

UPPER MERION TOWNSHIP BOARD OF SUPERVISORS
ZONING WORKSHOP MEETING
April 5, 2018

The Board of Supervisors of Upper Merion Township met for a Zoning Workshop meeting on Thursday, April 5, 2018 in the Township Building. The meeting was called to order at 6:00 p.m., followed by a pledge of allegiance.

ROLL CALL:

Supervisors present were: Greg Philips, Greg Waks, Erika Spott, Bill Jenaway and Carole Kenney (arrived late). Also present were: Dave Kraynik, Township Manager; Sally Slook, Assistant Township Manager; Joe McGrory, Township Solicitor; Rob Loeper, Township Planner; Kyle Brown, Associate Planner.

DISCUSSIONS:

NEIGHBORHOOD MIXED USE – SOUTH GULPH ROAD UPDATE – UNDER REVIEW BY MONTGOMERY COUNTY PLANNING COMMISSION AND UPPER MERION TOWNSHIP PLANNING COMMISSION, TO BE FINALIZED FOR ADVERTISEMENT MAY 24TH BUSINESS MEETING

Kyle Brown, Associate Township Planner, stated since the Board last reviewed this ordinance in 2017 it has undergone preliminary review by the Montgomery County and Upper Merion planning commissions. It is again before the Board of Supervisors to review the planning commission recommendations and changes that have been made since the last draft review.

Mr. Brown went through the ordinance change by change starting on page 4. The Planning Commission recommended striking *social sciences and humanities* from the Not Permitted Use of Research and Development as it was not seen as having the same impact as physical sciences R&D.

Mr. Jenaway asked if there should be two lines there indicating [*social sciences and humanities*] is permitted. Mr. Brown responded anything that is not spelled out specifically falls back on the closest use which would be something like professional office and it would be permitted.

Also on page 4 *continuing care retirement communities* are added as permitted. The planning commission discussed the potential positive externalities associated with aging in place in a more mixed-use environment.

Mr. Brown mentioned the next change in the *Notes* on page 5 was prompted by Mr. Jenaway's comments about the types of regulations that would apply to basement uses. It was noted Mr. Jenaway was concerned about living space. Mr. Brown stated in this particular ordinance there are specific prohibitions for uses on particular floors of building. The ground floor shall be considered the first floor of a building. Basements are permitted to contain only those uses accessory to the principal use or uses of the building.

Mrs. Spott asked about basement home offices. Mr. Brown responded that would probably be covered under accessory use as a home business. Home businesses are and allowed and would be covered.

Mrs. Spott asked if that is clear in the interaction of the codes. Mr. Brown responded in the affirmative.

On page 5 the next change Mr. Brown discussed was the maximum impervious coverage for Frog Run sub-watershed which is particularly sink-hole prone. While any development would be required to adhere to stormwater water standards which includes lining all detention facilities and piping to prevent infiltration in sinkhole prone areas, the planning commission was concerned about the impact and suggested a 5% decrease from 80% to 75% in allowed impervious as more reasonable.

Mr. Brown discussed the comment specifying the meaning of "non-local" streets. He cited a reference to the Official Highway Classification Map of the Township which defines the location of those streets.

The last comment Mr. Brown discussed provided minor wording changes for vehicular access standards indicating no more than one driveway access shall be permitted per parcel, [unless the landowner can demonstrate that additional access is required for safety].

Mr. Philips asked if the Montgomery County Planning Commission will review again. Mr. Brown responded in the affirmative.

Mr. Philips asked if the County will include this [ordinance] in the Comprehensive Plan. Mr. Brown responded in the affirmative. He indicated the County review was based on how the ordinance fits into the Comprehensive Plan to make sure there is consistency.

Denise Yarnoff, Esq. raised a question regarding continuing care. Mr. Loeper provided a definition of Continuing Care Retirement Communities that has been proposed. He indicated, "...is the type of retirement community where a number of aging care needs from assisted living, independent living and nursing home care may all be met in a single residence whether in an apartment or in a congregate housing facility, a room or apartment in an assisted living

facility and in a skilled nursing home.” Mr. Loeper indicated that has not been adopted, but was the definition that has been proposed for continuing care. He said the question would be if there was just assisted living and not the other would that still be considered continuing care or would it be a separate use.

Mr. Philips asked why the definition has not been adopted. Mr. Loeper responded new definitions are being adopted as the zoning update progresses.

Mr. McGrory commented *continuing care* can be defined as permitting skilled care or not because skilled care is getting more difficult to be part of the Continuing Care Retirement Community (CCRC). Mr. Brown responded this will be resolved in discussions with the township solicitor’s office as the draft is proofread and finalized with the solicitor’s office.

Board Action:

It was moved by Mr. Jenaway, seconded by Mr. Waks, all voting “Aye” to advertise the ordinance. None opposed. Motion approved 4-0.

