

**East Nottingham Township  
Planning Commission Special Meeting Minutes  
April 10, 2006**

The special meeting of the East Nottingham Township Planning Commission was held in the Township Building on April 10, 2006 at 7 pm. Those present were: Chairperson, Joseph R. Bauer, Jr., Vice-Chairperson, Clifford Lee, Planning Commission Members, Gene Turns, Mike Rebert, John Wallace and Planning Commission Secretary, PJ Scheese. Absent were Marianne Russo and Walt Leis.

Chairperson, Joe Bauer, called the meeting to order at 7:06 p.m.

Vice-Chairperson, Clifford Lee, led the Pledge of Allegiance.

**A motion was made to approve the agenda by Cliff Lee, seconded by Gene Turns. The motion carried.**

**Aye: 5      Nay: 0**

There was no public comment.

Joe Bauer read the purpose of the meeting from the agenda:

"To discuss the of Criteria for Conditional Use Hearing to consider the Conditional Use Application of Walters Oxford, LP for property owned by Wilmer L. and Joyce L. Hostetter and by Leonard and Louise A. Decarlo further identified as Tax Parcels Nos. 69-6-153, 69-5-28.5, 69-5-28.1, 69-5-28.2 and 69-5-28.3. Applicant seeks relief to allow the reduction in area and bulk requirements established in Section 1305 by 25% based upon the provisions of Section 1404(B)(3) which provides for the reduction when TDRs are used. Applicant proposes to use no less than 90 TDRs on the site. Applicant seeks to reduce the lot size from 10,000 square feet to 7,500 square feet, reduce front setback lines from 90 feet to 75 feet, reduce the lot depth requirements from 110 feet to 82 feet, reduce the front yard width requirements from 20/25 feet to 15/18.75 feet, reduce the rear yard setback from 35 feet to 27 feet, increase the maximum impervious surface from 40% to 50% and reduce accessory buildings setbacks from 10 feet to 7.5 feet. The property is proposed to be developed with 276 single-family residences with required open-space ranging from 1.2 acres to 20.12 acres."

Joe Bauer read part of Winnie Sebastian's, Township Solicitor in this matter, letter:

"The criteria which the Planning Commission should use in evaluating and make a recommendation to the Board on this Application is that which is found in Section 2110 E-Criteria.

The Board of Supervisors will make a decision on these criteria and it is not necessary for the Planning Commission to identify each item. However, those are the guidelines by which they should consider this Application and which they should look to as they formulate a recommendation.

They may also make a recommendation to the Board for conditions, which they believe, should be placed on any approval...

My understanding is that the Township Engineer is to be present tonight. That is fine, however, the real issue for the Planning Commission to make their recommendation is not from engineering standpoint but from their standpoint as a citizen board."

Joe Bauer reviewed Section **2110.E, Criteria by which to evaluate the proposed Conditional Use**, of the Zoning Ordinance:

1. The proposed use at the location in question shall be in the public interest and best serve the public health, safety, and general welfare.
2. The proposed use shall be consistent with the goals and objectives of the East Nottingham Township Comprehensive Plan and those of the East Nottingham Township Open Space, Recreation, and Environmental Resource Plan.

3. The size, scope, extent, and character of the proposed use shall be consistent with the spirit, purpose, and intent of this ordinance.
4. Applicant shall take into consideration the character and type of development in the area surrounding the tract, and determine that the proposed change will not injure or detract from the use of surrounding properties or from the character of the neighborhood.
5. Consideration shall be given to the effect of the proposed use with respect to the most appropriate use of land, conserving building and property values, and safety from fire and other dangers.
6. Sufficient land area shall be made available to be able to effectively screen the proposed conditional use from adjoining different uses.
7. Sufficient safeguards for parking, traffic control, screening, setbacks and other design requirements under this ordinance can be implemented to remove any potential adverse influences created by the proposed use.
8. The impact and effect on buildings or districts of historical or architectural significance shall be considered.

Joe Bauer then reviewed **Section 1404.B.3, Design Requirements and Modification of Area and Bulk Standards**, in the Zoning Ordinance:

"A proposed development in the receiving area using transferable development rights shall comply with all requirements and design standards applicable in the base zoning district in which it is located, except as specifically provided in this article. For any development proposing to use at least twenty (20) transferable development rights, applicable area and bulk requirements in the base zoning district may be modified by as much as twenty-five percent (25%) when such modification is approved as a conditional use by the Board of Supervisors. Any conditional use approval to permit such modification(s) shall be subject to the following criteria:

- a. The design and modifications:
  - [1] Shall be consistent with the purposes and the land use standards contained in this ordinance;
  - [2] Shall not produce lots or street systems that would be impractical in terms of layout or circulation or detract from the appearance of the development or surrounding community; and
  - [3] Shall not adversely affect emergency vehicle access.
- b. The applicant shall demonstrate to the Board that the proposed modification(s):
  - [1] Will produce equal or better development design and, as applicable, open space conservation results than could be achieved without the requested modification(s); and
  - [2] Represent the minimum modification necessary.

