

**TOWNSHIP OF SALISBURY
LEHIGH COUNTY, PENNSYLVANIA**

**PLANNING COMMISSION
MEETING MINUTES**

**7:30 PM
June 11, 2013**

A Regular Meeting of the Planning Commission of the Township of Salisbury was held at the Township Municipal Building located at 2900 South Pike Avenue, Allentown, Lehigh County, Pennsylvania. Present were Commissioners Licht, Schreiter and Beck. Also present were Attorney Ashley, Township Solicitor; Mr. Tettermer, Township Engineer; Ms. Sopka, Director of Planning & Zoning and Mr. Soriano, Township Manager. Not present (excused) Commissioners Miller, Hebelka and McKitish.

CALL TO ORDER

Mr. Beck called the meeting to order.

APPROVAL OF THE MINUTES

On motion of Dr. Licht, seconded by Mr. Hassick, the Planning Commission voted 4-0 to approve the May 14, 2013 Planning Commission Meeting Minutes as submitted. All in favor.

Official Map

Present was Mr. Dave Berryman, Chief Planner with the Lehigh Valley Planning Commission.

Mr. Berryman provided a presentation of the Official Map. He chose specific maps for review that would be relevant to what Salisbury Township has, which is a lot of natural features, zoned conservation land and rural areas. He stated that Salisbury Township needs to consider protecting these natural features since the Comprehensive Plan is completed.

He reviewed different Townships and Municipalities that currently have an Official Map and the items they choose to add. South Whitehall Township has a three panel mapping. A few items they are proposing is to connect paper alleyways, in that, any developer proposing a project must conform to their map and comprehensive plan for future development phases, protection of steep slopes, etc. and future road networks. Bushkill Township's specific goal of open space, protection of natural features and how their Official Map allows the Municipality to negotiate land from a developer if necessary.

There are many additions that Municipalities have added to their maps i.e., road connections, variety of natural features, park land, roads, land preservation and open space protection. The mapping is very detailed. Mr. Berryman stated it is a matter of picking and choosing what Salisbury Township would like on your Official Map.

Mr. Soriano inquired if there is no funding for this type of work what would the referendum be? Mr. Berryman stated that the Official Maps are beneficial in grant writing and to the Department of Conservation and Natural Resources (DCNR). Grants are exceptionally competitive these days and he advised that if the Township would have an Official Map with the projects listed it would prioritize the Township's project above the rest.

Mr. Schmehl added a few points to the Official Map and its benefits. The benefits are a right of first refusal. If someone proposes development on a property that the Township is considering to preserve, it gives the Township a chance to have an act of preservation before they get a building permit. This also works for intersection(s) that the Township wants to re-align. There is a one year period from when the project is proposed for development to decide if the Township would like to acquire the land or not. In that time the developer cannot get a building permit that would obstruct that road improvement. It helps to avoid lost opportunities. It is a negotiation tool between Municipalities and developers.

Review of SALDO amendments Draft 2/2013 and Zoning amendments Draft 2.27.2013 as submitted reflecting changes of 11/2012.

Present was Charlie Schmehl of Urban Research Development Corporation (URDC).

Mr. Schmehl stated that in the SALDO the only outstanding issue is if the Township wishes to include the regulation of injection wells.

Mr. Tettemer stated that there are legal issues that need to be discussed. The first is how much does the Township wants to take on and depending on that, what the wording should state of a proposed Ordinance. At this time, there is little oversight of injection wells and according to Attorney Ashley there is a certain amount of liability the Township may incur if a developer would default on their responsibilities and maintenance.

Attorney Ashley stated that there are minimal Federal regulations and guidelines; however, they leave the regulations up to the State. There are no firm guidelines for injection wells. His concern is not having the knowledge of injection wells needed to make a good judgment since this type of project is quite new.

An additional concern is the Township being in a position where we allow a developer to start a project and hypothetically, the aquifer gets contaminated, contaminating our drinking water, and now the Township is in a type of litigation. This puts the Township in a very difficult position.

Attorney Ashley stated that it seems that the State or Federal Government hasn't developed regulations that could be implemented on a local level. He does not want our Township Engineer put in a situation either. This is a very difficult situation to walk into without guidance. He stated that he does not know if this type of technology (injection wells) has even been approved by anyone.

Mr. Beck stated that technology is going to start "some place". Mr. Tettemer stated that there should be specific language in the Ordinance that would cover the Township. He stated that he drafted written proposal in addition to the SALDO that covers the technical aspects, but inquired if legal language is needed to protect the Township. Attorney Ashley stated legal documentation could be placed in the Ordinance however the technology is so new that we may not have enough to be able to support what we are asking people to do, that it is going to work.

Ms. Sopka advised that she has had communication with Environmental Protection Agency (EPA) and Department of Environmental Protection (DEP) and there are two elements at hand. The first is that USEPA is allowing these injection wells to go into your ground water source, looking at it as a storm water issue. When she spoke with DEP's department that handles storm water issues they advised her that when it's directed into the aquifer that is your drinking water source, it now makes this a drinking water issue. It is unfortunate because the Township is not getting the right answers either. Mr. Soriano stated that there are no answers because they didn't take the steps to deal with these wells because they don't want the responsibility. The Federal regulations have been reviewed and there has yet to be any local Ordinance that dictates injection wells.

Ms. Sopka stated that when speaking with EPA they indicated that the budget cuts included their inspectors who would have been involved with management and monitoring these injection wells and this is why they are deferring to the states and looking for memorandum of understanding. She is unaware if that will happen in Pennsylvania. They declare that if there is a contamination event, EPA has the right to come in and enforce.

Mr. Tettemer stated that there has been an approval of injection wells in Hanover Township and a proposal in Nazareth. Mr. Tettemer state Salisbury Township is limestone, you have to supply some kind of infiltration, your DEP and NPDES permit is going to require managing the increase runoff of the two year storm. Mr. Tettemer stated that as part of the Township's MS4 requirements there must be an operation to

maintenance agreement for these systems as well as there already are for infiltration areas, spray irrigation areas, etc.

Mr. Tettemer stated that if issues arise that the system is not working properly, the property owner is notified and they are required to bring it up to working standards. If the property owner doesn't comply, the Township has the authority to take over to rectify the issue and bill the property owner or lien the property.

Mr. Soriano wanted to know who is going to monitor these injection wells because under the safe drinking water act you can't put contaminants in the water. He stated that he is not worried about the wells that work; it is the one that fails. Who then is going to be responsible if monitoring is required? Mr. Tettemer stated that what is included in the proposed SALDO was a testing regimen. The base line would be based on safe drinking water standards, which is required for the testing period, and as soon as that is exceeded then the well needs to be closed so there is no more contamination discharged into the well. The EPA and the DEP are notified. Mr. Soriano stated that if this would happen who does the EPA find responsible for the contamination, the Township or the developer?

Mr. Schmehl made two suggestions. First, to take a little more time to decide in regards to the injection wells and at this time, put it into the storm water Ordinance instead of the Subdivision Ordinance or second, to separate it between the two.

In summary, Mr. Schmehl suggested to put in that the applicants engineers have to do a certification, which is the recommendations of Mr. Tettemer, and put that in the Subdivision Ordinance as a holding spot. Then once it is researched and reviewed further and the Township feels more comfortable with the details it can be put into the Storm Water Ordinance. Mr. Tettemer was fine with this suggestion.

Discussion ensued and more concerns were expressed about the impact of the water and storm water management. Mr. Tettemer stated that without regulations and a Township Ordinance he has nothing to fall back on and is required to approve the plan whether he agrees or not. He stated that he would like the wording to state that proposed injection wells are adequately certified to remove solids for the system. The EPA will fine any person or company if they pollute the aquifer however if that happens, the damage is already done. It was also discussed to prohibit injection wells in the Township.

Mr. Schmehl suggested that he and Mr. Tettemer get together and come up with some compromise that is a holding action, very limited, not construction specifics, burden on the applicant and just as a holding action while this information provided tonight can be thought about. Mr. Tettemer agreed.

By motion of Dr. Licht, seconded by Mr. Hassick, the Planning Commission voted 4-0 to authorize the Township Engineer, Township Solicitor and Mr. Charlie Schmehl, Township Consult from URDC to draft language for the SALDO with limited scope for a Class 5 stormwater injection wells. All in favor.

Mr. Schmehl provided an updated memo on the outstanding issues in the SALDO. There were a few small items they addressed including the inconsistency of the finished slopes between the zoning and subdivision.

The Healthcare Overlay District was addressed. Mr. Schmehl and Township staff has met with Lehigh Valley Health Network (LVHN) and a few of their surrounding neighbors have met to discuss compromises. The compromised draft will be presented to the Township in about a week and would be present for discussion at the July Planning Commission meeting.

A few of the compromises reached is: the berming and buffering between the resident's homes and Lehigh Valley Hospital which would be "thickened". The maximum height of the healthcare uses would not exceed the current height (the current 105 feet per habitable floor area is currently in place will continue to apply) therefore no eight story buildings. The height in the transitional area was decreased a few feet. There would be no drug and alcohol rehabilitation or psychiatric facility on this site.

Mr. Schmehl stated that one comment he received at this meeting was that LVHN draft reduced some of the landscaping provisions too much as far as street trees, parking lot and perimeter landscaping. He is hoping this issue will be addressed in the next draft.

The concept that has been spoken of the past few years in regards to a transitional district 500 feet away from the existing residential community and having an open-ended zoning closest to Cedar Crest Boulevard and I-78 will continue.

Mr. Soriano stated that the Township should already have LVHN draft in hand because the Township is on a timeline. He wants the drafts by a specific date, allowing adequate time for review. Ms. Sopka will follow up.

Ms. Sopka pinpointed a few items for correction under residential Dog Day Cares. This will be addressed.

Discussion ensued on the site plan review process. Mr. Schmehl stated that it is documented as the Zoning Officer's decision where it should go for the review process based on 5,000 square feet or more of impervious coverage. Ms. Sopka again stated that she is concerned about additional fees incurred to the Township.

Mr. Tettemer addressed the clearance, height and tree limbs minimum height of ten feet above the cartway. He stated that PennDot recommendations are 14' high for local roads. This will be addressed.

Ms. Sopka addressed a few items. The first is the difference between the May and June 2013 memos, Item #9, the May memo indicates that the new draft of the Zoning Ordinance is being revised to avoid any conflicting definitions with the SALDO and the stormwater ordinances; to avoid conflicts over time the Zoning Ordinance and SALDO reference the definitions in each other. On the June 2013 memo stormwater is not indicated but the stormwater definitions do have relevance in both the Zoning and SALDO. Mr. Schmehl will take a look at that section.

The second item Ms. Sopka addressed was Item #10. It says that there is reference made to properties existing prior to this Ordinance and she questioned if we are using the date of 1992 or is this considered a current Ordinance and would that reference be dated 2013? Mr. Schmehl stated it is a new ordinance and it would be dated 2013.

The wind turbine provisions were discussed. Ms. Sopka suggested clarifying the size of wind turbines and that small wind turbines are for residential use.

Bee provisions were discussed. The proposed bee restrictions are much less restrictive than the current ones. Per the material provided Mr. Schmehl it addressed how bees fly up before they go out and how they are extremely important in crop pollination and are decreasing in numbers.

Clarifications were made on outpatient alcohol counseling which would be basically an "office". The concern is there needs to be better provisions for (methadone clinic) outpatient drug treatment.

Domestic pets and reptiles were discussed. Ms. Sopka researched domesticated animals and will provide this information to Mr. Schmehl, via email.

Mr. Beck inquired about fixing of automobiles on residential property and public roads. He expressed his concern about the oil and antifreeze, etc., running down the streets. Attorney Ashley stated that the Police should address it if it is on a public street. Mr. Schmehl referenced an Allentown Ordinance stated that no work is permitted on any public streets. Mr. Soriano suggested addressing this type of activity under the nuisance ordinance but there will be emergency exceptions. Mr. Schmehl stated that having police enforcement is a much cleaner process for these types of issues.

Ms. Sopka referenced a conflict with the overlay district and the current zoning that is section 106 as stated, where a provision of this chapter differs or conflicts with any other provision of the chapter (for instance, the proposed overlay) the provision that is more restrictive upon uses and structures shall apply. Mr. Schmehl indicated he would fix the current zoning to address this.

Mr. Schmehl stated that they can spend the July meeting going over injection wells and any new issues that may arise.

OTHER BUSINESS

None

ADJOURNMENT

On motion of Mr. Hassick, seconded by Mr. Miller, the Planning Commission voted to adjourn the meeting. Meeting adjourned. All in favor.