

NOVEMBER 18, 2005 SUPERVISORS' SPECIAL MEETING WITH LAND CONSERVANCY OF ADAMS COUNTY:

The Mount Joy Township Board of Supervisors met this date for a special meeting with committee and board members of the Land Conservancy of Adams County at 12:00 p.m. at the Agricultural & Natural Resource Center, 670 Old Harrisburg Road, Gettysburg, PA with Chairman James Waybright presiding. Others in attendance were: Supervisors Harold Kirschner, Samuel Dayhoff and William Chantelau; Solicitor for the Agricultural Land Preservation Board John R. White; Attorney John Mahoney representing Keystone Homes Development; Land Conservancy of Adams County Members Sidney Kuhn, Mark Clowney, Bob McIlhenny, Mary Margaret Kuhn, Fran Lorenzo, Curt Musselman, Harry Seifert, Marti Shaw, Norma Calhoun; Solicitor for Land Conservancy of Adams County, Clayton Wilcox; Theresa Adamik, County Treasurer; and R. Glenn Snyder, Chairman of the County Commissioners; and Acting Secretary Robin Crushong. Supervisor George Scott was not present. Others in attendance were: None.

Mr. Waybright opened the meeting by introduction of all participants. He states that the Board of Supervisors were here today to ask the Land Conservancy of Adams County ("LCAC") to partner with MJT in preserving open space with the use of transfer develop rights ("TDR"). Mr. Waybright turned it over to Mr. Dayhoff for a full explanation as to what the Supervisors were looking for. Mr. Dayhoff explained the strong demand for TDRs by developers. One plan has already been filed with MJT. Mr. Dayhoff explained that MJT has two districts that can be used for TDR; i.e. Rural Residential ("RR") and the Agricultural Conservation ("AC"). The RR District is the sending and receiving district while the AC District is only the sending district. The plan that has been filed is a golf course (Meadow Brooks Golf Course) and MJT is looking for the LCAC to hold the easement. MJT is willing to pay a fee to the LCAC to hold the easement. We are here today to ask the LCAC to hold the easement and also to work out the easement language to suit all parties involved.

Solicitor White explained that the TDRs have been in the law for quite a while but he does not know of any other township in Adams County that uses TDRs. Other townships will be coming on the band wagon soon too. Solicitor White explained the TDR process and how it works with the districts in MJT. MJT's Zoning Ordinance calls for an option of using TDRs. The developers want to increase density in the RR district so they are allowed to get TDRs from private landowners in the AC and the RR districts. MJT is looking for the LCAC to hold the easements and enforce the Deed of Conservation Easement on the sending properties less than 50 acres and the sending properties with more than 50 acres but are non-agricultural. The more than 50 acres would be a Deed of Agricultural Conservation Easement. MJT understands that the LCAC has preserved only historical, value, etc. to date and that preserving open space is a new idea.

The conditions of covenant restrictions can be worked out to meet the LCAC and MJT. The Deed of Conservation and the Deed of Agricultural Conservation Easement would be primarily the same format. Each easement would be dealt with individually adding/subtracting restrictions. Solicitor White has drafted a Deed of Conservation Easement and will send to all interested parties by e-mail. The restrictions that were discussed at the November 14th meeting were added to this draft. We are inventing the wheel on this arrangement with the LCAC so there will be additions/subtractions.

It was asked why MJT could not hold the agricultural easements, the non-agricultural and under 50 acres. Solicitor White explained that MJT is governed by the Agricultural Security Area Program which does not authorize MJT to hold easement in connection with TDRs but through its Agricultural Land Preservation Program it is authorized to hold agricultural easements. Mr. Dayhoff pointed out that the reason MJT is coming to the LCAC is because it does not want to form its own Land Conservancy, MJT wants to work together with the LCAC. The only way that MJT can hold the TDR easements is if it forms its own Land Conservancy. There are between 900 and 1,000 acres of TDRs to be preserved. This is free preservation

and if the LCAC does not want to work together with MJT then MJT will form its own Land Conservancy and will butt heads with the LCAC for the same monies. There is a trade off for the developer and MJT/LCAC gets land preserved. This is a win, win situation.

Mr. Snyder asked who determines the price of the TDR.

Solicitor White stated that a number of TDR come from the sending property based on the zoning of the property. The calculations are set forth in the MJT Zoning Ordinance. The actual price for the TDRs is agreed upon between the developer and the landowner. The developer presents the TDRs to MJT at which time MJT makes sure that the TDRs are allowed as presented and if they are the process continues.

Mr. Clowney asked that if the property does not sell all of the TDRs that are allowed, who determines what part of the property is preserved. The MJT Zoning Ordinance specifies that it must be contiguous rectangular shape and that it makes sense.

