

**MINUTES
PLANNING COMMISSION
HYBRID MEETING
FEBRUARY 22, 2022**

Attendees/Participants:

In person: Dave Shula, Bob Dambman, Aaron Kostyk, Elizabeth Shaw-Fink, Scott Quitel, Charlie Guttenplan, AICP, Director of Planning & Zoning, Kimberly Baptiste (Consultant from Bergmann)

Virtual: Sherri Glantz Patchen, Patrick Doran, Krista Heinrich (Township Engineer), Vince Manuele (BOS Liaison), Heather Hines (Township Solicitor's office)

1. CALL TO ORDER: 7:00 PM by Chair Kostyk

2. ANNOUNCEMENTS & CORRESPONDENCE:

- Mr. Kostyk announced there will be mix of in-person and zoom comments allowed due to COVID; Mr. Guttenplan will be administering that.
- It is very important that people use the microphone and speak as clearly as possible so that everyone can hear, and the meeting is being recorded.

3. APPROVAL OF MINUTES

- Ms. Patchen asked that her statement regarding her recusal be amended to read: she is recusing herself because she works for the Department of Human Services and the definition of Senior Living Community is defined by reference to DHS licensing. On a motion by Mr. Shula seconded by Mr. Dambman, the Planning Commission moved to approve the January 25, 2022 meeting minutes as amended. Vote 7-0

4. ZONING HEARING BOARD APPEALS: None

5. CONDITIONAL USE APPLICATIONS: None

6. SUBDIVISION &/OR LAND DEVELOPMENT APPLICATIONS: None

7. OLD BUSINESS:

- Mr. Dambman commented that the Spring Mill Multi-Modal and Land Use Study Steering Committee is meeting tomorrow afternoon (February 23, 2022) and the final public presentation & listening session will be held on Thursday, March 3, 2022 at 6:00 PM.

8. NEW BUSINESS:

- Review and discussion of proposed Open Space Conservation Overlay District

Mr. Guttenplan gave a brief background: Since we adopted the Comprehensive Plan Update in 2020, a zoning update Steering Committee was created. They have gone through the first priority which was the parking amendments which was adopted by the Board of Supervisors in December of 2021. The second priority was to develop an alternative to the Conservation Design Overlay District since it is not accomplishing its goals. Since this began in September of last year, there has been 5 steering committee meetings. The draft being discussed is the product of those committee meetings and member comments. The Open Space Conservation Overlay District (OSCO) is intended to replace the current Conservation Design Overlay District (CDOD) in the Zoning Ordinance. After we have the Commission's comments, we will take those back to the Committee to discuss any necessary revisions to the draft. Kimberly Baptiste

with Bergmann who has been our consultant since the beginning of the comprehensive plan will present a PowerPoint explaining the proposed district.

Ms. Baptiste: As part of the comprehensive plan update it was recognized that the CDOD was not facilitating the major goals of the overlay and was difficult to utilize/interpret. The proposed OSCO seeks to achieve the following goals and objectives: Simplification of the regulations for ease of use, understanding and interpretation; Strengthening the protection of natural resources within the Township; Strengthening of the overlay requirements to provide functional open space areas that achieve the purpose of the overlay; and Balancing the protection of natural features while allowing for the practical development of (single family) residentially zoned lands within the Township.

Some specific provisions in the draft OSCO that are intended to improve on the deficiencies identified in the CDOD include: Legislative Intent: Expanded and revised this section to provide linkages to specific goals of the Comprehensive Plan Update; Applicability: The OSCO only applies to parcels 15 acres or larger (in A through AAAA-Residential Districts), ensuring the reasonable protection of natural resources balanced by use of property; Applicability: Strengthening of language to require interconnected open spaces and limit the breaking up of open space into smaller segments, promoting a comprehensive network of open spaces; Applicability: Added cross references to Chapters 105 (SALDO) and 55 (Tree Protection) to ensure that applicable regulations from those ordinances are applied; Site Capacity Calculations: Added several environmental constraints to list of natural resources (steep slopes 12-15%, riparian corridors, woodlands) which are netted out to determine available land area for development; Density: Added minimum lot size requirement of 0.25 acre to manage density; and Wording changes throughout to strengthen and reinforce the legislative intent.

Ms. Baptiste presented the "table of contents" and highlighted the changes between CDOD and OSCO through a PowerPoint presentation.

Legislative Intent is largely the same from the CDOD with some minor wording changes to strengthen the intent and language was added from the comprehensive plan focusing on mitigating effects of climate change.