BUSINESS AND INDUSTRIAL DISTRICTS

Mr. Rob Loeper, Township Planner, stated this is the most complex of the ordinances undergoing review in that it combines six of the current zoning districts into four districts and includes a number of mapping changes. Last year a lot of time was spent working on both the uses and the mapping. The four districts remaining will be Administrative Office (AO), Office Industrial (OI), Commercial Industrial (CI) and Industrial (I). There is still a need for additional feedback from the Board on both the map and some of the uses. Mr. Loeper indicated in February O’Neill Properties submitted some recommendations for changes which Kyle Brown will review.

Mr. Brown stated at the last meeting the point was made about the difference between convenience store with gas sales and convenience store without gas sales. At that time, it was determined with Mr. McGrory’s assistance that was the most appropriate way to word it. [At the September 7, 2017 zoning workshop Mr. McGrory made the argument that gas is not an accessory, but rather a retail product and the use is retail]. Mr. Brown said there was also a question about the difference in terms of impacts that gas sales have on traffic. For a six station gas facility there are 40+ trips per peak hour which is a significant impact and would be the rationale for having convenience stores without gas as permitted versus with in certain districts. According to ITE 9th Edition: 6.5 net new peak hour trips per fueling position.

The other change that was made since the last meeting was to permit full-service laundries, dry cleaners and shoe repair in Administrative Office and

Office Industrial. The discussion at that time indicated those in an office environment would appreciate the convenience of these nearby services.

Mr. Philips asked why watch, clock and jewelry repair were not allowed in the Administrative Office or Office Industrial. Mr. Brown responded these uses can be added.

Mr. Waks asked for the rationale regarding the inclusion of above uses in Administrative Office and Office Industrial. Mr. Philips responded these uses are permitted in the Commercial Industrial and Industrial; therefore, why would they not be allowed in AO or OI. Mr. Waks commented they do not seem like particularly invasive uses and said he is fine with that change. Mr. Jenaway commented he does not have a problem with making them all permitted.

Mr. Waks asked which district Workhorse Brewery is in. Mr. Philips responded it is in the Commercial Industrial District.

In response to Mr. Jenaway's question, Mr. Brown responded in this version single family dwelling would not be permitted in any of the districts going forward.

Referring to page 5 re: *Drinking places (alcoholic)*, Mr. Waks asked for thoughts about allowing different drinking establishments in the Industrial District. The consensus among the supervisors was they had no issue with the idea.

Referring back to page 2, Mr. Philips asked why carpeting, flooring and countertop store are not permitted in AO or OI. A discussion followed about the suitability for these uses in those districts.

Mr. Philips called attention to *Veterinary office/clinic and kennel* which are animal related. He mentioned the new concept of "doggie day spas" and asked if there is any place in the township to allow that use.

During the ensuing discussion, Mr. Brown said there are two options either use the language of the general requirements of the zoning code defining kennel or create a separate definition. Mr. Philips commented it probably should be determined whether it goes into Commercial Industrial or Office Industrial. Mr. Brown indicated he would look into that.

Edmund J. Campbell, Esq., representing O'Neill Properties Group, stated his client owns two properties in the Renaissance Office Park. He noted nothing in *Construction and Trades* is permitted in the OI. Another client in the electrical trade is in the OI on Crooked Road and it is uncertain that he would be permitted there.

Referring to the next category *Manufacturing, Processing and Assembly*, Mr. Campbell stated the Renaissance Office Park is currently primarily SM-1 and would be converted to OI under the proposed map. He said in looking at manufacturing, processing and assembly many of the current uses in the park would be disqualified and become non-conforming. In comparing the OI to the CI, Mr. Campbell suggested making them almost identical. The only thing he would eliminate from the OI would be asphalt paving. He said almost everything else being captured in the OI generally works well in the Office Park and does not create a lot of problems for the community.

Mr. Campbell suggested making the Renaissance Office Park CI instead of OI. Referring to the *Warehousing* category as OI, *General warehousing and storage and/or distribution of durable and nondurable goods* would not be permitted. Mr. Campbell said there are a fair number of uses there as part of their light industrial commercial activities that have a significant amount of storage.

With regard to *Retail Trade*, Mr. Campbell commented about the CI and *fine art gallery and sales, resale stores, gift and novelty stores or specialty food stores*. His thought was that the aforementioned categories are not going to be drivers for any use there, but might be complementary in a development sure to occur on a large tract of land that might be developed in the CI District.

Under *Professional, Scientific and Technical Services*, Mr. Campbell noted the exclusion of all professional offices from the CI District while permitting other things that would provide a synergy with professional offices such as *offices for the management of companies and enterprises, research and development in the physical, engineering, life sciences, social sciences and humanities*. He asked rhetorically, "suppose we get a college or a health related user there." In the last category, *waste management and remediation*, which is now permitted under OI, Mr. Campbell noted the presence of Pennoni in that district and asked what would happen if they had an affiliated company such as a remediation specialist or environmental consultant that wanted to have their offices there.

With regard to *Health Care and Social Services*, Mr. Campbell commented while *nursing home and continuing care retirement community* are permitted in the OI by conditional use, they are in demand and in some respects might be good fits for the CI District as well. Also, in view of today's opioid addition problem, Mr. Campbell suggested consideration of *substance abuse treatment facilities* as a permitted use.

Mr. Campbell noted a broad range of *Personal Services* permitted in the OI District and in the CI these services appear to be much more restrictive. He said some of the personal services are amenities which would be desired in a thriving commercial district.

Under *Residential Uses*, Mr. Campbell called attention to *multi family dwelling and townhouses*. He noted it is proposed to allow multi-family in the OI by conditional use and suggested multi-family also be allowed in the CI either by conditional use or permitted as part of the trend to integrate residential and commercial activities there.

Mr. Philips took issue with Mr. Campbell's last comment and pointed out the intent of the Commercial Industrial is to have light manufacturing. He asked if people would want to live next to a manufacturing plant.

Mr. Campbell posited developing a significant area as research and development such as a health campus with a residential component where people like to live and work. Mr. Campbell suggested linking those uses in terms of sizing.

Mr. Campbell referred back to *Manufacturing, Processing and Assembly* and noted he favored the exclusion of *food, beverage and tobacco* as currently proposed for the OI district.

Mr. Brown noted the conditional use for multi-family in the OI is tied to the Transit Oriented Development. Michael Gill, Buckley Brion McGuire and Morris, representing the owner of the property on Mancill Mill Road, commented that was the question he was about to ask as the draft appears unclear.

Mr. Gill asked about the rationale for not permitting warehousing in the OI. Mr. Brown responded warehousing tends to create unique truck traffic and the types of roads servicing the OI District are not necessarily appropriate for that type of truck traffic whereas the industrial districts on the river and those with access to the Route 202 corridor are probably more appropriate. He also said warehousing tends to have a style of building which takes up a large footprint.

Mr. Gill asked if that rationale holds true for self-storage. Mr. Brown responded the first point he mentioned regarding truck traffic would not apply, but the style of building for self-storage needs a lot of space for the units.

Mr. McGrory asked where self-storage is permitted in the draft. Mr. Brown responded it is permitted in CI and I, but not in AO or OI.

Mr. Gill observed there can be mini-storage or self-storage facilities that are rather appealing from an aesthetic perspective without the same impact from a truck circulation perspective. He asked if it would not make more sense to allow the use subject to conditional use and require them to furnish the building design. Mr. Brown responded that is a possibility. He said from a planning rationale they consider uses on a more realistic scale and it could certainly be considered.

Mr. Waks commented about a recently approved self-storage unit that is not very appealing.

Mr. Gill commented there is a need for warehousing in Upper Merion and his client would like to see warehousing by conditional use.

In response to Mr. Gill's question regarding Transit Oriented Development (TOD), Mr. Brown responded the concept behind the TOD is to encourage the use of transit as opposed to automobiles.

Mr. Gill mentioned the presence of a trail is a nice feature for multi-families and while he understands the rationale for a TOD does not believe it should be the sole limiting factor for the opportunity for multi-family.

James Davis, 820 Mancill Mill, commented on tractor trailer traffic associated with warehousing.

Mr. Jenaway stated the Board of Supervisors has been advocating attracting some specific types of uses to be attracted to Upper Merion Township such as hospital, sports complex, college and university. He emphasized to preclude any of the aforementioned uses from going into what would be the biggest property areas on this map would be a big mistake and a closer look is necessary to assure these are permitted occupancies.

Mr. Jenaway referred to page 10 of the draft regarding *Emergency Access*, "Developments with more than 50 residential units shall provide a secondary vehicle access way to accommodate the emergency vehicles." He stated there is a need for a 360 degree access. For 50 residential units, particularly if they become multi-family, the ability or inability to get an ambulance, police car or fire truck in there becomes critical. Mr. Jenaway also pointed out anything over 35 feet in height needs a 360 degree access which will enable emergency vehicles to get all the way around the building.

Mr. Loeper invited anyone with further comments to be in touch with planning staff for a further review of non-conformities and other issues discussed at this meeting.

ADJOURNMENT:

Without further comment from the Board and public, it was moved by Mr. Jenaway, seconded by Mrs. Kenney, all voting "Aye" to adjourn the meeting. None opposed. Motion approved 4-0 or 5-0. Adjournment occurred at 6:53 p.m.

DAVID G. KRAYNIK
SECRETARY-TREASURER/
TOWNSHIP MANAGER

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Minutes Approved:
Minutes Entered: