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# SICKLERVILLE FOREST PRESERVATION INITIAL REVIEW RESULTS

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At The Request Of The  
**SICKLERVILLE Association**

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## **Introduction**

The Sicklerville Association contacted Community & Environmental Defense Services (CEDs) with concerns regarding the development of a five-acre tract of woodland adjoining the south side Sicklerville Road in Sicklerville, New Jersey. The Association's goal was to preserve as much of the forest as possible. The woodland is located on a larger, 47-acre site that will likely be proposed for development in the near future. The Association also hopes to ensure that development of the site does not detract from their quality of life.

It does not appear that a formal submittal has been made for development of the 47-acre site. As a result, this Initial Strategy Analysis was limited to a review of the Gloucester Land Development Ordinance (LDO) for requirements which might help preserve the five-acre woodland or maximize the amount of forest retained. Following are the results of this research.

## **Forest, Woodland & Tree Preservation Regulations**

After scanning the LDO into a computer and converting it to searchable text, the ordinance was searched for any regulations relevant to the preservation of forests, woodlands, or trees. Following are the results of this search.

LDO Section 507.A.4.g, states:

- g. Every effort should be made to avoid removal of trees having a caliper of five (5) inches or greater as measured 4½ feet above ground from the property in the process of subdivision, grading, or installing improvements. Where, in the judgement of the approving authority, such removal is unavoidable, the applicant shall install trees in such locations and of such size, variety, and quantity as the approving authority shall direct. Notwithstanding the five (5) inch caliper limitation, no substantial area of smaller trees or shrub cover shall be removed without the provision of comparable replacement as approved by the: approving authority.*

The preceding regulation is the strongest found in the LDO for the protection of the five-acre woodland. We would like to discuss this regulation with an attorney who has a good reputation for winning land use cases on behalf of citizens in your area. Hopefully, the attorney will find that this provides the Township with ample authority to preserve the woodland.

LDO Section 514.A.1 states:

### *A. DESIGN GUIDELINES FOR SITING BUILDINGS.*

- 1. Buildings, particularly those on wooded or steeply sloped (in excess of 15% slope) land, shall be carefully sited to take advantage of aesthetic features and views, refrain from infringing on critical areas, and retain woodland and specimen trees.*

I believe this regulation could be used to prevent a building from being permitted within the five-acre woodland. While the five-acres may not be a "steep slope" area, it is definitely a woodland and only one of the two must exist for the siting guideline to apply. The woodland occupies about 10% of the site and is in arguably the most sensitive 10% of the site since it adjoins the

only stream on the site. We would like to discuss this issue with an attorney who has a good reputation for winning land use cases on behalf of citizens in your area.

LSO Section 803.B.4.u, requires that the informal plat, which is the earliest submittal for a major subdivision, must identify all wooded areas on the site.

LSO Section 806.B.13.a.(3).(e) and (f) requires that the preliminary plat show wooded areas and individual trees in excess of 10" D.B.H. [*diameter breast high*] outside of wooded areas.

It appears that LDO Section 816 will require the developer of the 47-acre site to submit an Environmental Impact Statement (EIS). EIS regulation §816.B.4.d, requires that the site plan show:

*Vegetation. A description of the existing vegetation on the site. The location of tree masses shall be depicted. Where woodlands are delineated, the forest type shall be indicated.*

LDO regulation §816.B.7, requires that the EIS address:

***Impact.*** *Discuss both the negative and positive and off-tract impacts. Indicate those negative impacts that are unavoidable. The specific concern that shall be considered include, but are not limited to, the following:*

*b. Impact on surface water and groundwater quality.*

*e. Alteration to existing vegetation and its impact on wildlife and wildlife habitats.*

From a technical standpoint, we could certainly show that removing the woodland would negatively impact both surface and groundwater quality and adversely affect wildlife. Given that it appears the Township planning staff and the Planning Commission is applicant-oriented, the key question is:

*Is the Commission legally bound to protect the woodland?*

We would like to discuss this question with an attorney who has a good reputation for winning land use cases on behalf of citizens in your area.

### **Buffers**

The LDO defines a buffer as:

***BUFFER*** - *A yard area exclusive of yard setbacks; an area within a property or site, generally adjacent to and parallel with the property line, either consisting of natural existing vegetation or created by the use of trees, shrubs, fences, and/or berms, **designed to continuously limit view of and/or sound from the site to adjacent sites or properties**; also termed a buffer yard or transition strip.*

Gloucester staff had said that a minimum 25-foot buffer must be maintained along your common boundary with the site. The LDO regulation requiring this buffer appears to be §507.B.3.

We were also told that if the applicant proposes to place an incompatible use, such as a parking lot, near adjoining homes then a more substantial buffer may be required. The regulation requiring the expanded buffer appears to be §507.C.1, and reads:

*The landscaped buffer shall be designed to screen non-residential parking areas from streets, lots zoned for residential use, or lots upon which are located residential uses.*

However, regulation §510.F, only requires a 25-foot setback between a residential property line and a parking area. So it is unclear exactly how much of a buffer will actually be required. We could determine this by looking at recently developed parking lots to see how close they were built to pre-existing homes.

### **Open Space**

The Association provided CEDS with a copy of Ordinance O-0-06 which added §418b to the LDO and established a Senior Citizen Residential-Highway Commercial Overlay District. Assuming this overlay applies to the site, then the original base zone - SCR Senior Citizen Residential District - requires that a minimum of 35% of the site be preserved as open space. The Ordinance defines open space as:

*...any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use for enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space; provided that such areas may be improved with only those building, structures, streets, and off-street parking and other improvements that are designed to be incidental to the natural openness of the land. Open space shall not include areas required, established or set aside for use as part of the surface stormwater management system, such as detention and or retention basins.*

I presume the base zone for the site might also be Highway Commercial (HC). Maximum lot coverage is restricted to 50% to 75% by §416.F, depending upon the specific use. Lot coverage is defined as: The area of a lot covered by any impervious surface. In other words, no more than 50% to 75% of the site could be covered by buildings, parking lots, streets, driveways, or sidewalks. I presume the remaining 25% to 50% of HC-zoned sites developed in Gloucester Township are green areas.

It would be logical to include the five-acre woodland as part of either open space or green area. But can the Commission be compelled to do so? Again, we'd like to get a legal opinion on this.

### **Environmental Buffers**

The stream flowing through the five-acre woodland is shown as intermittent, meaning it flows discontinuously or for just part of the year. The New Jersey Division of Land Use Regulation

requires a 25-foot buffer along intermittent streams. A wider buffer would be required if any rare, threatened, endangered species, or other uniquely important resources were associated with the stream. But the New Jersey I-MAP geographic information system website shows none of these resources as being present along the streams. A detailed biological evaluation would be required to determine if I-MAP if resources are, in fact, present. An evaluation of this magnitude is beyond the scope of this Initial Strategy Analysis.

### **Well Head Protection Area**

A well head protection area (WHPA) covers much of the site. The WHPA is actually generated by two wells: one serving the Farmhouse Road community and another on the south side of the Atlantic City Expressway.

LDO Section 401.I.5, states:

5. *Public Wellheads. No disposal of effluent outside of the conveyance system of the Gloucester Township Municipal Utilities Authority shall be permitted within three hundred (300) horizontal feet of a public water supply wellhead. No service station, dry cleaning operation or underground petroleum tank shall be located within one thousand (1,000) horizontal feet of a public water supply wellhead.*

While this regulation does not prohibit development of the woodland, it somewhat restricts uses on the site. We could also argue that the WHPA covers the woodlands and therefore increases the need for preservation.

The New Jersey I-MAP website also shows that a plume of contamination exists in the vicinity of the Farmhouse well. There is a possibility this plume may also restrict site development, though this requires research beyond the scope of this Initial Strategy Analysis.

### **Sewage Pumping Station**

Association members recalled hearing of problems at the sewage pumping station which would serve development on the 47-acre site. A letter was sent to Gloucester Township Municipal Utilities Authority inquiring about this issue.

### **Residential Site Improvement Standards**

Known as RSIS, these standards take precedence over the Township LDO. In other words, if there is a conflict between what RSIS and the LDO requires, then the RSIS requirement is applied, not that in the LDO. I scanned RSIS quickly for any text addressing woodland preservation and didn't see anything.

### **Hearing Notice**

LDO Section 705.A, requires that public notice be given when the Planning Commission holds a hearing on:

- an informal or conceptual project review;

- a preliminary subdivision approval;
- a preliminary site plan review; or
- other submissions likely for development of the 47-acre site.

This section implies that the Commission is required to hold a hearing on each of these submissions.

Unfortunately, notice is given only ten days in advance of a hearing. The notice is mailed to all owners of property within 200 feet of the development site.

Ten days is a woefully short period of time to obtain then review a submission. This is why it is vitally important that we find a way to learn when a submission is first made to the Township.

I suggest that we attempt to determine if development of the 47-acre site must come in for the informal or conceptual project review hearing before the Planning Commission. If it does, then this will provide ample advance notice of what is being proposed since the Commission does not grant formal approval at this stage.

### **Recommendations**

Following is a summary of the recommendations presented above.

1. We would like to visit the five-acre woodland to determine if any uniquely sensitive or important environmental resources are associated with it.
2. We suggest scheduling a meeting with the Mayor and Community Development director Ed Sayers to discuss options for preserving the five-acre woodland, including the following specific questions:
  - a. Under what circumstances would development of the 47-acre site require an informal or conceptual project review hearing before the Planning Commission?
  - b. How much open space-green area would be required and how likely is it that the Township would insist that the five-acre woodland be preserved as part of the open space/green space?
  - c. Would LDO Section 514.A, Design Guidelines for Siting Buildings, prevent the siting of a building in the five-acre woodland?
  - d. What is the minimum buffer the Township would require between adjoining property lines and a parking lot, building, or other structures proposed nearby?

3. We would like to identify an attorney who has a good reputation for winning land use cases on behalf of citizens in your part of New Jersey. We would then like to get an estimate of his fee to provide you with a legal opinion on the likelihood of preserving all or a portion of the woodland.