Applicability: the same as the CDOD with regards to the four residential zoning districts, but now adding the 15 acre minimum.

Use Regulations: consistent with what is in the CDOD - no changes

Site Capacity Calculations: the overall framework is consistent with the CDOD. We tried to lay it out so it was simpler to follow as opposed to what is currently in the CDOD. We are essentially identifying an overall tract area; subtracting constrained lands; determining a buildable area; protecting amounts of open space; and then determining the maximum lot coverage.

Constrained Lands: this is where you are going to see more notable changes. This was the intent on focusing on protecting existing natural resources within the Township. The constrained lands that come out of the buildable area in the CDOD are listed on the blue box below; you can see the factors in parenthesis. In the OSCO they maintained floodways, floodplains, wetlands, and steep slopes over 15%. They also added steep slopes from 12-15%, riparian corridors and woodlands. (See below chart)

Constrained Lands

1. Floodways
2. Floodplains
3. Wetlands
4. Steep Slopes (12-15%) (multiplied by 0.5)
5. Steep Slopes (> 15%)
6. Riparian Corridors
7. Woodlands (multiplied by 0.5)

CDOD

- Floodways (100%)
- Floodplains (50%)
- Wetlands (95%)
- Steep Slopes >25% (85%)
- Steep Slopes 15-25% (25%)

Maximum Lot Coverage: there are two different maximum lot coverages. One applicable to the A or AA District at 50% and one to the AAA or AAAA District at 40%.

Density: in no instance would there be more units allowed in the OSCO that was permitted in the underlying district. In some instances the number of units can be further reduced taking into account the minimum lot size.

General Design Considerations: there are minimum design standards. These are largely adopted from the existing CDOD, with minor wording modifications. Two new sections were added to the design considerations: one references cluster groups – the goal of creating, and regulating and insuring there are cluster groups is to preserve larger spots of open space. The other references scenic viewshed guidelines – while we can't quantify viewsheds as part of the constraint lands we wanted to make sure site plans are developed that takes into account viewsheds that exist from parcels within the Township and as parcels are developed to take into account and avoid those viewsheds to the extent practical.

Conservation Easements & Ownership / Maintenance of Common Open Space: largely the same as CDOD with minor modifications.

Ms. Baptiste walked through a couple of Illustrative Examples. A table was presented comparing CDOD and OSCO.

Example 1

Manor Road: AAAA Zoning District just over 26 acres in size

Constrained land increases, impacts buildable area and # of dwelling units able to be constructed

Golf Course

Example 2

Constrained land increases, impacts buildable area and # of dwelling units able to be constructed

*unit # reduced to comply with minimum lot size regulation of 0.25 acres

Planning Commission Comments/Concerns:

Was it their intent to have more buildable land for golf courses than before (Ms. Baptist acknowledged that this was not correct in the PowerPoint and will make that change); it was asked if they found any examples from other Townships where this has been applied (Yes, they were looking for more of a cluster approach. This is much more personalized than other Townships); it was asked if anyone remembered the acreage of the Karabots development (40 acres? 50 acres?); asked about a site that might be 10 acres (the 15-acre

minimum could be changed; Ms. Baptiste explained that we had looked at a 25-acre minimum at the committee level, which is considered best practices for cluster zoning, and reduced it down to 15); asked about the golf course slide and the area of the open space (golf course is allowed as open space, but only 50% of the required open space); asked if there was any consideration given to developers getting waivers to build on constrained lands (they would have to get variances like they would now); had questions about the existing and proposed use regulations and if the changes could be outlined (largely there are no changes, mostly language modifications. They added a reference to Ch 55, forestry- to read as reflected in an approved management plan. Under C, non-residential uses – changed #2 to just be arboreta); why is the accessory dwelling section addressed here and not elsewhere in the code, even Elder Cottages are not defined. It is allowed in this district, but is it allowed in other districts as well (it was acknowledged that it may make sense to put this with accessory uses); if floodplains include floodways in the constrained land calculation, why are they being separated (Ms. Heinrich: technically they could just call it floodplain inclusive of floodways. That would result in the same number); woodlands are being called constrained but meadows have as much value but if meadows are added what would be left; woodlands should be defined (referencing definition that Chapter 55 amendments will include; current definition proposal was shared through chat; only want terms defined in one place to avoid changes in one chapter that don't happen in another).

