

# Preservation efforts tame retirement community concerns

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PLYMOUTH MEETING — John Fleming never imagined he was starting a revolution.

When the developer set out to build a \$220 million retirement community on the site of the old Eugenia Hospital in Whitemarsh Township, Montgomery County, he

figured there would be the usual scattering of opposition, but that, by and large, people would welcome his development. After all, a retirement community is certainly similar in many ways to the former hospital — quiet, low traffic and mostly unobtrusive — and the intended customers lived right there in the community.

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**Craig L. Johnson**  
professor,  
Indiana University

So, it came as a considerable shock when the development sparked a storm of protest, uniting residents in a powerful new township-wide residents organization, spurring a political movement that led in part to changes on the Board of Supervisors, and ultimately stopping his development cold by a unanimous vote of the Planning Commission.

But it's what happened next that might mark the real revolution.

Instead of giving up, or trying to force the project down the throat of the community where he grew up, Fleming and his attorney, Jeffrey B. Rotwitt, decided to make the



The Hill at Whitemarsh may appear sprawling, but it's designed to preserve open space.

community a deal it couldn't refuse: Fleming would agree, somehow, to preserve all or part of neighboring Erdenheim Farm, owned by former Philadelphia 76ers owner F. Eugene Dixon. The farm, easily the largest undeveloped parcel in the area, provides beautiful pastoral views in what is otherwise largely a built-out suburb.

“I think everybody was a little shocked” when Fleming's project threatened to encroach on Erdenheim Farm, said Kim Sheppard, president of the Whitemarsh Township Residents Association, which formed to fight the development and later saw some of its members elected to the Whitemarsh Board of Supervisors. “That's a little bit of sacred ground over there ... everybody's had this gor-

geous view for as long as they can remember.”

Fleming's retirement community, known as The Hill at Whitemarsh, required the purchase and rezoning of a 50-acre corner of the farm property, in addition to the original 42 acres of the hospital site, and residents were fearful that the development would set a precedent for carving up and developing the farm. Rotwitt's offer, however, began to change the tide of public opinion, Sheppard said.

Rotwitt, a senior partner at Obermayer Rebmann Maxwell & Hippel LLP, admits he had no idea at first how he

# THE HILL: Tiff over project leads to use of TIF to preserve large swath of open space

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and Fleming would make good on such a sweeping promise.

"I was tap dancing," he said, "doing what I could to see what chord would resonate with them."

In his effort to live up to his promise, Rotwitt hit on a novel solution: use a technique usually reserved for building major downtown buildings, known as "Tax Increment Financing," or TIF.

Under the usual TIF system, a local government agrees to give a long-term tax abatement, or dedicate a portion of property tax receipts, to help the developer build a project that would otherwise be unable to find private financing. This usually takes the form of actual physical infrastructure — the concrete and steel that makes up the building.

In this case, however, the TIF money will not buy a single brick of the retirement community, which Fleming plans to fund privately.

Rotwitt "really turned this on its head," Fleming said, by directing TIF money away from the building itself and onto the neighboring farm.

Tax Increment Financing has been used often in Philadelphia, including for the development of the parking garages around the Pennsylvania Convention Center and Kimmel Center, Rotwitt said.

But the deal in Whitemarsh appears to be the first time in Pennsylvania, probably in the nation, that TIF was used to preserve a large swath of open space that has nothing to do with the basic construction project. In fact, this may be the first time the technique has been used to prevent, rather than encourage, further development, Rotwitt said.

Indiana University professor Craig L. Johnson, who has studied TIFs extensively, said he was not aware of any similar cases nationwide, but it's not a completely new idea. A few states did specifically allow for such open-space preservation in their TIF laws.

However unusual the deal at Whitemarsh may be, he said, it fits in nicely with the original intent of TIFs, which date to the 1950s: to use public money to support private developments that have a larger purpose.

"This is to further a general public desire to keep that space open and free from development," he said. "It is really fulfilling a broader public service."

The plan calls for the town of Whitemarsh and the Colonial School District to give up about \$15 million in property taxes over the next 20 years. That money will go to the Whitemarsh Foundation, a tax-exempt nonprofit organization that will buy and administer at least a third of Dixon's farm, which encompasses around 300 acres.

Dixon had previously agreed to preserve permanently about a third of the farm from development. The remaining 195 acres, divided in two parcels, is already zoned and ready for residential development.

The deal Fleming and Rotwitt worked out gives the Whitemarsh Foundation the right to buy one of the parcels, called the "Angus Tract," upon Dixon's death. The remaining 98 acres, the "Sheep Tract,"

could still be used for residential development, but it is possible Dixon will agree to sell it to the foundation, which hopes to raise enough extra money to buy the property if it becomes available.

All sides agree that the deal was difficult to negotiate, partially because none of the local officials or preservationists had dealt with TIFs before.

School board President Marc Orlaw said the board was faced with a simple and stark mathematical truth — the school district was better off giving up a portion

of the property taxes from Fleming's project than having Erdenheim Farm covered with houses. Those houses would mean more children, and that would have meant hiring more teachers and, quite likely, expensive expansion or replacement of the already crowded elementary school in Whitemarsh.

In addition to the TIF money, the Whitemarsh Foundation will raise donations privately and will profit from an additional grant of up to \$1 million, plus about \$100,000 per year, pledged by Fleming

and his retirement community.

Foundation President Hugh G. Moulton, a veteran of other land preservation efforts in Montgomery County, said the preservation plan is the most important he has seen, and may mark a precedent for developers and preservationists alike.

The worst nightmare I have is seeing that land carved up and subdivided into several hundred cookie-cutter lots," he said. "To the extent that we can prevent that from happening, this is a great victory." ■