If the Board determines that the applicant has met his/her burden of proof, it may grant modification(s) to the otherwise applicable requirements. In approving modifications through the grant of a conditional use, the Board may impose such conditions as will, in its judgment, secure the objectives and purposes of this ordinance."

Joe Bauer read from Jim Gade's, Township Engineer in this matter, letter to the Planning Commission:

"When discussing the criteria the Planning Commission should consider the following issues:

It is the burden of the applicant to establish that the intent of the Retained Open Space Development and Transferable Development Rights ordinances is met. As indicated above, the reductions in lot area and bulk, which triggers the conditional use, results in additional units to be developed.

The density as a result of the TDRs and as allowed by the ROSD ordinance, has been indicated by the applicant as 2.5 units per net tract area. The applicant is still required to provide 30% of the tract for open space area or 35.9 acres. The applicant has provided 35.9 acres.

As experienced in previous ROSD applications, obtaining the required open space are, after subtracting SWM and sanitary facilities easements has proved difficult as these application have moved through the preliminary process."

The PC then reviewed the sketch plan. Joe Bauer mentioned that between the proposed subdivision sketch for this property and the Wicklow subdivision, approximately 450 new houses would be constructed.

Representing Walters Oxford, LP was John Snyder, Dave Falcone, and Laura Swiski.

Joe Scheese, visitor, asked if the sewer for this plan would come from the Oxford Area Sewer Authority (OASA). John Snyder says yes. Joe Bauer suggested they discuss this with the Wicklow developers. Laura Swiski said that the two developers were intending to cooperate. Joe Bauer noted that the two ENT OASA representatives were present.

Open space was discussed. Laura Swiski showed the PC the open space area – 35.9 acres. This are does included some of the SWM and easement requirements. Mike Rebert asked about the Shephard Farm and if it will be considered part of the open space calculation. It will be. The percentage of wetlands is well below the maximum requirement for wetland, according to Laura Swiski. The Army Corps of Engineers determines what is considered to be wetlands.

John Wallace questioned Mr. Shephard's desire to have his farm considered part of open space. Laura Swiski said it was included in his agreement.

The TDRs are coming from David Blank's farm on Barren Road (30 TDRs), and Andy King's farm on Media Road (about 60 TDRs). David Shelton, Twp Supervisor, asked if all that ground could be built upon. Laura Swiski said the number of TDRs is calculated based on the criteria set in ENT's Zoning Ordinance. Jim Gade reviewed that calculation in Section 1403.B.1 of the Zoning Ordinance.

Joe Bauer asked if the PC believed that this development is consistent with the Comprehensive Plan, Open Space Resource Plan, and the character of the current neighborhood. This plan shows 2.5 houses/acre, before open space is taken out and 3 houses/acre after open space is taken out. This will impact Baltimore Pike very heavily, especially at Twin House Road.

Leo Levandowski, Twp Supervisor, brought up the TDRs and whether the land from which they were taken could have been developed. There was some discussion about the intent of the calculation in the Zoning Ordinance.

Mike Rebert was concerned that when it rains if the open space would be filled with water. There was some discussion about this and the fact that ENT has had problems with storm water management and new wetlands that have been created after a new development was constructed. \

Laura Swiski pointed out 5 areas of open space that could be active open space, the smallest area being about 1500 ft<sup>2</sup> (active open space). John Wallace remarked about the shapes of the open space and what would be useable.

Mike Rebert said he would just like to see a different layout of the open space. Laura Swiski said they were spread throughout the subdivision so all residents would be able to walk to open space. There was some discussion about the open space along the corridor and that this would be scenic open space. Mike Rebert said the number of lots proposed determines that there will be many children, and that back yards will be small, and that the kids need someplace to play.

Mike Rebert talked about the Baltimore Pike and Shadyside intersection and the increase in traffic. Laura Swiski said the traffic impact study would address this.

Criteria were discussed.

- #1 Impact on the public's health, safety, and general welfare. Joe Bauer stated that there was no local police force and no local fire substation. This subdivision puts a lot of people in a small area. He was also concerned that the sketch plan shown did not include contours of the land.
- #2 Is it consistent with the goals and objectives of the township's comprehensive plan and Zoning Ordinance? Joe Bauer said that as for the Comp Plan, he did not think the criteria of maintaining the rural surroundings are met. There is farmland to the north, one-acre residential estate houses to the south, and the Baltimore Pike density is not as heavy as the intensity of this development.