Public Comment:

Steve Kaufman: 644 Harts Ridge Road - He is a member of the group revising the chapter 55 ordinance. As the woodlands definition stands, it focuses on trees in excess of 6" caliper and an area in excess of 10,000 square feet. There is no mention of health or whether invasive. If we add meadow to constrained lands, nothing will be developed. There are also secondary protection areas, that the Planning Commission can discuss being protected. There are different layers where things can be done. Wants to support going down to 10 acres. He thinks Karabots Tract and Abolition Hall are tracts that could benefit. He is glad there will be an interactive process.

Jose Ramos: 7033 Sheaff Lane - in your example of the golf course you technically had 98 acres of open space and 46 acres of buildable land and you were going to build 196 homes/0.25 acre per home, this seems like an improvement for that area. Why couldn't you use the same formula for AAA and AAAA. He thinks they are diminishing the area; he thinks that should be increased, not decreased.

Ross Weiss on behalf of Reid Buerger (property owner) for 6101 Sheaff Lane, 86 Stenton Avenue and 91 Stenton Avenue - Learning that the existing ordinance was adopted in 2006, and looking at the constraints and there being more constraints, he wonders if this is now becoming a "taking". These constraints are significant and his client objects to these amendments. It seems a broad stroke to diminish the usable portion of the property. In the material that was circulated, in what he saw, the intent is to limit development. He did not hear anything about how the existing ordinance does not work. His client is asking that you do not recommend the constraints or at least prioritize them and not recommend them all. Last Thursday was the first time his client saw Mr. Guttenplan's memo, he was not aware of the steering committee meetings and the impact this will have on the Township, and its residents and the owners of the significant properties. More time and more light should be shone on this. And again, there is no example of where the existing ordinance does not work.

Bill Thompson: 7126 Sheaff Lane- lived there for 36 years and across the street before for 6 years. He has lived on Sheaff Lane for 42 years. It seems like the development that has been happening in those years has been fine and in keeping with the character. The Highlands is preserved as open space and you would think you want to continue that. You can't change what's going on now, but hopes this changes in the future. Zoning has done a great job, it's worked fine for 40 years, hopes they could take that into consideration when they draft this.

Edmond Shinn: 7032 Lafayette Avenue – he is in favor of a 5 acre option, under the CDOD that currently exists. There is a 1 house per 10 acres in the AAA District and under the OSCO there is no option for having larger lots, which is a nice option particularly in the Sheaff Lane Area. If you give them a 5 acre option, he thinks it would help. In order for a developer to build in this area certain things would have to be

conceived. Stormwater management, on-site septic etc. would help to facilitate development. It would help the project work for everyone affected by it. The OSCO triggers when you get over 5 houses but doesn't kick in until 10-15 acres which leaves an ambiguity that needs to be addressed. Once you get over 4 houses, what happens, he thinks that needs to be clarified. The Comprehensive Plan talks a lot about interconnectivity, the legislative intent of the OSCO talks about interconnectivity of open space but the OSCO doesn't talk about public access. Connecting the Township is a big undertaking. The OSCO should talk about public access not just resident access within the development so they maintain the connectivity that will add value to Whitemarsh. Page 6 section 116 talks about density, in subpart A uses buildable area: thinks that should be a defined term to be either buildable land area or buildable land so when doing calculations you are using defined language that is very specific which would help not only developers but also residents understand.

Christen Pionzio, from HRMM & L: on behalf of Sal Paone, Jr. and Bruce Goodman (property owners) for 7111 Sheaff Lane. The owners came to her in the fall of 2021 when property was purchased. Mr. Paone recognized there was one flaw in the ordinance that had to do with the open space being permitted on private lots. By right they could develop under the current ordinances 46 lots, minimum lot size 13,000 sf. but they didn't want to do that, they didn't think it would be a good fit for this property and the neighborhood. They asked her to draft an ordinance to reduce the density. They submitted a text amendment with a plan which permitted a density of 32 lots instead of 46 and instead of a 13,000 sf. lot they have a lot average of 29,000 sf. They presented this to the Township and then found out the steering committee was working on this draft. There are many issues with current ordinance. It doesn't function as an overlay district. Once you get over 5 acres, it says you SHALL develop according to this ordinance. (Ed. Note: Though Ms. Pionzio stated 5 acres, not certain is she meant 5 houses or 15 acres.) The amount of land that is set aside for their property that cannot be developed is 74%. This ordinance is not protecting the constrained lands, they are already protected. There is criminal prosecution for violating anything in chapter 55. The Townships tree replacement is per caliper inch for any tree you take down. You have to do a tree survey of every tree on the property and whether it is staying or going. Tree Survey is prohibitively expensive. Tree protection is taken care of already in your ordinance. Riparian and steep slopes are already protected. This ordinance does a calculation. It is a mathematical calculation to reduce density. There is another calculation where you have to have a 150 feet buffer along parkland, that is another taking. Now they have further reduced the ability to develop the property. The other thing is that you can have 0.25 acre lots now; you will have tiny lots and tiny homes that don't fit along Sheaff Lane. There are other over-reaching aspects of the ordinance. There are undefined terms like cluster groups, primary and secondary areas and parts of the ordinance are subjective. They would like time to sit with staff and the consultants to review.