Solicitor Wilcox asked what document the legal description of the property would be in.

Solicitor White indicated that the legal description would be included in the Deed of Easement. Mr. Dayhoff noted that there is no provision for closure on non-agricultural easements but agricultural easements would have a closure restriction. Mr. Dayhoff stated that the process of getting the TDRs must be done by the developer before the plan is recorded.

Mrs. Lorenzo asked if MJT will be doing the easement language. She stated that the LCAC usually writes the easement and each easement is tailored.

Solicitor White stated that since we are inventing the wheel we would start out with a form and negotiate each easement by including/excluding certain covenants. LCAC will have to be comfortable with the language too. The partnership would be between the sending landowner, LCAC and MJT.

Mrs. Lorenzo asked if MJT would be holding the easements on the agricultural land over 50 acres. Mr. Dayhoff stated that MJT is not authorized to hold TDRs under the ASA. The TDR easements are preserving open space and MJT understands that this is different from what the LCAC is doing now, but MJT is trying to limit/control the development with this new tool. MJT is directing the development to the RR district but the density is not desirable to the developer so they can increase the density while MJT preserves open space. The minimum size is 10 acres for preservation.

Mr. McIlhenny stated that if a 100 acre parcel in the AC district sold all the TDRs available, no future development, subdivision including additional dwelling units could be put on the property. The impervious area can be increased but no additional dwelling units.

Mr. Chantelau stated that the LCAC would enforce the easement forever. The time will come for the need for more staff. Other townships will be coming to the LCAC soon. We are all interested in slowing development and this is another tool to do so. Adams County is the third (3rd) largest growing county.

Mr. Dayhoff stated that zoning controls/manages development but preservation stops development. The developers are looking for the large tracts of land.

Mr. Snyder stated that we want to be agricultural friendly. He is concerned about putting restrictions on agricultural land. Ms. Kuhn stated that 50+ acres is not an issue but the 50- acres might be an issue. Mr. White stated that there would be no more restrictions than the County plan.

Mrs. Lorenzo stated that MJT will have more density in areas that have lower density and the lower density areas will have high density close to water and sewer supplies. This is the way the infrastructure will be in MJT. It was pointed out that the LCAC need only be concerned with the easement and enforcement of the easement. The infrastructure of MJT is the township's responsibility not the LCAC.

Solicitor White indicated that we can control development and understands that this is not the perfect scenario. Mr. Dayhoff stated that right now this is what we have. It is not possible for MJT to do away with RR district. MJT is the one directing the TDRs and the LCAC is only controlling the easement.

Mr. Clowney asked if the LCAC does not take the easement on the golf course what would happen. Mr. Dayhoff stated that this will go through. It is an option stated in MJT's Zoning Ordinance and the developer has the right to request it. If the LCAC does not do the program, then MJT will be forced to form its own Land Conservancy. The LCAC will need to consider all the easements and will not be able to pick and choose. The LCAC will negotiate with the landowner. Developer has to know that it will take the TDRs. Mr. Dayhoff stated that these developers know what they are doing. Mr. Chantelau stated that any land, any TDR, we need to set a procedure down now and get a strong form that can be customized but have a base set. The LCAC needs to look outside the box. Times are changing and things need to be done this way. Adams County is running out of the "feel good" property to preserve. We now need to take what is left.

Solicitor Wilcox suggested that we get a memorandum of agreement/understanding down and try it for a year term. He understands that there will be glitches that need to be worked out.

Mr. Waybright stated that it could be looked at annually and any adjustments could be made be it language, fee, etc. He also suggested that a committee be formed with some LCAC members and some MJT members.

Mrs. Lorenzo asked that since MJT has the plan on the table now, what if the LCAC decides not to do the easements. Mr. Dayhoff stated that MJT will have to form its own Land Conservancy – this is happening. Mrs. Lorenzo asked when MJT needed an answer as to the LCAC decision. Mr. Dayhoff stated as soon as possible.

Mrs. Adamik pointed out that the County does not have a standard formula for fee collection on easements. It goes on a case-by-case basis. MJT may pay an annual fee, endowments/annuity (legal fee coverage if it becomes necessary). Mr. Waybright stated that MJT would be willing to pay the fees associated with the easements. Mrs. Adamik also would like the agreements from the developer forwarded to the LCAC.

The LCAC will meet and discuss this partnership among them and get back to MJT as soon as possible.

Adjournment:

With no further business to come before the Board, Mr. Chantelau moved, seconded by Mr. Dayhoff, to adjourn this special meeting at 1:30 p.m. this date. Motion carried unanimously.

Respectfully submitted,

Robin K. Crushong
Acting Secretary