John Snyder mentioned that he didn't think the criteria Joe Bauer was reviewing was being considered with the bulk requirements correctly.

Leo Levandowski asked about fire hydrants and the water flow. Chester Water Authority (CWA) would have to design the water flow to serve the fire hydrants. Percy Reynolds, visitor & OASA representative, said the developer must supply the CWA with the information needed to create flow for fire hydrants. Jim Gade said this is something that would be required before the preliminary plan can be approved. This was some discussion about not being able to require sprinkler systems in densely populated communities.

#5, #6, & #7 – There was some discussion regarding these criteria.

Bulk standards – The developer is looking to reduce lot sizes from 10,000 ft<sup>2</sup> to 7,500 ft<sup>2</sup>. Sidewalks would be in the right of way but maintained by the HOA. The footprint of the house will take up most of the lot.

Mike Rebert doesn't feel the spirit of the TDRs is demonstrated by this plan. There was some discussion regarding the general use of TDRs and the location of the receiving tract.

John Snyder remarked that due to the Zoning Ordinance requirements of the size of the lots, the developer is restricted from doing much more than cookie cutter sized lots. He says the conditional use is the 25% reduction in the layout. In this sketch, the average lot size is close to 10,000 ft<sup>2</sup> anyway.

Cliff Lee asked if Conditional Use was not granted, how many houses would be built. John Snyder said that the same number of houses would be built in the community. It is a question of where. Cliff Lee said the key issue is the creation of overburden on a particular area of the township. He would like to know how many homes would be built there if the Conditional Use were not granted for that development.

Joe Scheese brought attention to the fact that the average lot size is between 9,000 and 10,000 ft<sup>2</sup> on this plan. If the conditional use is granted the township could be looking at 7500 ft<sup>2</sup>. John Snyder said they realize that and it would be addressed in their testimony at the public hearing on April 20<sup>th</sup>. Cliff suggested perhaps putting a limit on the number of houses allowed.

Thom Olivieri, Twp Supervisor, said that where this development is going in, is going in is going to be developed. These farms have been sold. He suggested a joint impact study from all the developers who are going to develop that area. He also suggested asking for contributions for a light to be installed. Joe Scheese said that this is the area the OASA mapped out for the sewage area in the new Act 537 Plan. It was stated that the .7 multiplier in the TDR calculation is based on the growth in ENT over the past 30 years. It is based on all of ENT, not on a per farm basis.

Dave Shelton stated that the cost of Jim Gade would be borne by ENT out of the general fund.

**A motion was made by Joe Bauer, seconded by Gene Turns, to recommend to the BOS that when considering this Conditional Use Application to take into consideration the ABSOLUTE impact to traffic, infrastructure, schools, EMS & storm water management along the entire Baltimore Pike corridor, AND to consider for this particular development setting a minimum lot size other than 7,500ft<sup>2</sup> & for additional parks and recreation spaces. The motion carried.**

**Aye: 4      Nay: 1 (John Wallace)**

*Replogle Add-on lot*

PJ Scheese, Zoning Officer, explained to the PC that the CCHD letter did not arrive from the Health Department for the Planning Module in time to be put on the agenda for the March PC meeting and that Mr. Replogle asked if it could be expedited to DEP. All components of the Planning Module are

intact. A motion was made by Joe Bauer, seconded by Cliff Lee, to approve the signing of the Replogle Sewage Facilities Planning Module and to forward it to the BOS for approval to send to DEP. The motion carried.

Aye: 5      Nay: 0

**PC Members**

Nothing

**Recognition of Visitors**

Sam Goodley, visitor, invites the PC to look 20-30 years down the road. He said if we don't save land from development now, that it will be developed down the road. The TDR program does this and doesn't cost the taxpayers a dime.

A motion was made by Joe Bauer, seconded by Cliff Lee, to adjourn the meeting. The motion carried.

Aye: 5      Nay: 0

The meeting adjourned at 8:45pm.

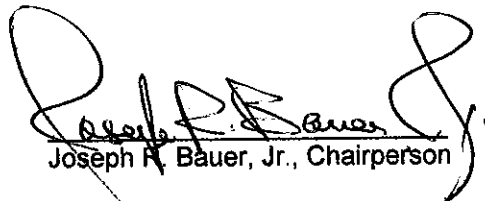
Respectfully Submitted,



PJ Scheese  
Planning Commission Secretary

APPROVED:

Date 4/24/06



Joseph H. Bauer, Jr., Chairperson