John Peruto: 7003 Dorsam Way – he is the President of the HOA. They are right next door and don't know what's going on and doesn't know anything about the development that is coming. Now were going to be living next to "cluster homes". He doesn't like it nor do his neighbors. They would like an opportunity to be heard. They were not contacted and asked how they can be informed.

Andrew Rooke: 7029 Sheaff Lane – He agrees with the gentleman, I never heard anything about it either. So he would like the opportunity to hear more about it.

Sal Paone: Ms. Pionzio expressed many of our thoughts. He did develop two projects under CDOD and there were some issues. The open space ownership and configuration on lots being a main one. They certainly support the need to preserve open space, but this is far reaching when you have constrained lands. He is looking for a balance between preserving open space using SALDO to preserve the constrained lands and leave some flexibility to have lots and homes on those lots that can compliment the other homes in the area. If it goes down this route, we will pursue our by-right plan that is filed.

Lisa Ramos: 7033 Sheaff Lane – lived there for 22 years, right next to Highlands. She loved what Mr. Quitel was saying about keeping natural meadows. She totally agrees with preserving as much of the natural environment. Mr. Paone and Mr. Goodman showed them the 32 house plan, which we didn't like. The neighbors were very upset about the proposal. They were told by-right they can put 46 homes, like a threat. You don't like what we're proposing, we'll put in what we can do. She sees the Township's desire

because we just had the Highlands dedicated. She would prefer bigger lot sizes; 0.25 acre lots are too small. We've lost a lot of trees during the tornado. Sheaff Lane is a small 2 lane street, if he builds 46 homes, there will be 100 cars coming out of there. Neighbors are asking her what's going on? They wanted to live here because of the beauty of the area and the lot sizes. She is so grateful to the Township for purchasing the Highlands. Hope you really think about the conservation part of this.

Jim Scully: 7004 Dorsam Way - not very good illustration but best he can think of is at Rte. 73 and Butler Pike, there are horse stalls and 120 acres of pastures on the right side, on left side nice homes. He thinks that is a contradiction. Along those lines, open space preservation also includes open space around a home. The area where the homes are, there should be open space. You got a situation whereby you've got the open space and you plop down 26 homes in a racetrack pattern. There is a major contradiction on what is trying to be achieved by the Township. The lady who donated 120 acres to the Wissahickon Watershed Association, would turn over in her grave if she saw what is being considered. Respectfully, he thinks the Township is trying really hard to do a great job but thinks there is major contradiction here.

Liz Goldman: 7000 Sheaff Lane - lived here for 17 years, she was also not contacted by Sal Paone or his people. She just found out about this meeting at 6:45 pm. Lives at the corner of Sheaff Lane & 73. She sees the traffic patterns. She has a birds eye view of the congestion at the corners of Sheaff Lane & 73. It is already bad with commute times. Someone should contact the police and see how many accidents happen at this intersection. If there is going to be this kind of development and the extra congestion with cars and traffic, she doesn't know how she will be able to get out of her house. This is going to become a nightmare not only for the beauty and lack of preservation of Sheaff Lane but it will be a traffic mess.

Planning Commission clarified that there no specific project on the agenda tonight, we are here to discuss updates to the land use code that could impact land and development.

Deb Shreero: 6015 Cannon Hill Road – she would like to applaud the inclusion of the Riparian Corridor and the wetlands into the constrained lands calculation. The Wissahickon Creek is currently not meeting its TMDL standards for pollutants. So adding those into the regulations is a good idea. Is there a way that we can modify the regulations to limit earth disturbance, specifically in the open space areas? Is there a way that we could strengthen not disturbing open space in this part of the regulation? Ball fields & golf courses: she doesn't always look at these as open space, they don't provide habitat or food sources to animals or insects. They use herbicides and pesticides and none of those things are going to help the environment. Also, limit access to riparian corridors on those uses.

