done a great job having facilities blend in with the environment.

## **VI. Current and New Business:**

**A. Winery Discussion; Outdoor Events:** Ms. Eberle provided some background to the Planning Commission. There has been some contentious conduct between Mr. Carroll and some of his neighbors. A court ruled that Crossing Vineyards is not a non conforming use and that the Winery must comply with the event limit of 24 per year for outside events. Due to some differences regarding what constitutes an outdoor event, neighbors filed a contempt petition against the winery claiming that it was hosting more than 24 outdoor events per year. The crux of the disagreement with respect to number of events involved yoga classes held outdoors. Mr. Carroll felt that the yoga events should not count toward the number of outside events allowed because of the quiet nature of the event but the court ruled in favor of the neighbors that yoga should be included in the number. Included in the packets for this evening's meeting is a letter from Mr. Carroll's attorney asking for reconsideration as when the ordinance was drafted, it had not been anticipated that an event such as yoga, would be considered an outdoor event.

Therefore, going forward the Board is asking for clarification of the issue and any recommendations from the Planning Commission whether it be redefining what an outdoor event is or by changing the regulation.

The Planning Commission discussed the intensity of the noise from a yoga class and Mr. Kuhns reminded the group that the issue is not noise with yoga but whether it should be counted as an outdoor event. Mr. Wydro discussed this issue with Newtown Township whose Board felt that 24 outdoor events was too limiting. Previously when the Township employed a noise engineer to monitor events, the results were above the decibel allowed but not significantly enough to create an issue with the Winery. In addition, enforcement of the noise ordinance is not workable since no one is here to do so on weekends and Mr. Kuhns who would otherwise be the enforcement officer is not qualified because he is not a board certified audiologist as required.

Ms. Traina suggested that perhaps the measure could be where the primary event is occurring. Mr. Rubin stated that the vineyard is important to the Township and believes we should preserve its viability but understands there must be some restrictions.

The group discussed buffering, lighting, parking and duration of the events. Ms. Eberle is going to provide a draft ordinance at the next meeting which addresses the duration of outdoor events as a barometer.

**B. UMT Planning Commission Annual Report for 2012:** Mr. Wydro made a motion to approve the Annual Report. Mrs. Pisauro seconded the motion. All were in favor and the motion passed.

Prior to adjourning, Ms. Traina commented that if the Planning Commission has available time on future agendas, there are some ordinances which could use freshening up so the group will be addressing those during the year.

The meeting was adjourned at 9:20 pm.

Submitted by: Phyllis Mehler  
Approved April 24, 2013