

UPPER MERION TOWNSHIP BOARD OF SUPERVISORS  
ZONING WORKSHOP MEETING  
OCTOBER 8, 2015

The Board of Supervisors of Upper Merion Township met for a Zoning Workshop meeting on Thursday, October 8, 2015 in the Township Building. The meeting was called to order at 6:21 p.m., followed by a pledge of allegiance.

ROLL CALL:

Supervisors present were: Greg Waks, Bill Jenaway and Carole Kenney. Also present were: Dave Kraynik, Township Manager; Sally Slook, Assistant Township Manager; Joseph McGrory, Township Solicitor, Scott Greenly, Associate Planner; and Angela Caramenico, Assistant to the Township Manager. Chairperson Spott and Supervisor Philips were absent.

VICE CHAIRMAN'S COMMENTS:

Vice Chairman Jenaway stated an Executive Session was held prior to this meeting to discuss legal matters.

DISCUSSIONS:

UPDATE ON FLOOD PLAIN DISTRICTS

Rob Loeper, Township Planner, stated the township received official notification from FEMA that the flood plain maps are set to become effective on March 2, 2016. Letters have been mailed to the affected property owners (approximately 500). Scott Greenly, Associate Planner, indicated in his communication with residents he is emphasizing that this is a FEMA decision and project and he is providing guidance in response to resident inquiries.

Mr. Greenly noted the flood plain ordinance is set to go out to the county next week. With the exception of some minor changes it is basically the same ordinance provided by the Township Solicitor. Mr. McGrory commented he wants to make sure everything goes to the Board of Supervisors and not the Zoning Hearing Board. He expressed his dislike for the term "variance" which FEMA insists on.

Mr. Greenly asked if Mr. McGrory wants all the appeals to come to the Board of Supervisors. Mr. McGrory responded in the affirmative. He noted anytime there is anything in another ordinance that is more restrictive the more restrictive one would apply because the UCC in certain aspects would be more restrictive.

In order to enhance the communication process, Mr. Greenly suggested having a forum such as a town hall meeting where people can come and view the maps, have a representative from FEMA present to answer questions and possibly have some information on flood insurance. He indicated the township website has helpful information including the contact and phone number for FEMA.

A discussion followed about the role of mortgage and insurance companies in the flood plain process.

Mrs. Kenney asked how it was determined which properties were affected. Mr. Loeper responded it was done through the GIS by planning staff. Mr. Greenly noted because of the flood insurance aspect residents were informed if they had a property that touched the flood plain. He pointed out when the flood plain conservation district ordinance is adopted there are some constraints as to what can be done in the flood plain.

Mr. Jenaway asked if a statement should be prepared for the Public Information Officer to release in the electronic newsletter and for Chairperson Spott to read at the next business meeting to further inform the public about the FEMA flood plain issue and emphasize in the message this is a FEMA-driven situation and indicate the township is working with FEMA. Mr. Loeper responded the letter sent to the residents covers this including the links to the township website and FEMA.

#### DAS ORDINANCE UPDATE

Mr. Loeper stated the DAS ordinance should be back from the township solicitor's office the beginning of next week.

#### BUSINESS DISTRICTS: PROPOSED REVISIONS TO THE OFFICE AND INDUSTRIAL ZONING DISTRICTS

Mr. Loeper stated this ordinance will replace the current AR, AR-1, SM SM-1, LI and HI Districts. He said the biggest change since this was last discussed is that all the property on the river was taken out of the industrial district and will be placed into the Open Space District. The language will be worked out with the Township Solicitor. Other than that there are not a lot of changes in this ordinance.

Mr. Loeper indicated the first category for review is Health Care and Social Services. He said at the last meeting the Township Solicitor made it clear that Drug and Alcohol Rehabilitation must be dealt with. There is also a provision in the Municipalities Planning Code (MPC) dealing with methadone treatment facilities. Research on this subject did not produce any viable ordinances on methadone.

Mr. McGrory explained that methadone is a whole different treatment [from alcohol]. Mr. Loeper said that is why staff created not one use, but three different uses as well as outpatient versus inpatient which should be treated in a different manner.

With regard to methadone, Mr. McGrory suggested carrying this forward in the MPC which is the governing statute. Mr. Loeper noted page 6 wherein the MPC language for a Methadone Treatment Facility is included. He quoted, "A Methadone Treatment Facility shall not be established or operated within 500 feet of an existing school, public playground, public park, residential housing area, child care facility, church, meetinghouse or other actual place of regularly stated religious worship, established prior to the proposed facility." An exception was noted if it is a methadone treatment facility that was licensed prior to May 1, 1999.

With regard to Drug and Alcohol Rehabilitation (#4 on page 6), Mr. Loeper indicated the same MPC language quoted above was used; however, the number of feet was left blank and needs further discussion.

Referring back to the uses on page 3, Mr. Loeper indicated an outpatient could probably be a conditional facility which would provide more review and approval. He said the inpatient might want to be limited as a special exception or a conditional use and opened this up for further discussion.

Mr. McGrory outlined his experience gained over the last 30 years representing developers involved in mental health and drug and alcohol treatment centers. He pointed out the deficiency in current ordinances most of which treat these facilities as sanitariums like a mental hospital. Mr. McGrory explained the different situations created in the community by outpatient versus inpatient programs and said the outpatient in and of itself is more impactful on the community than inpatient. Facilities that have opened more recently have an outpatient component to their inpatient component. The model followed is inpatient use has to permit outpatient if it is on the same property as an inpatient facility. Mr. McGrory indicated he has a developer client who is building apartments for sober living thereby taking it from inpatient to outpatient to sober living. He said outpatient has to be a component of inpatient and he would permit more areas where inpatient would be permitted and reduce some of the areas where outpatient would be permitted. Outpatient creates more community problems than inpatient and this should be considered in assigning districts.

