

UPPER MERION TOWNSHIP BOARD OF SUPERVISORS  
ZONING WORKSHOP MEETING  
May 1, 2014

The Board of Supervisors of Upper Merion Township met for a Zoning Workshop Meeting on Thursday, May 1, 2014 in the Township Building. The meeting was called to order at 5:08 p.m., followed by a pledge of allegiance.

ROLL CALL:

Supervisors present were: Greg Waks, Erika Spott and Carole Kenney. Also present were: Sally Slook, Assistant Township Manager; Joseph McGrory, Township Solicitor; Scott Greenly, Associate Planner.

CHAIRPERSON'S COMMENTS:

Chairperson Waks indicated an Executive Session was not held prior to this meeting.

CONTINUE DISCUSSIONS – UPDATE OF ZONING CODE

KING OF PRUSSIA MIXED USE DISTRICT – DISCUSSION OF STANDARDS FOR SUSTAINABILITY AND DENSITY BONUS

Mr. Greenly stated the Upper Merion Planning Commission has had an opportunity to review some of the bonus incentives previously discussed for the Mixed Use District. The majority of the April 23<sup>rd</sup> planning commission meeting focused on the height bonuses which would be based on a two-tiered system wherein developers who wanted to increase building heights would choose from either Tier A or Tier B to reach a maximum height of either 80 or 120 feet. The planning commission suggested this be tied to some sort of relief based certification.

Mr. Peter Simone, President, Simone Collins, described the BID's work with the planning commission which has resulted in a vast improvement of the proposed ordinance. He expressed uncertainty about the legality of using LEED standards for the incentives since LEED is not something that is certified by the township, but rather an outside group. In addition, LEED has a lot of elements that are not controlled at land development or zoning. Mr. Simone stated it would be difficult, if not impossible, to give an applicant a bonus at land development based on something that could not even be determined at building permit issuance. He said it would have to be determined later based on performance of the building.

Jaquelin Camp, Chairperson, Planning Commission, explained the LEED certification process and the new requirements in the latest version of LEED with regard to building performance.

Mr. McGrory stated he is only concerned with the elements that would affect what goes on in a land development plan since whatever goes on in land development is reviewed in accordance with quantifiable standards that exist at that time and a land development plan cannot necessarily be based on performance. Mr. McGrory asked if the standards worked out with the planning commission are elements that are reviewed at the land development state and if they are not carried out what happens with the land development plan.

Mr. Simone stated he agrees with Ms. Camp and other members of the Planning Commission that it would be great to use LEED standards and because of questions how it could be done legally the standards were incorporated as a checklist and not something that has to be measured later. He said it would certainly require additional inspection by the township during construction. Mr. McGrory noted anything that is a building standard can be inspected through the building permit process. He said he is more concerned about how the plan changes.

Mr. Simone stated the Planning Commission and BID had another discussion about having a standard like this apply to more districts than just the Mixed Use District. He said the township may be at a point where it is necessary to retain a LEED qualified professional.

Mr. McGrory suggested doing a "hybrid" and instead of calling it a certification simply call it the standards updated through the certification process. Rather than having the township decide what is a good practice, it should be tied to something measurable and quantifiable.

Ms. Camp said the information required to spell out what constitutes meeting the requirements is extensive, and a great deal of time was spent at the last planning commission meeting refining the list. Ms. Camp said they still do not have enough information on any of the items to clearly spell out to a developer when the requirements have been met, the level of compliance with the documentation required for proof and who it is submitted to. She said it takes a lot of information to spell that out which is already built into the LEED standards. Mr. McGrory asked if there is a resource that can be cited that is updated periodically with the LEED standards. Ms. Camp responded in the affirmative. She said there is a manual for every version of LEED. There are a number of different versions based on building type.

Mr. Simone stated they are not trying to capture the developer who is going to do a LEED building anyway. They are trying to push the applicant who is not going to do LEED towards LEED and towards compliance. Mr. Simone

said there are some things in LEED that are easy to do and already covered by township ordinances. He indicated he was not clear on what the Planning Commission wants to do as far as what level is being suggested, silver, gold or platinum.

Ms. Camp stated the arguments or the concerns that have been raised about using LEED standard could also be applied to the list. She said the difference is the LEED standard is a much more comprehensive list and gives a developer a lot more options. There are a lot of different ways a requirement can be met and if all of those are spelled out there is a minimum standard. There are a certain number of credits that are prerequisite so everybody has to meet those standards to get the building certified under LEED. There is a whole range of credits to choose from which provides a developer with a fair amount of flexibility to decide their priorities. Ms. Camp responded she believes it is the simplest way to get it into the ordinance and implement.

Mr. Simone questioned how verification would be accomplished and said the approval process would appear to be very cumbersome. Ms. Camp disagreed and said it is simpler in the approvals process. She said to be LEED silver certified you would need to produce a set of design documents that meet the building code. Ms. Camp noted there are a number of municipalities and a number of very large cities that have tied LEED certification into their zoning codes. Mr. McGrory commented the problem with cities such as Philadelphia and Pittsburgh is they go farther than the municipalities planning code. The enabling legislation for municipal zoning is totally different than theirs and they have much more leeway in what they do and how they do it.

Ms. Camp asked if there is something in the enabling legislation that would preclude putting this standard into a zoning code. Mr. McGrory responded he is more concerned about what is reviewed for an initial permit and how the zoning code is enforced after construction. He said the code office is going to have to be knowledgeable about LEED standards.

Ms. Camp said tying it to LEED standards makes it simpler because all you need to know is whether the standard has been met and the system is already in place for LEED monitors.

Mr. Waks asked what is involved in having a township employee qualified in administering LEED standards. Ms. Camp responded there are different levels such as a LEED Green Associate level for non-construction or engineering professionals. There is another level for those having specialties for certifications under each of the various systems.

Mrs. Spott asked if the Township Engineer has LEED capabilities. Ms. Camp responded in the affirmative.

Mr. Simone stated the other point the BID has made is that most of the buildings that will be built here are not going to be 80 or 120 feet because of the high cost of going that high. He said there has not been a concern raised about building height. The Mixed Use Zoning District will be going to a 35% minimum green area as a base which is 15% more than what is there now. Mr. Simone said the idea of a township-wide system of sustainability is a good one. He said with the LEED as a standard it is going to take a long time to put in place. Ms. Camp disagreed and said it would be easier.

Mr. McGrory asked what about a doing a hybrid. Mr. Waks suggested language referring to "other standards outlined in LEED for certification" so that there would be a measurable standard.

Ms. Camp stated her response to that would be to create two tiers one of which are standards that are easier to satisfy and the second tier a collection of more expensive and complicated items. Ms. Camp provided an example of an easy credit that can be obtained by recycling construction waste.

Mr. Garzillo asked if a two-step timing process could be worked out for implementation. Mr. McGrory responded a two-step process could be done, but language should not be written into ordinance making reference to a second step. It would be better to pass the initial ordinance and amend it later.

Mr. Simone stated he believes that is a good suggestion since there are going to be different unforeseen incentives for different districts that are unlike anything in the Mixed Use District. Each district is going to be different.

Mr. Simone stated at the meeting with the Montgomery County Planning Commission they reacted favorably and had very few comments in their review letter. He noted many of the elements of LEED such as walkable streets, erosion control, and protection of steep slopes are already being done and it is possible to get points for LEED for things that are going to happen anyway and these are not in an ordinance now.

A member of the group asked if an ad hoc committee will be formed to "hammer out" the details.

Ms. Camp stated if LEED is used the documents are already written. The U.S. Green Building Council (USGBC) takes care of the whole process of getting the certification which is when all the verification happens.

Mr. Waks stated he favors Mr. Garzillo's suggestion to form a subcommittee if LEED cannot be incorporated in a month or two.

A discussion followed about the best course of action to proceed with the ordinance on a timely basis.

Mr. McGrory wanted to make clear he still has the same issues he had at the beginning of the meeting, but this seems to be a reasonable compromise to keep things moving forward as long as there is a commitment [to keep working on LEED]. Mr. McGrory stated when LEED is ultimately done, he suggested it be done in SALDO township-wide, but for now do it this way and keep it moving. He said SALDO regulates building construction which is why having this go into SALDO would be an appropriate ordinance.

Mr. Simone said he wanted to be clear on what Ms. Camp is recommending. He asked if silver and gold are being recommended on two levels. Ms. Camp responded having silver on one tier and gold on the other is not an unreasonable standard. She noted silver is easily achievable.

Mr. McGrory asked if a point criterion has to be mentioned or if that is already spelled out. Ms. Camp responded it is already laid out within the rating systems. Mr. McGrory asked Mr. Simone to check that language. Mr. Simone said he would draft something tomorrow and sent it to everyone. He asked everyone to send their comments back to Mr. Greenly. Once the language is approved it will be sent back to the Montgomery County Planning Commission with the goal of having the ordinance considered by the Board of Supervisors in June.

#### BUSINESS/OFFICE & INDUSTRIAL DISTRICTS – (ADMINISTRATIVE OFFICE, OFFICE INDUSTRIAL, COMMERCIAL INDUSTRIAL & INDUSTRIAL) TABLE OF USES

Mr. Waks discussed an area near a residential section in the vicinity of Church Road and Radar Drive which is currently zoned commercial, warehouse, industrial or light industrial. While it is not currently zoned residential as part of the zoning review it might be considered for addition to the way it is zoned to encourage residential housing in that area. Mr. Waks noted this would simultaneously eliminate some unattractive empty warehouses off of Radar Drive and provide a buffer between the current housing and everything else.

Mr. Greenly indicated he and the Township Planner were discussing this last week and both agreed it makes a great deal of sense to change the zoning to allow what is currently warehouse use and light industrial to be a residential use for new development in that area.

Mrs. Spott asked if anyone would object to a change. Mr. Waks said it would be necessary to communicate with the residents in the area. Mrs. Spott asked if there are only residents there right now or if there is light industrial. Mr. Waks indicated the buildings are empty. The code could be changed, but the property owners would be grandfathered and would not be stripped of their rights.

Ms. Camp indicated it would probably increase property values.

A discussion followed about the GlaxoSmithKline property, currently zoned light industrial, which has been vacated for the most part. A member of the group indicated you would want residential as an option, and also current use as an option as well. Mr. McGrory suggested inviting the owner in to see if they would be amenable to considering different zoning.

Mr. Waks said it makes sense to have all the property owners come in for a meeting including the previously discussed area near Radar Road and Church Road as well as an another light industrial property in Swedeland abutting some residential housing.

Of the three properties discussed, Mr. Waks stated the one that is most desirable to remain in its current zoning is GlaxoSmithKline while it makes most sense for the other two properties discussed to change.

Mr. Waks stated the first step is to get the companies in to see what they want to do.

One member of the group said the property by Radar Road makes the most sense to move to "R" or some variation. Mr. Greenly stated both Radar Road and the Glaxo properties are the properties staff has to look at in moving forward.

Mrs. Kenney sked for clarification about the Swedeland property. Mr. Greenly responded part of the southern piece is light industrial and the piece to the north is Heavy Industrial. Ms. Camp commented there is not any demand for Heavy Industrial uses. Mr. Greenly agreed and said it is more light manufacturing. Mr. Waks commented anything that would mitigate any chance of anything heavy going in this community would be welcomed. Mr. Greenly stated during discussions about rezoning it is important to note the wastewater plant is in that area. He said staff will take a closer look at the properties and see what they can come up with.

ADJOURNMENT:

Without further comment from the Board and public, it was moved by Mrs. Spott, seconded by Mrs. Kenney, all voting "Aye" to adjourn the zoning workshop meeting at 6:46 p.m.. None opposed. Motion approved 4-0.

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DAVID G. KRAYNIK  
SECRETARY-TREASURER/  
TOWNSHIP MANAGER

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Minutes Approved:  
Minutes Entered: