

UPPER MERION TOWNSHIP BOARD OF SUPERVISORS
ZONING WORKSHOP MEETING
AUGUST 7, 2014

The Board of Supervisors of Upper Merion Township met for a Zoning Workshop Meeting on Thursday, August 7, 2014 in the Township Building. The meeting was called to order at 5:00 p.m., followed by a pledge of allegiance.

ROLL CALL:

Supervisors present were: Erika Spott (arrived late), Greg Waks, Bill Jenaway and Carole Kenney. Also present were: David G. Kraynik, Township Manager; Joseph McGrory, Township Solicitor; Andrew Olen, Solicitor's Office; Rob Loeper, Township Planner; Scott Greenly, Associate Planner; Eric Goldstein, King of Prussia Business Improvement District; Peter Simone, RLA, FASLA. Supervisor Philips was absent

CHAIRPERSON'S COMMENTS:

Chairperson Waks indicated an Executive Session was not held prior to this meeting but will meet in Executive Session following this meeting. He noted Supervisor Philips is on active military duty.

KING OF PRUSSIA MIXED USE DISTRICT – DISCUSSION OF ZONING YIELDS AND DESIGN GUIDELINES

Mr. Rob Loeper, Township Planner, stated the draft ordinance was submitted to the Montgomery County Planning Commission and after additional research and discussion a revised draft is presented which should alleviate some of the concerns raised during previous discussions.

For the information of the public in attendance at this meeting, Mr. Waks mentioned that the area now being discussed refers to the Business Park area (First Avenue, Moore Road) near the Valley Forge Towers.

Mr. Peter Simone, Simone Collins, stated as a result of previous discussions, yield studies were completed to assess the overall effect of the proposed ordinance and it was determined there was too much yield. He pointed out there are very few changes in the actual ordinance and reviewed the yield table for the Mixed Use District. Utilizing the aerial, Mr. Simone pointed out the first site to be discussed is located at 1100 First Avenue east of the casino and the second site located at 460 American Avenue.

For purposes of the analysis, an 18-acre parcel was examined at 1100 First Avenue resulting in calculations for several potential development scenarios under the existing SM District. One of the points previously missed is there is limited height in the SM District (65 feet), but it can keep going up as long as setbacks are increased. It is possible to go quite high in the SM District now. In looking at the existing conditions at this first area, there is a 150,000 square foot building with 44% green area. There is no residential density because it is not permitted. The existing SM ordinance is 65 feet which is allowed by conditional use. With uses currently permitted under the existing ordinance, it is possible to go up to 480,000 square feet with 20% green area. Also by conditional use if setbacks continued to increase it would be possible to have a 160 foot building there today with the existing zoning and with structured parking there could be approximately 700,000 square feet of use. No one is taking advantage of that since the market is not there for it, but it is possible under the existing ordinance and the green area would still be 20%. In looking at the three yields discussed a couple of months ago, a “red flag” was raised even though there is no market demand. There was concern about someone tying up the property with that much possible development, having the quality go down and more importantly putting stress on the infrastructure system.

Mr. Simone stated there were two main suggestions proposed for the ordinance. One is to increase the green area from the current 20% in the SM to 45%, except for industrial uses which are suggested to be at 25% which represents a 5% increase from the current 20%. Very few properties are now at 20%. The second proposed change is instead of allowing up to 60 residential units per acre the density was reduced to 30 residential units per acre since it results in more yields. By limiting the residential density to 30 residential units it is promoting mixed use rather than a residential only development.

Mr. Simone said the only thing LEED standards are being used for is to have increased height which is a bonus from density and increases the ability with 120 foot height to provide the most yield. He noted that in the existing SM District you could exceed 120 feet and it is suggested to keep it at that level which would be a maximum.

Mr. McGrory asked how LEED would be promoted on shorter buildings. Mr. Simone responded it would not be promoted. He said Eric Goldstein has expressed skepticism that some would even do it in the case of a tall building and it would take a larger project for some developers to make it worthwhile.

Mr. Waks asked Mr. Simone to clarify his statement. Mr. Simone responded previously LEED was used to decrease the amount of green area, but increase height. Now it is being suggested that it be used just to increase height and Mr. McGrory’s concern is that we are not promoting LEED standards for smaller/shorter projects.

Mrs. Kenney asked about other incentives for LEED. Mr. McGrory responded it could be impervious, green area, density or it could be a multitude of things depending what is desired to promote LEED construction.

Mr. Simone commented this is going back to a previous discussion where initially LEED was not being promoted because LEED involves a number of sustainable improvements to a building that create more cost. He said this can be reviewed if the Board has a concern.

Mr. Simone offered the second scenario for a 3.5 acre site on American Avenue wherein density would be controlled through green area. He said increasing density would create more value, including environmental value, in the Mixed Use District. As they started to look at the yield they asked the question how can they create value and add those environmental values also.

Mr. Waks commented the Business Park needs a lot of work. He supports the idea of extra zoning, but remains concerned, however unlikely, of a 120 foot building being built for 544 potential residents. Mr. Simone noted there is a provision indicating 80% of the units have to be one or two bedroom so there would be a limit to the impact on schools.

Mr. Waks asked at what height level it becomes progressively more expensive. Mr. Simone responded 65 feet and their expectations of most of what is done there would be at 65 feet or less.

Mr. McGrory suggested doing it at 80 feet as opposed to 65 feet as a trigger point.

Mr. Jenaway suggested starting at 65 feet with a maximum at 120 feet. Mr. Simone asked if there should be two tiers at 65 feet and 65 and above. Mr. Jenaway said that is his question.

Mr. Waks asked for clarification. Mr. Jenaway responded currently we are looking at an 80 foot high building. With 65 feet as the break point from the financial standpoint of the developer why jump to 80 feet. Why not leave it at 65 feet and if there is a factor at 80 then do something from 65-80 feet and then above 80 feet. Mr. Jenaway was asking for the break points.

Mr. Jenaway commented on the two properties. He recalled at 1100 First Avenue there used to be a ball bearing manufacturing facility that over the years morphed into an office building with three or four different business uses. It is not a functional building and there have been a number of challenges over the years. He said that would be a likely property that would turn if somebody were interested. The other property is going to be there forever because it has been a warehouse, a goods storage and moving facility since he has lived in the area.

Mr. Simone responded their choice of these properties is more based on a larger site/smaller site. Mr. Jenaway said he does not think that is a small site that is going to change in the near future and there are important questions that need fine-tuning.

Mrs. Kenney asked if the revised numbers would be an incentive for a developer to build or will they say it is too difficult, not big enough or too much green space. Mr. Simone responded simply going from single use offices to mixed use is marketable.

Mr. Waks commented there is a lot of demand for people who work here who want to live here.

Mr. Simone indicated what we try to use as a guide is what can be done now under existing zoning in terms of total use. The apartments are new and residential use is new but it is reasonable to allow about the same number of uses as are allowed now.

A discussion followed about using LEED for increased residential density.

Mr. Waks pointed out ultimately the plan comes before the Planning Commission and the Board of Supervisors and that is where to push for environmentally friendly building policies.

Mrs. Kenney asked how much marketing appeal is there for builders of LEED buildings. Mr. Simone responded on the office side it is typically built to suit a tenant. LEED buildings are typically built because the tenant who is going to occupy that building demands that before they sign the lease or deed. On the residential side LEED is more a marketing tool, but what is seen more often are developers building geothermal apartments and condominiums because of the savings in energy costs.

Mr. Eric Goldstein commented there is a break point because it is very expensive and it is definitely not on the high end of rental dollars with one or two bedroom apartments.

Mr. Loeper indicated one of the big obstacles in going to LEED is the LEED certification and that is where the big cost comes in after the fact. Mr. Simone said the other thing to keep in mind is the market is going to be different in ten years and there will be more incentive in ten years unless something happens with energy costs.

Mr. Jenaway asked if the idea of actually putting in some enhanced incentives for density is on or off the table. Mr. Simone said he offered that as a possibility. Mr. Waks indicated everyone is welcome to suggest additional

incentives.

Mr. Jenaway pointed out developers have been saying Upper Merion is 3,000 housing units short in meeting the demand of the work force and it is necessary to look at opportunities to meet the residential demand. He noted it is necessary to build right and not necessarily have incentives to build bigger.

Mr. Loeper said the changes that will be incorporated in the Mixed Use District will be filtered through the other districts in moving forward.

Mr. McGrory commented on the term “density” versus density in a Transit-Oriented District (TOD) and pointed out a density cap in one location does not mean the same density cap in another location. Mr. Simone said in ten years if a train station is built this issue can be revisited and there may be some reason to increase density at certain points in the zoning, but this cannot be predicted now.

Mr. Simone stated he does not have a problem with two heights because it is better to have an 80 foot building with LEED silver than to have a building with LEED gold. He does not believe there is a downside to an extra 15 feet since it gives a building an extra floor and it is not a huge increase.

Mr. Jenaway commented if a developer comes in with a proposed building he will ultimately want to determine his options to lease a six story building versus a ten story building and having three different options will give them more flexibility.

Mr. Simone asked if the supervisors could look over the draft ordinance, and if there are no other changes it can move forward and go back to the Upper Merion Planning Commission and Montgomery County Planning Commission.

BUSINESS/OFFICE & INDUSTRIAL DISTRICTS (ADMINISTRATIVE OFFICE, OFFICE INDUSTRIAL, COMMERCIAL INDUSTRIAL & INDUSTRIAL)

Mr. Loeper indicated there are only a few minor changes to discuss. He indicated on page 4, there is a comment asking if the multi-family in the outlying districts should somehow be tied to the train or some kind of multi-modal.

A discussion followed about the conditions should exist to be considered multi-modal.

Mr. McGrory asked Mr. Loeper how the code defines utility. Mr. Loeper responded this is undergoing additional staff work. He said there are other provisions in the code staff is looking at that will deal specifically with alternative energy uses that would be permitted in zoning districts. Mr. McGrory urged caution with the definition of utility and explained his reasons.

Mr. Loeper handed out some definitions based on some of the questions raised at the last workshop. While some are fairly standard definitions, one is new which relates to a current issue being discussed as to what constitutes a “restaurant.”

With regard to drive-thru’s, Mr. Loeper said there could be a separate use category for drive-thru’s rather than regulating as a drive-thru restaurant or drive-thru bank. He indicated staff did find definitions some communities have for drive-thru establishments so they actually regulate not specifically a drive-thru restaurant, but could apply also to a bank or something else. Mr. Loeper said the key thing staff is trying to do with drive-thru restaurants is to make sure there is adequate stacking and that they will not backup onto a public road. He expressed concern if a definition is changed for a particular use then it might create problems elsewhere. Mr. Loeper indicated Scott Greenly developed a map of the areas where a drive-thru would technically be allowed under the current definition, such as the US 202 corridor, parts of Gulph Road and Henderson Road, but not in many other areas.

Mr. McGrory asked for some philosophical feedback on where Upper Merion is headed with regard to drive-thru’s.

Mr. Waks commented inherently he does not have a big issue with drive thru’s and there is a demand for it.

Mr. Loeper commented the old code required 5 acres for drive thru’s and sometime in the 1990’s the current standards were adopted which deal with queuing lanes, etc. He said we need to be aware that different type of drive-thru uses might have different types of requirements and it is not so much where they are, but how they are.

Mr. Jenaway stated the reality of the world is that people will use drive thru's and they expect drive thru’s in certain types of businesses, but he remains concerned about accessibility in and out of sites and the amount of queuing space. He does not necessarily believe it is a site dimension issue. It is more about creating problems on a site such as going through two parking areas to get into a drive-thru and get back out.

Mr. McGrory commented the delivery window should not be facing the main access road and you do not want pedestrians walking through the drive-thru area to enter a building. Mr. Loeper indicated this needs to be updated although some of these ideas have been incorporated already such as the queuing lane and ordering lane has to be separate from circulation lanes for ingress and egress and access to parking without being blocked by the queue line

Mr. McGrory asked if it is the consensus of the Board that staff should be looking for drive-thru regulations rather than prohibition.

Mr. Waks and Mrs. Kenney indicated they are fine with that.

Mr. Jenaway said it would be advantageous to talk to Traffic Safety since they can discuss incidental problems that happen in particular areas and could be managed through some kind of code process.

Mrs. Kenney asked for clarification about the two separate categories listed for convenience stores. Mr. Loeper responded it should probably read "convenience with gas" and "convenience store without accessory gas."

Mrs. Kenney asked if a gas station in the SM-1 is more likely to happen rather than LI and HI. Mr. Loeper responded the better way to regulate is not necessarily by district, but they are more likely to happen on certain road classifications because a certain amount of traffic is necessary to make it worthwhile.

A discussion followed about certain areas of the township that would be appropriate for a gas station.

Mr. Waks suggested it might be a good idea to prohibit gas stations in the SM-1 District just to allay any fears people might have.

Mrs. Kenney pointed out the reference to gasoline sales and automotive service permitted in the SM-1, LI and HI Districts and is concerned about this for the same reasons previously mentioned.

A discussion followed with regard to automotive services and the evolution that has occurred with gas stations becoming retailers and not having anything else to do with cars.

Mrs. Spott asked why convenience stores without gas are permitted in SM -1 and LI, but not specialty food stores or florists. Mr. Loeper responded staff is looking at these districts in how they function. He said these functions are more retail than industrial, but they could be added.

An unidentified member of the audience mentioned he has a florist in one of his buildings that does big events and it would be helpful to have it in Light Industrial.

Mr. Waks likes the idea of permitting specialty food stores also.

Mr. Jenaway stated this ordinance will go back to the Upper Merion Planning Commission and the Board of Supervisors will have another chance to review.

ADDITIONAL BUSINESS

Mr. Waks stated residents are present at this meeting to discuss the south side redevelopment of US 202. They were present at the Zoning Hearing Board last night and would like to reiterate some of their concerns.

Dottie Powers, King of Prussia, expressed her views about sidewalks and also her opposition to closing the US 202 entrance for the proposed Starbucks or mattress store.

Claire Armenio, Crockett Road, is opposed to a drive-thru in their residential neighborhood (Crockett Road and Forge Road). She also does not think there are enough parking spaces for the proposed two buildings.

An unidentified man commented the developer is unable to tell them if there will be a restaurant or just a drive-thru, and he was informed that the developer might not have all the answers until the zoning is taken care of.

Maryann Blackburn, Forge Road, expressed concern over property values and expressed confusion over not knowing which meeting to attend.

Mrs. Donato, King of Prussia, indicated the residents need an advocate for their position, and was informed that this Board of Supervisors is always accessible to the residents of Upper Merion Township.

Maryann Blackburn indicated opposition to closing off the driveways and said sidewalks would be for commerce and not residents. She asked to make the area between Crockett and Shaffer walkable.

Mr. Donato expressed his reaction to the Zoning Hearing Board meeting process and procedure and how the developer came across to the residents. He also expressed concern about a rodent problem in the neighborhood, and was informed he should notify Safety and Codes department when that occurs.

Mrs. Martin, Forge Road, expressed concern over the traffic in her neighborhood now and property values. Mr. Waks asked the Township Manager to have traffic safety look at speed bumps on Forge Road.

An unidentified woman complained about the slow traffic light on Forge Road and US 202 making it necessary to sit through the cycle twice. Mr. Waks asked the Township Manager to have traffic safety look at that light.

A paper was circulated around the room to obtain the email addresses for residents in order to keep them advised of future meetings on this redevelopment project.

Mr. McGrory provided a recap of the proceedings at last night's Zoning Hearing Board and what can or cannot be done with rezoning and what is possible with a variance case. He emphasized that most of the residents' concerns will be addressed during the land development review phase and explained zoning indicates it can be used in a certain way and land development states how is has to be built.

Mr. Loeper stated the land development process has not started and the residents will be notified when the application is submitted. The plans currently being reviewed by the Zoning Hearing Board are called "sketch plans." These plans are not engineered and do not have the detail that is required for land development.

One of the members of the audience complained about one of the recent developments, and was informed the code was never changed as the community around it changed and that is why this Board of Supervisors is working very hard on zoning updates.

Additional questions, such as the method of demolition for the buildings at the redevelopment site, were asked by the audience and they were informed these would have to be answered in land development.

ADJOURNMENT:

Without further comment from the Board and public, the zoning workshop adjourned at 7 p.m. None opposed. Motion approved 4-0.

DAVID G. KRAYNIK
SECRETARY-TREASURER/
TOWNSHIP MANAGER

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Minutes Approved:
Minutes Entered: