

**Meeting Minutes from the  
DOYLESTOWN TOWNSHIP PLANNING COMMISSION  
Work Session  
March 20, 2019**

**The Doylestown Township Planning Commission Work Session was held at 5:00 p.m., Wednesday, March 20, 2019 at Meeting/Activity Trailer, 425 Wells Road, Doylestown, PA 18901. Members of the Doylestown Township Planning Commission in attendance included Chairperson: Judy Hendrixson, Vice Chairman; Gregory Reppa with members; George Lowenstein, Ted Feldstein and Thomas Kelso. Others in attendance included, Township Manager; Stephanie Mason Board of Liaison: Richard Colello and Township Planning Consultant; Judy Stern Goldstein**

**Noise Nuisance Ordinance:**

Ms. Mason reported; the township has not received many complaints due to noise. However, upon completing some research, it was found under the ordinance, a lawnmower is 90 decibals and the township noise ordinance have a required 60 decibals. As a result, Ms. Mason recommends the removing noise from zoning and place under the nuisance ordinance. The ordinance is over twenty years old and Ms. Mason also suggested to have the Chief of Police, Director of Code Enforcement and Township Solicitor view and evaluate the ordinance to become easily enforceable.

Chief Logan added; the ordinance is difficult to enforce in the current state. As an example, one complaint received was from a resident living next door to a commercial building which runs lawnmowers. The business is allowed. However, per the ordinance, they are not allowed to conduct business, which creates an issue. In November, Chief Logan informed the resident, the issue cannot be enforced due to the business permitted to operate for thirty years in a residential district. Currently, the only options are to inform residents with complaints, the Planning Commission allows the business to operate under the current ordinance or move out. Unfortunately, it will not resolve the issue. Ms. Stern Goldstein clarified; noise issues in zoning are addressed by the Code Enforcement officer. Chief Logan indicated if the noise ordinance only allows certain noise decibals from 10:00pm until 7:00am for residents, it should be the same for businesses for consistency. Ms. Mason noted; complaints are mainly received during daytime hours and there are no consistent regulations on file.

Upon a discussion amongst the Commission regarding details of the current noise ordinance, Ms. Stern Goldstein read the noise ordinance recorded as at no point on the boundary of residential, industrial or commercial district of sound pressure level, any operation can exceed the level for residential at 55 decibals, commercial at 60 and industrial district at 65. Mr. Kelso noted; with the ordinance stating district, there is a flaw in the ordinance. Ms. Stern Goldstein continued reading, if the noise is not smooth or continuous, or rating between 10:00pm and 7:00am. The statement indicates by starting up a lawnmower would be a violation, due to a lack of a definition of smooth and continuous or after hours.

Mr. Kelso commented; the Planning Commission only reviews noise ordinance issues through a land development plan with a potential issue. He suggested to consider having the noise under the zoning ordinance to assist in mitigating the requirement. Ms. Mason informed; it was noted the complaints began when the quarry installed larger berms. Upon speaking with the Department of Environmental Protection (DEP) who informed the berms will be pushed in within the next few years. Ms. Mason also spoke with Township Solicitor; Jeffrey P. Garton who

suggested; to remove the noise section from the zoning ordinance, updating and placing under the nuisance ordinance will be a better approach. Ms. Hendrixson agreed with Mr. Kelso comment to have a noise reference remain in the zoning ordinance. Chief Logan commented; the largest issue is the time of day and questioned; why the ordinance can't reference a time during the evening to a certain time in the morning to accommodate businesses and keep consistency. He noted, no complaints have ever been received during the day. If there are no decimal readings during the day, businesses will have no complaints. Mr. Kelso disagreed and indicated regulations should be in place during the day and suggested raising the decimal to 75. Ms. Mason noted continuous noise at a decimal of 85 and over can be harmful. In addition, normal conversations are rated at 60 decibels and above what is allowed under the district's boundaries.

Upon a discussion amongst the Commission of what is an appropriate decimal rating during the day, Ms. Hendrixson suggested to raise the decimal rating during the same for a continuous, short term motion. Chief Logan noted; trucks deliver periodically throughout the day and the ordinance and short term needs to be defined.

Chief Logan questioned if the Code Enforcement Officer regulates the ordinance. The Commission indicated yes. Ms. Stern Goldstein clarified; if an issue arises during off hours, the police department is expected to enforce the nuisance ordinance.

Chief Logan questioned; if the ordinance can be changed to eliminate complaint towards businesses, such as lawn mowers. Ms. Mason answered; the complaint will be forwarded to the Zoning Hearing Board, if cited by the Code Enforcement Officer.

Mr. Reppa questioned; since the business has been operating for over thirty years, can the issue be non-conforming. Ms. Hendrixson indicated no, since the property is along a commercial district and the use is conforming.

On behalf of the staff, Chief Logan requested guidance in determining what is considered a violation and what the ordinance states. Mr. Kelso indicated the violation should be determined by the district boundaries. Ms. Hendrixson noted; the residents inside the commercial district. Therefore, if the ordinance is written to go into the district boundaries and the district property is not within the district line, there is no violation.

Ms. Stern Goldstein reference the second section of the ordinance as, if the noise is not smooth or continuous or is radiated between 10:00pm and 7:00am. As a result, any evening noise is regulated by second section of the ordinance and the statement smooth and continuous is regulated by daytime disturbance. It proves a correction decimal of negative three for the evening and negative five if it's a different character.

Mr. Kelso suggested the Commission review the ordinance and decimal levels in the industrial district, where it should not be the same as in a residential district. The ordinance should be measured by property line. Mr. Feldstein suggested to consider exempting lawn machinery, such as mowers. Mr. Colello questioned; should the ordinance reside in zoning or separately. Mr. Kelso answered; it doesn't matter due to the changes considered as administrative. Chief Logan indicated if the nuisance is within the commercial district or boundaries, it's not considered protected class. Therefore, the complaint should stop and doesn't need to be addressed.

Mr. Reppa indicated; it makes sense to have a notation under the standalone and a reference in the zoning ordinance to consider noise under the land development process. Mr. Kelso noted; for a standalone, the appeal process is difficult. Ms. Mason added; appeals are addressed by the district court.

Mr. Colello questioned if the the decision of the Commission is to leave the nuisance ordinance as is and in the future, schedule a time consider placing lawn mowers as an exemption and changing the decimal rating. Ms. Mason suggested to have the ordinance cleaned up as some point. However, in the mean time a different approach will be placed. Chief Logan suggested to simplify the decimal ratings. Mr. Kelso agreed to have the decimal levels reviewed and consider having the lawn mowers exempt and placed under maintaining property.

### **Landscape & Buffer Planting Ordinance**

Ms. Stern Goldstein distributed Landscape Regulations §153-34 listed under the Subdivision and Land Development Ordinance (SALDO) noting all plant changes made for the Environmental Advisory Council (EAC).

Ms. Stern Goldstein noted an issue as a residential property in a commercial district, the buffer must be placed against a residential district or use. If a property is in a commercial district, next to an existing residence, a buffer is required. To address, Ms. Stern Goldstein removed the reference of residential use. A nonresidential use on residential district, buffering against a home is not required in the middle of a nonresidential district.

For parking lot planting, the ordinance notes too much performance standards and may not accomplish much internally. Additionally, the formulas may be inhibiting good design. Ms. Stern Goldstein recommended; in the zoning district, enclose along all property boundaries and stream lines.

*Mr. Feldstein left the meeting at 5:46pm to attend a Zoning and Planning class.*

Mr. Reppa questioned if tree requirements along parking lots will be eliminated. Ms. Stern Goldstein indicated no, only shrubs along parking lots and in section b, shrubs along islands.

For woodlands, the ordinance currently requires 50% of protection of woodlands and greater for environmental sensitive woodlands. Mr. Kelso noted; dense residential properties may have issues. Ms. Stern Goldstein responded; other than a cluster is used may cause an issue. Mr. Kelso commented; it poorly districted and may add to the issue. Ms. Stern Goldstein responded; several municipalities have different regulations for both residential and non-residentials. Woodland are normally 80% in residential and 50% in nonresidential, where the township is 50% overall. Another issue is taking woodlands out of the site capacity calculations and resource protection and have it placed under performance standard in the subdivision land development ordinance where anyone can clear a lot. Under zoning it's permitted to clear an entire lot and protect the woodlands.

Mr. Kelso suggested; a new performance standard be created for commercial properties, where a requirement for more flexibility is in place inside of the area. It can be accomplished by performing an evaluation of other trees on the same property and preserve what is in the buffers. After, devise a plan not preserving 50% of woodlands to have the properties developed more. To preserve the woodlands and buffers, Ms. Stern Goldstein offered an option to quantify somewhere at 50% overall. The township can require 25% overall of the site on the typical lot, depending where the buffer yard is located. Mr. Kelso commented; it's not fair to penalize a certain caliber of trees be replaced. Mr. Reppa added; if a property is maintained with large trees, it's penalized when a development is proposed. There should be an incentive to save trees. In addition, no matter what type of land, there should be a certain number of trees allowed before and after a development to equalize the two. Ms. Stern Goldstein suggested; if the Commission would like to remove the requirement, the EAC might be opposed to the decision. An offer to balance out the decision may assist but may be difficult in a quantified way. In addition, it will penalize any home owner with existing trees in the way of completing a project. Mr. Kelso recommended having an arborist evaluate trees before removing.

Mr. Kelso questioned; how the change would apply to the woodlands. Ms. Stern Goldstein answered; the same results will apply. Woodlands as a canopy cover, so it will not be individual trees. If the trees are removed under canopy cover, it will still be considered woodlands.

Ms. Hendrixson requested clarification on what issue should be addressed. Ms. Stern Goldstein answered; a property to be developed with 50% woodland could be at risk as if it's fully wooded. However, if hardship can be determined, relief will be applied. Mr. Reppa suggested; a conditional use be considered instead of meeting with Zoning Hearing Board. Ms. Stern responded; a conditional use requires a formal hearing and can go either way. Ms. Hendrixson suggested the issue be reviewed again.

Ms. Stern Goldstein requested guidance on items three and four and if the section should be relaxed. Ms. Hendrixson commented; the section may be too complicated. Ms. Stern Goldstein answered; the woodlands are currently 50% protected and to lesson, the ordinance should note where the trees and buffers should be kept. Most do keep the vegetation and the buffer yards so not to count and plant the buffer yards. Ms. Stern Goldstein questioned; should the ordinance note 50% protection for all zoning districts and treat the different classes has residential at 50% and nonresidential less. Mr. Kelso responded; it makes sense in commercial district to plant appropriate plants to the use and surrounding uses as oppose to protecting 50% of the woodlands. To accomplish, the percentage should be changed on commercial and industrial properties. The high density nonresidential district should also be considered under R4. Ms. Stern Goldstein recommended changing the percentage to 25%, which is half the protection for other districts. As a result, 25% will be preserved on the woodland under the R4 District and the nonresidential districts.

Upon a discussion regarding effects to buffers and woodlands with percentage change, Ms. Stern Goldstein referenced the tree protection section of the ordinance as under the category of six to twelve inches, 60% needs to be preserved or reduce to 40% with tree replacement. In general, 40% of tree removal can be removed with no penalty. For thirteen to 24 inches, 70% needs to be preserved and reduced to 50% removed with no penalty with replacement trees. Twenty five to forty eight is 90% protection and over 48 inches is 100% protected, where removal of trees requires a waiver. Ms. Stern Goldstein noted; each waiver request was granted. Mr. Kelso commented; since waivers are granted, the ordinance should be changed. Ms. Stern Goldstein indicated; granted waivers were provided when requested. Most residents attempt to keep the bigger trees. Ms. Hendrixson questioned; what kind of push back the township will receive if the percentage is reduced to 25%. Ms. Stern Goldstein answered; the township will receive a lot of push back.

Mr. Colello commented; the Commission should devise their decision on what they believe is right and not by what the reaction of the EAC might be.

Mr. Kelso commented; other communities implemented different approaches, such as site specific by analyzing the tree to devise a plan with general requirements. Ms. Stern Goldstein indicated there is an alternative landscape plan by conditional use, which is more regulatory by requiring a conditional use hearing. As result, the alternative plans don't always complete what is needed to be done and at times require more planting. Mr. Kelso responded the plan also opens land development opportunities. It forces to view the property closer to determine what works best.

Upon a discussion reviewing several options for woodlands and tree removal, Ms. Stern Goldstein suggested leaving the ordinance as written and another discussion is schedule when an issue arises. Changes recommended under sections one and two will greatly assist with design. Ms. Hendrixson commented; she prefers to leave the ordinance as written. Mr. Reppa commented; he prefers to reduce the percentage to a small amount to make the requirements more reasonable. However, he's unsure what the new percentage should be. Ms. Stern Goldstein recommended the percentage not go below 25%. Mr. Kelso questioned; to change the percentage to 40% and questioned; if there is a confliction with other standards in the ordinance for that property or the controlling factor on density. Ms. Stern Goldstein answered; since the impervious is based on the net buildable and the woodlands affects the net buildable, the impervious and woodland protection work hand to hand. A standard cannot be created in one place that contradicts and makes it impossible to reach the impervious or density. However, upon completing some calculations, Ms. Stern Goldstein informed; the calculations are already knitted together and doesn't affect anything and depends upon the township's desire on how much woodlands protection they would like to acquire. It's also within the Marginal Propensity to Consume (MPC) and not negatively impacting the ordinance. Mr. Lowenstein

questioned; if the current ordinance hasn't created problems, why change it. Mr. Kelso answered; the high density commercial areas have the most issues.

Upon Ms. Stern Goldstein question, Mr. Reppa, Mr. Lowenstein and Ms. Hendrixson agreed to change the percentage to 40%. Mr. Kelso suggested to review further options on a better way to approach than the current ordinance in use for forty years. Ms. Stern Goldstein offered to submit changes to the EAC under SALDO and provide options for woodlands at the next Planning Commission meeting. The Commission agreed.

### **Comprehensive Plan:**

Ms. Stern Goldstein reported; since touring the township in March of 2018, changes were made to the future use maps and the following year, demographics were updated for the 2017 ACS. Recently, resolutions to the comprehensive plan was discussed, changes were made to the existing land use map, bike & hike map was updated from June 2018 and exhibit maps from the tour was provided.

Ms. Stern Goldstein noted; the township is in good shape of handling the population, due to the projections from the Pennsylvania Department of Conservation and Natural Resources (DCNR) comprehensive plan never coming to fruition. The new population projections are less than indicated now. Mr. Lowenstein questioned; has information regarding what type of model used was provided with percentage of error. Ms. Stern Goldstein answered; Ms. Mason spoke with the school district and presented the findings in March 2018. Ms. Mason added; the school district is not growing as anticipated. The enrollment of students is slightly shrinking.

Mr. Lowenstein suggested to provide a scope of calculations from projections to assist in strategies and placing policies accurately into the comprehensive plan. Ms. Stern Goldstein informed; most of the information is now online and will forward to the Commission. Mr. Reppa added; housing projections should also be included.

Upon a discussion amongst the Commission regarding what the Comprehensive plan should include, Ms. Hendrixson suggested to include walkability for seniors as more development in Village Commercial. Village Commercial can also be considered along an area of possible school closings. Ms. Stern Goldstein indicated; the area can also be appropriate for senior housing under institutional use. Ms. Hendrixson responded; limiting to only seniors may have issues and a mixed use should also be considered. Mr. Kelso disagreed and indicated the market for commercial use is not utilized and residential is more desirable. Mr. Reppa suggested considering a mixed use development that is primarily residential use with an option of smaller commercial use. Ms. Hendrixson commented; mixed use is the most flexible and as trends changes, it will change as well.

Ms. Stern Goldstein questioned if the consensus of the Commission to change the Kutz property to mixed use. Ms. Hendrixson agreed. Mr. Kelso questioned; what the best negotiating position is. Should the use remain institutional. Ms. Stern Goldstein answered; the topic was discussed last year, where it was decided to leave schools as institutional because of the negotiating. Mr. Reppa responded; it's best to leave as institutional, because it's a current use and not sure how long it will last and provide flexibility for negotiation. However, under the comprehensive plan, note the mixed use is reasonable use for changes in existing buildings as a general statement or policy plan. Ms. Hendrixson agreed. Ms. Stern Goldstein indicated the use will be added to the resolution and a statement will be added for age friendly community and the tenants of age friendly communities for setting opportunities for future policies.

Ms. Hendrixson indicated; another option for mixed use and age friendly is the demographics for costs and the issue of price for housing in the township. By adding the uses to the resolution, the township can receive lower costs options. Ms. Stern Goldstein responded; mixed use doesn't always work. At times, more opportunity for density doesn't provide more affordable housing.

Ms. Stern Goldstein reminded; the age friendly and mixed use will be added to the resolution for the Comprehensive Plan for the Commission's review at the March 25, 2019 meeting.

**Adjournment:**

Hearing no further business, the March 20, 2019 Doylestown Township Planning Commission Work Session was adjourned at 7:17pm.