

**Upper Merion Township Planning Commission
Regularly Scheduled Meeting for January 25th, 2023**

The Upper Merion Township Planning Commission met for its regularly scheduled meeting on January 25, 2023, in-person in the Board Room, located in the Township Building, and via Zoom. The meeting information was fully advertised and a meeting agenda placed on the township website. The meeting was called to order at 7:00 PM followed by the Pledge of Allegiance.

IN ATTENDANCE:

Matt Popek, Chair
Mark McKee, Vice-Chair
Kenneth Brown
Jaquelin Camp
William Jenaway, Board Liaison
Patrick Foley, on behalf of Leanna Colubriale, Township Engineer (Remington & Vernick)
Anthony Hamaday, Township Manager

ABSENT:

Martin Trumpler, Secretary

APPROVAL OF MEETING MINUTES:

Minutes for the October 12, 2022 meeting had previously been distributed. Mr. Brown made a motion to adopt the minutes, with Ms. Camp seconding. The motion carried 4-0.

230 Mall Blvd. – Lockheed Martin Land Development Plan

Proposed 55,150-sf research and testing building

Mr. Hamaday gave an explanation of the 55,150-sf research building that will be about 91 feet in height. Other township reviews have been forwarded to the applicant, and there are still some zoning issues and variance requests. The applicant has replied to the Remington and Vernick review.

Dan Rally, applicant's attorney, provided an overview of the project, explaining that it is a 90-acre property. Lockheed or its corporate ancestors have been at this location since the 1960's. As part of the expansion of their research and development facilities, they are proposing an additional building on the property. Mr. Rally gave a timeline of events, explaining that they submitted a land development application at the end of October 2022 with a resubmission at the end of the year at the beginning of 2023, they went to the Zoning Hearing Board and got approval on January 5 for a variance for building height and parking. Mr. Rally explained that they are only anticipating one new employee for this building and plan on moving 5 or 6 existing employees to the new building, and don't expect more than 10 employees at any time.

George Langan, applicant's engineer, gave a brief overview of the project. Mr. Langan explained that the property is zoned Limited Industrial (LI), and that the entrance to the building is going to be from Goddard Boulevard. There will be no change to the parking or access. Lockheed will not exceed more than 50% of the capacity of the parking lot. It will be a host building for research. The size of the building is over 55,000 square feet because of the size of the equipment being evaluated and tested. The pedestrian entrance to the entire Lockheed location is on the east side with a secure access. There is not a lot of sidewalk to connect from the parking lot to this building; it is all internal campus circulation.

Mr. Langan explained there are three points of discharge for stormwater management that happen along Goddard Blvd. One area is a bypass for tree planting. The other two drainage areas are where the stormwater basins are proposed to go, in order to meet the requirements in the ordinance. One basin is proposed to

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permit infiltration, while one is not, based on soil testing. Mr. McKee asked which stormwater basin would be infiltrated. Mr. Langan explained that they did massive soil testing in the area and found out there are some shallow rock and dense soils. Mr. Popek asked if that was the one that collected and drained off-site or if it drained across the road into another basin. Mr. Langan responded that they both drained across the road, one into another basin and one into a pipe going around the basin, and then they both tie in together. Mr. McKee asked for clarification about not needing an emergency spillway for the stormwater basins. He wanted to make sure that a major event would not cause overflow and block access to Goddard Blvd. Mr. Langan explained that they designed each basin to comply with the code. Ms. Camp asked if any of the research being done would require a lot of water use or off-site drainage. Kevin Weider of Lockheed Martin answered that it would not require any water or hazardous chemicals.

Mr. Langan referenced the utility plans and explained that there is one sanitary connection which is goes across Goddard Blvd. on private property and is privately owned. Mr. Langan referenced the landscape plans and explained that tree plantings are extensive due to a buffer requirement.

Mr. McKee asked if there were any conditions made at the Zoning Hearing Board regarding the height of the building. For example, should there be lighting for low flying aircraft? Mr. Langan explained that this wasn't a condition of approval. Mr. McKee asked how many people they currently have on campus. Mr. Weider answered there are about 1,500 employees on site and that parking is rarely at 50% capacity. Mr. McKee asked if they have any buses or shuttles connected to the property. Mr. Langan responded that they do not, but that there is a bus stop close by.

Mr. Popek asked why on the plan set the proposed lot building says "by other" and to whom are they referring. Mr. Langan explained that it's the difference between them and their architect. Mr. Popek asked for clarification about whether there would be a new driveway for access to the building and loading area and if it would be going off Goddard Blvd. Mr. Langan answered yes, that there was already an existing driveway which they would widen to make the turning movement work. Large trucks would not be coming frequently at all, about 1 or 2 a month.

Mr. Popek asked Mr. Foley if there was anything left outstanding from RVE's review. Mr. Foley explained that there were a few items open regarding the traffic impact study. He stated that it was a variance as opposed to a waiver and would need to refer to the township zoning officer. Mr. Hamaday stated they were waiting to hear back from the township solicitor regarding the decision to make the traffic impact study a waiver or a variance. Mr. Foley asked if they had been able to take a look at the letter to see if they would like to modify anything or continue with the requested waivers. Mr. Langan said the waivers on the letter are the ones they are going to request.

Mr. Foley ran through the remaining requested waivers:

- 1) 140B-13.B.1.E.2 for analyzing the entire site
- 2) 140B-13.B.2.A.2.A providing a sloped basin bottom
- 3) 140B-13.B.2.A.6 providing basin fencing
- 4) 140B-14.B.10.B stormwater pipe should carry the 100-year stormwater facilities
- 5) Another one was for post-storm runoff for a 10-year storm to be managed to a 2-year level
- 6) 145-20.C.2 running a curb along Conrad Drive
- 7) 145-29.A.39 shading area to be dedicated for public use
- 8) 145-29.A.40 shows any offer of dedication listed and duly acknowledged and signed by the owner of the property

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9) 145-41.B provide parkland

Mr. McKee asked if there were any onsite recreational uses for employees only. Mr. Langan answered that there was a gym.

Mr. Jenaway suggested that when coming to the board, they should be ready with any supporting comments they want to make. The board has been reluctant to grant waivers just because someone wants one, and will be asking for substantiation.

Mr. McKee made a motion to recommend approval to the Board of Supervisors along with the waivers, with Mr. Brown seconding. All voted in favor.

Zoning Ordinance amendment – Chapter 165, Section 160 - KPMU District

Modify the requirements for multi-family buildings in the KPMU Zoning District to require a mixed-use component

Mr. Hamaday give an explanation that about two months ago the Township proposed an amendment to the ordinance concerning the KPMU and hospital use. The original amendment contained modifications to the requirements for multi-family buildings. The Board pulled the amendment out of the ordinance and simply passed the hospital use as a permitted use in the KPMU, LI and HI. The board is now looking to bring back the other requirements so that a building with multi-family use would have a minimum of 30% dedicated to a secondary or primary use as permitted in the KPMU district and would be required to be of a mixed-use type.

Mr. Hamaday explained there were several factors at play. One factor is that developers want to know how they can convert their existing buildings in certain districts into apartment buildings. The Board is concerned about the number of additional apartments being discussed. Having too many apartments can drain the township services, both public safety and public works. In the KPMU zone, the Township has seen new apartments go in but no mixed-use buildings.

Ms. Camp stated that when the Township and Planning Commission decided to implement the KPMU, the idea was that single use zoning was a thing of the past. We would be able to deal with a lot of traffic congestion and quality of life issues by opening up the zoning and getting a mix of uses in there. Ms. Camp explained that we envisioned there to be an even mix over time as properties were redeveloped. Ms. Camp shared the concern that commercial buildings and apartment buildings weren't getting the mix of uses that we would want, such as service retail. People at work or in an apartment shouldn't have to get in their car and drive to the market or to the pharmacy. Ms. Camp asked if we were also considering a way to get strictly commercial construction to mix in other uses.

Mr. Hamaday stated that most people are driving if they want to get something to eat. He explained that if the Amazon facility at Moore and Valley Forge Roads moved forward, we would have several thousand employees getting in their car to go get lunch. Mr. Hamaday explained that they are not seeing developers come in and ask for mixed uses. New applications coming in are for single use.

Mr. Popek stated that on the text before them, referring to letter B. Section 165-160.3 item numbers 6 and 7, he doesn't see any changes from what is currently posted on the Township's code. Mr. Hamaday said that section B was a direct response to the county planning commission's review and that they wanted to remove it completely. Mr. McKee asked in the case of a storage locker facility where people keep their seasonal

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belongings like bikes, camping equipment or beach chairs, would that be considered an accessory use or would it have to be open to the public? Mr. Hamaday answered that if it was specific to a residential use and not open to the public, then it would be considered an accessory use.

Mr. Hamaday made a comment that there was a response from the Chief of Police stating that they would have an issue with service. Ms. Camp asked about the revenue from these buildings and felt that there should be enough revenue to cover the expenses of adding police enforcement. Mr. Hamaday stated that the apartments provided property taxes only. There was an open discussion about tax rates, adding police officers, and growing the township.

Ms. Camp made a comment that she understood the intent and concern that we weren't getting enough mixed use. We were getting a mix of uses across properties that were transitioning from commercial to residential. But her concern was that if we limit the height of buildings, we limit the income potential for a developer. When we limit their income potential, we limit what they can spend on a building. Ms. Camp stated that we can't have office development and residential development in the same building in comparable quantities. We can't have one elevator that serves residential on some floors, commercial on other floors, and keep both areas secure. We need isolated elevators that would not be feasible unless we allowed taller buildings than we currently allow.

Mr. Hamaday stated that there was a drawback to raising taxes. If taxes were to double in 5 years, it would make Upper Merion unattractive to anybody who wanted to live here. Ms. Camp asked if there was a disconnect between the way we collect taxes from multi-family apartment businesses and the cost of township services that need to be provided. Do we take that into consideration so that they do not drain the township budget? Mr. Hamaday said the only way to do that would be to institute some kind of special policing district.

Ms. Camp made a recommendation that instead of restricting the building of multi-family rental apartment buildings in the township, taxes on these buildings should be adjusted to cover the cost to the township. Mr. Jenaway stated that we can't tax separate parcels differently. Mr. Hamaday explained that the board has been receiving complaints from residents in some apartment buildings about people propping open doors, having unauthorized parties (like pool parties), and letting people inside that don't live there. Residents are questioning why the township isn't doing anything about it, and they want to move out. Mr. Popek stated that he agrees this is a problem but changing the zoning code isn't going to solve it.

Ms. Camp suggested that maybe we should encourage a developer who wants to build an apartment building to partner with another developer who wants to build an office building. They might buy one site together and build two buildings. Ms. Camp stated that a feasible example is the Valley Forge Towers: the ground floor is retail, serving not only residents who live there but the entire community. Ms. Camp suggested that maybe we should require a developer who wants to build an apartment building to put something on the ground floor that provides a service not only the residents but to the community at large.

Mr. Popek stated that on City Avenue in Lower Merion, the township requires ground floor retail for buildings facing the street; they can build whatever they want on the other levels. In 2014 the KPMU was established in Upper Merion, and two years later we started the comprehensive planning process. One of the items was to do a master plan for Moore Park. Even then the Board realized that the only plans they were seeing were for apartment buildings. The master plan idea basically said we need to break up KPMU into separate areas for more classically oriented zones which function more as a community network for development.

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Mr. Hamaday suggested that it would be smart to put at least something in place so we don't get overloaded with apartments. We know we have an issue, there is a better way of doing things, and we shouldn't take the chance that we get overrun.

There was a comment made by Eric Goldstein of the King of Prussia BID, stating that with exception of the Valley Forge Towers, Upper Merion does not have mixed-use buildings. Mr. Goldstein mentioned that we don't have the market retail conditions to see mixed uses in this township, and that they are rare in the suburbs overall. The intention was to have a mix of uses among the buildings in the business park, not a mix of uses within buildings. The goal is to allow residential and service retail to be constructed in a business park to get people to live and work in the community without having to get in their car and drive anywhere. Mixed use within a building is something you see in the city, not in the suburbs. The KPMU was intended to allow mixed use, not to force.

Mr. Goldstein stated that Upper Merion Township is unique because of how much retail space we have. We have 7 million square feet of retail service available, comparable to a city. Adding more retail space to the KPMU is going to be difficult because we do not have enough people walking on the street for a retail store to be successful. Mr. Goldstein thinks residential space is very important in a township that has as high an employment percentage as ours. Mr. Goldstein talked about crime rates and how they have gone down in the township since the KPMU was put in place. Mr. Goldstein hopes that the board doesn't move forward with the 30% requirement because he feels it will put an end to residential construction.

Mr. Jenaway stated that although crime rates are down, whenever someone calls the police, they have to make a response; otherwise it's a liability issue. Crime rates are down because of things like the special investigations unit and bike cops that patrol regularly. These are things which not all municipalities have, but the volume of calls hasn't changed. Mr. Goldstein agreed with Ms. Camp's idea to look at lot size instead of having a 30% requirement. If the lot size was bigger than 10 acres, for example, then it would have to have certain minimum components, but not necessarily stacked within each building.

Mr. Popek suggested we should give developers as much freedom as possible to do something with the spaces available in their projects. Mr. McKee stated that the BID needs to get together with other stakeholders to make this a true mixed-use plan and to make a master plan for the business park. Mr. Jenaway stated that this is a great conversation, and that no ideas are wrong; this is more of a brainstorm session. Mr. Jenaway asked how we can set a master plan in motion, as opposed to a developer coming in and doing what they want. Mr. Jenaway stated we then need someone to recruit companies, businesses and developers to come in and build according to that plan.

Mr. Brown suggested that we make minimum lot sizes so that developers can't come in and subdivide parcels.

Mr. Popek made a motion not to recommend proceeding with this ordinance because both sections A and B have pieces that do not have a positive impact in Upper Merion Township. Ms. Camp made a comment that the motion should indicate that the Board of Supervisors has identified an issue that needs to be addressed through continued discussion. Mr. Brown seconded the motion to not recommend, and all were in favor.

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Zoning Ordinance amendment – Article XXXVIII - Sexually Oriented Businesses

Amendment Article XXXVIII, Sexually Oriented Businesses. Repeal Article in its entirety and replace with new Article XXXVIII

Mr. Hamaday gave an explanation that this ordinance is repealing the old code language and creating a new standard. This is a direct result of a new store by Domino's on North Gulph Rd. called Excitement Smoke Shop that wants to sell adult materials. A prior ordinance only permitted a certain percentage of sales to be adult materials. They filed an appeal arguing that some other stores sell magazines. The Township didn't qualify how much material a business can sell, so there was a previous ordinance change that says 25%. This new ordinance made some changes in definitions with regards to sexually oriented businesses and sets forth how much a business can sell.

Mr. Popek asked whether the store would be allowed to sell under this ordinance. Mr. Hamaday explained that 30% of sales at Excitement Smoke Shop is for adult products. Mr. Popek stated that our ordinance says that they need to be at least 1,000 feet away from residential properties, which is not the case for this specific property. Mr. Hamaday stated they will be nonconforming because of the lawsuit, and as a result our attorney had drafted this ordinance to comply. Mr. Hamaday explained that the ordinance was changed to combat issues that were raised about violating the first amendment rights and about the fact that at one time we said that if a business sold such material, they were considered sexually oriented.

Mr. McKee asked if such uses are still allowed only in the LI districts. Mr. Hamaday confirmed that is still true, but if someone had a store that was selling less than 25%, they could be in other districts like Target or the mall, for instance. Mr. McKee made a motion to approve the new ordinance, with the exception of some minor typos. The motion was seconded by Ms. Camp. The motion carried 4 – 0.

ADJOURNMENT:

With no other business to discuss, Mr. Brown moved to adjourn the meeting with Mr. McKee seconding and all in favor at 9:57 PM.

Respectfully Submitted:

Martin Trumpler, Secretary