Gail Farmer, Executive Director of the Wissahickon Trails - Willow Lake preserve is in Whitmarsh Township, they have been protecting open space since 1957. They have protected 1,300 acres in that time and they have 13 nature preserves, 12 miles of trails open to the public. She thanked Whitmarsh Township for having the original CDOD, and taking time to consider protecting open space. They would be happy to have conversations with staff and will be interested continuing to hear how the overlay evolves in the coming weeks.

Raymond Hyer: 7131 Sheaff Lane – Thanked the committee for looking out for the open space of the Township. His comment is referenced to the minimum lot size of ¼ acre, would like the committee to reconsider that reference. He believes it needs to be much more significant to meet what already exists with all the other homes in the area.

Sydelle Zove: Harts Ridge Road – it is her understanding that one of the priorities is to preserve open space that is not fragmented. A fragmented landscape does not support wildlife, it does not achieve one of the priorities of this effort. So, clustering the homes on modest lots allows for the concentration of contiguous open space which supports the objective of this effort.

Edmond Shinn- when the OSCO goes back for rework, would it be productive to consider recommending a working session where people can come and talk through this so the next time it is before the Planning Commission, it is a little more ironed out?

Mr. Kostyk: moving forward from this point, where does it go from here for incorporation of the comments and consideration of the comments made

Mr. Guttenplan: we've been taking notes and will discuss this at the next committee meeting and decide where to go. We've heard all the questions and comments and they will be considered. This process was not started or aimed at any specific development. This came through the comprehensive plan update and issues raised at that time.

Mr. Quitel: recommend that we do come back as a next step, this should be the start of a dialogue. Everybody has a different context. Gail Farmer - 1300 acres, that's probably like 20 miles of trails. Philadelphia used eminent domain.

Mr. Doran: He is on the steering committee. We seem to have zoomed into a very specific area with large homes. We've conflated the Paone project with this Townshipwide proposal. We've talked almost exclusively about this one specific area, the committee has been thinking globally. The climate change effects on this region are profound and will only get more profound and they are coming fast and furious. He recommends for the folks to provide their comments in written format, and they will work with Ms. Baptiste in a next draft.

Mr. Dambman: he appreciates everyone's comments. Mr. Shinn talked about the common open space. Page 8, first paragraph, interconnective networks and common open space. What's the vision for that?

Ms. Baptiste: it is the kind of open space that's required, instead of being slices. Also, for Connectivity to open space on adjacent sites.

Ms. Glantz Patchen: what struck her was agricultural and horticultural uses including livestock. It seems different than some of the other open space uses. She interprets it as in the 50% of the buildable area that has to be open space, these are things that can be done in the open space.

Ms. Baptiste: That is correct, she was referring to the top of page 8, but her assessment of use regulations is correct on page 3.

Mr. Doran: what is the suggestion, that it shouldn't be a permitted use?

Ms. Glantz Patchen: it allows for active use that includes livestock; are the residents able to enjoy the open space since there are horses on it. This is existing language.

Mr. Quitel: I agree that livestock area is not. It's beneficial to the farmers. How everything is worded, the idea is it's habitat that we care about. They shouldn't be regarded as healthy open space.

Ms. Baptiste: this is on top of the constrained lands. This is additional space that could also be this other range of uses.

Mr. Doran: pointed out commercial agriculture is excluded.

Mr. Kostyk: Thanked everyone this evening who attended and provided public comment. This is the first step towards a rewrite; comments will be considered, edits will be made and then they will have another look at it to see what can be incorporated and then there will be another presentation

9. PLANNING COMMISSION MEMBERS COMMENTS:

- Mr. Shula commented on the difficulty on hearing people tonight and looks forward to going to in-person meetings. Mr. Kostyk commented his concern is there are still members of the public who don't feel comfortable attending in person and would like to leave the option open, but he thinks they are coming up on a time where it's time to go back to the way it was.

10. PUBLIC COMMENT FOR NON AGENDA ITEMS: None

11. ADJOURNMENT

- On a motion made by Mr. Dambman; seconded by Mr. Shula, the meeting was adjourned at 9:16 PM.

Respectfully submitted,

Charles L. Guttenplan, AICP, Director of Planning & Zoning

The Planning Commission is appointed as an advisory group to the Board of Supervisors and the Zoning Hearing Board with respect to comprehensive land use planning, existing land use, and various land use and zoning applications in Whitemarsh Township. No formal decisions are rendered by the Planning Commission. Formal decisions are rendered by the Board of Supervisors or Zoning Hearing Board, as prescribed by law, based on the type of application.