Mr. Waks stated he would not want either outpatient or inpatient near residential housing.

Mrs. Kenney asked if methadone facilities are inpatient or outpatient. Mr. McGrory responded it would be inpatient.

Based on the previous discussion, Mr. Jenaway asked if Mr. McGrory recommends that Conditional Use be removed in all four outpatient columns and place Special Exception in LI and HI. Mr. McGrory responded he has not given any thought to where they would go just theoretically the inpatient should be able to be accomplished without too much of an impact and the outpatient should be more restrictive.

Mr. Jenaway noted Conditional Use for outpatient would go away based upon what Mr. McGrory suggested about the activity of people coming in and out of the facility. Mr. McGrory clarified if the outpatient is part of an inpatient facility that would be a different situation. Mr. Jenaway said a third category might be needed indicating mixed or inpatient/outpatient.

Mr. McGrory stated he would put inpatient with the outpatient facility on the same property as one category or a separate category being outpatient with no inpatient services.

Mr. Waks commented there are so many residential areas next to heavy industrial or SM that it is necessary to make sure if conditional use is being provided that it is not adjacent to a residential facility.

Mr. Loeper pointed out the township is basically built out; however, this use has to be provided for somewhere in the township.

Mr. McGrory stated the challenge is that people are saying it is a sanitarium or a hospital. Without a definition it will come in as a sanitarium or hospital. With a definition it can be stated this is what it is and here is where it goes.

Mr. Loeper provided an example that hospitals are allowed in many of the township's more commercial districts for whatever a "hospital" is today.

Mr. Jenaway commented his thinking is that we are looking at a special exception as opposed to a blanket approval.

Mr. Loeper said it is a question of do you want a conditional use to come to the Board of Supervisors or special exception which is going to go to the Zoning Hearing Board. He noted this Board has been more comfortable dealing with the conditional use and past Boards preferred the special exception.

Mr. Jenaway indicated based on his previous experience with these types of facilities he is led to the special exception versus the conditional use.

Mr. Waks suggested the best way to handle these rehabilitation centers in Upper Merion might be to look at the map and see where the least obtrusive

location would be and then write whatever the conditions would fit a conditional use. Mr. McGrory said he could come up with at least two sites and then criteria are needed for conditional use. He said he prefers conditional use versus special exception because that kind of a use can be controversial and the Board of Supervisors would want to have control over it.

Mr. Loeper discussed some of the issues and questions associated with the Outdoor Recreation/Stadium use. He said this would be a fairly large facility requiring a fair amount of land which would have to be configured in a certain way. It would also depend on what kind of field use was needed which would dictate the size, type of seating and associated parking. Mr. Loeper indicated he also starting looking at what would be needed to determine an appropriate site such as a traffic impact study, noise study depending on whether it is indoor or outdoor, among other information so as not to create problems in certain areas.

Mr. Jenaway commented it would also be necessary to determine ancillary activities to support the main activity.

In response to Mr. McGrory's question, Mr. Loeper indicated this could be an indoor or outdoor. Mr. Loeper responded the original discussion was for more of an "event" stadium type activity rather than indoor facilities.

Mark McKee, Planning Commission, commented if this will be made conditional use, write the conditions and focus it only where it is wanted.

Mr. Loeper commented conditions will be necessary, but the problem with conditions is the conditions could be very different for a tennis facility versus a lacrosse facility versus a soccer facility.

Mr. Loeper stated one use that should have been included on the table of uses was indoor gun range. He said these facilities are becoming more popular. Mr. McGrory asked if that would not just be indoor recreation. Mr. Loeper responded it might be, but he does not know if it would be an indoor recreation facility.

Mr. Waks commented the question is how you write conditions for something that could be so vastly different, indoor gun range versus soccer, tennis, etc.

A discussion followed about outdoor recreation facilities and the special requirements needed for a certain acreage as well as the traffic and parking issues during tournaments.

Mr. Waks said it is more likely to have a practice/training facility rather than an actual full time stadium.

Mr. McGrory suggested having the condition of a community impact study somewhere in the ordinance and that mitigation is proposed for the community impact study.

Mr. Loeper discussed the Transit Oriented Development (TOD) ordinance adopted in 2014 and some of the issues raised by the planning commission. He said residential and/or nursing home uses should not be encouraged where there are true industrial type uses. One of the other items objected to by the planning commission was the requirement that the facility would have to make parking available for access to the site. Comments were heard that if SEPTA wants to provide access, SEPTA should provide access, but someone coming in should not be forced to provide access for SEPTA.

Mr. McKee commented about parking for the King of Prussia Mixed Use, the recently adopted TOD ordinance as well as the need for adequate access for emergency ambulance service to nursing and/or assisted living homes.

Mr. Loeper provided an update on the zoning changes queuing up and ready to go before the Board of Supervisors for adoption.

Mr. Jenaway noted the next zoning workshop is scheduled for December 3<sup>rd</sup>.

ADJOURNMENT:

Without further comment from the Board and public, it was moved by Mr. Waks, seconded by Mrs. Kenney, all voting "Aye" to adjourn the zoning workshop meeting at 7:26 p.m.. None opposed. Motion approved 3-0

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DAVID G. KRAYNIK  
SECRETARY-TREASURER/  
TOWNSHIP MANAGER

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Minutes Approved:  
Minutes Entered: