

**DERRY TOWNSHIP PLANNING COMMISSION**  
**MEETING MINUTES**  
**May 6, 2014**

**CALL TO ORDER**

The Tuesday, May 6, 2014 Derry Township Planning Commission meeting was called to order at 6:03 p.m. in the meeting room of the Derry Township Municipal Complex, 600 Clearwater Road, Hershey, PA, by Vice Chairwoman Joyce St. John.

**ROLL CALL**

Commission Members Present: Joyce St. John, Vice Chairwoman; Glenn Rowe, Secretary; Gregg Mangione; Ned Wehler

Commission Members Absent: Matt Tunnell, Chairman

Also Present: Chuck Emerick, Director of Community Development; Matt Bonanno, HRG; Diane Krug, Dauphin County Planning Commission representative; Jenelle Stumpf, Community Development Secretary

Public Registering Attendance: Sally Griffith, Chateaux Hershey Condominium; Dave Getz, Wix Wenger & Weidner; Matt Weir; Lou Mione, Titan Builders; Sue Kellner, 58 Locust Avenue, Hershey; Phil Juris; Charles Huth, *The Hummelstown Sun*; Ron Lucas, Stevens & Lee; Anne Newman, 531 Elm Avenue, Hershey; Keith Heigel, Light-Heigel & Associates; R. Ruble, S. Ruble, Tony Molinari, Michi Molinari – Molinari & Ruble Partners; John Murphy, Alpha; Patricia Boyle, 353 Maple Avenue, Hershey; Steven & Kathy Seidl, 1312 Sand Hill Road

**APPROVAL OF MINUTES**

On a motion made by Secretary Rowe and seconded by Member Mangione, the Planning Commission unanimously approved the minutes of the February 4, 2014 meeting as written.

**OLD BUSINESS**

- A. Report of the Board of Supervisors' action regarding a waiver from filing a land development plan as requested by the Hershey Trust Company, Trustee for Milton Hershey School, regarding the removal of a bank building and the construction of a full-service restaurant at the Hershey Square Shopping Center**

Mr. Emerick stated that the Board of Supervisors granted the waiver.

- B. Report of the Board of Supervisors' action regarding the adoption of Ordinance No. 641, amending Chapter 225 (Zoning) of the Code of the Township of Derry regarding municipal buildings and uses**

Mr. Emerick stated that the Board of Supervisors adopted the ordinance.

- C. Report of the Board of Supervisors' action regarding the Preliminary/Final Subdivision and Stormwater Management Site Plan for 11 and 19 East Chocolate Avenue, Plat #1238**

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Mr. Emerick stated that the Board of Supervisors conditionally approved the plan.

- D. Report of the Board of Supervisors' action regarding Zoning Petition No. 2013-02 as filed by Derry Presbyterian Church to change the zoning classification of land located north of East Derry Road, west of Miller Street, and south of the railroad tracks from Village Residential and Economic Development to Neighborhood Commercial; and the accompanying request to amend the Comprehensive Plan**

Mr. Emerick stated that the Board of Supervisors adopted an ordinance to amend the Zoning Map and a resolution to amend the Comprehensive Plan.

**NEW BUSINESS**

- A. Review and recommendation of Zoning Petition No. 2014-01, as filed by Prometheus One, LLC, to change the zoning of a tract of land located along the west side of Middletown Road, between Dartmouth Road and Princeton Drive, from an Agricultural/Conservation classification to an Attached Residential classification**

Chuck Emerick reported that the subject property is located on the west side of Middletown Road, approximately 0.4 miles north of the Derry Township/Londonderry Township boundary. It is located south of and adjacent to single-family residential lots created under the "Dutch Village" name in 1975, which are zoned Village Residential and Agricultural/Conservation. The lands west of and across Middletown Road from the subject property are single-family lots of Dartmouth Farms (developed in the 1960s), which are zoned Village Residential. South of the subject parcel is a tract of land containing the remains of a historic stone house, zoned Agricultural/Conservation; and to the east is Lot 133 of Stone Creek, Phase 3, which contains a stormwater detention basin and is zoned Village Residential. The Future Land Use Plan of the current Comprehensive Plan indicates that this area would be zoned Village Residential, consistent with the surrounding development.

Mr. Emerick noted that while it may be appropriate to rezone this and adjacent lands to the Village Residential classification as part of the Comprehensive Plan/Zoning Ordinance update presently underway, he does not believe that it is appropriate to rezone this single tract to a classification allowing a density or dwelling type differing so much from the existing development pattern.

Diane Krug, Dauphin County Planning Commission representative, stated that the Commission also does not support the proposed rezoning.

Dave Getz, attorney, represented the applicant. He stated that the property is not "attractively usable" as currently zoned, and it could end up with multiple driveways onto Middletown Road. The applicant is proposing an Attached Residential zoning because they think the development of duplexes is the the best way to use this property. The applicant believes there is a need for duplex living for empty nesters and those desiring one-level living. The duplexes would be a nice transition from the Dartmouth neighborhood to the Stone Creek neighborhood. Mr. Getz noted that a private street is proposed, so there would not be an impact on Township services regarding road maintenance.

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John Murphy, Alpha Consulting Engineers, stated that the product type would attract a certain type of buyer, even though it would not officially be a “55 and older” community. This would reduce the amount of vehicle trips, and the private road would minimize the economic impacts to the Township. Although the proposed rezoning does not conform with the Comprehensive Plan Future Land Use Plan, the applicant believes that from a common sense perspective, it would fit nicely as a transitional zone.

Mr. Getz stated that the applicant does not think this proposal could really be considered spot zoning because the property is close to the Attached Residential zoning of the Stone Creek development. Even though there is vacant land within the Township that is already zoned Attached Residential, the applicant thinks the subject property is ideally located, and the services already exist. The applicant mentioned in their petition that the adjacent property to the south might be appropriate for rezoning as well; however, the property is not under the applicant's control to make the rezoning request. The applicant attempted to contact the owner, without success.

In response to a question from Vice Chairwoman St. John, Mr. Emerick stated that the subject property would be unable to line up the proposed private street with either one of the Dartmouth Drive entrances. Had the applicant been able acquire the adjacent property and line up the intersection, it would have been a much better development proposal, traffic-wise.

Secretary Rowe asked if rezoning the subject parcel to Attached Residential would set a precedent for the adjacent lot to also be rezoned. Mr. Emerick said it would make the rezoning of the adjacent parcel much easier.

Steve Seidl, 1312 Sand Hill Road, asked why this area is currently zoned Agricultural/Conservation. Mr. Emerick stated that in 1991 (when the current Comprehensive Plan was adopted), public water and sewer services might not have been available in this area. Mr. Seidl stated that from a fundamental standpoint, he has a problem with the property being rezoned from Agricultural/Conservation to a high-density district like Attached Residential, which is not consistent with the surrounding area.

Member Wehler asked if the applicant has given any consideration to controlling stormwater beyond the minimum requirements. Mr. Murphy responded that they have not gotten far enough to create the stormwater design, but they have looked at it and are confident they can meet the requirements. They are also open to going above and beyond the requirements if it is appropriate in this situation.

Member Wehler asked if the applicant is considering on-street parking. Mr. Murphy responded that garages would be proposed with these types of units as well as driveway parking, but there will probably be on-street parking when needed for overflow. There should be enough parking within the development that vehicles would not be parked on Middletown Road. Member Wehler noted that some of these high density developments with private streets are difficult to navigate because of the number of vehicles parked on the street. Mr. Murphy stated there are a couple of areas where additional parking could be provided but in reality, it probably would not be used that often. This matter would be addressed during the land development plan process.

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Member Wehler commented that there are places along the Middletown Road corridor where streets are entering Middletown Road close to another intersection which results in traffic problems, and asked if it was fair to state that there were a lot more residences feeding into those situations than what is being proposed. Mr. Emerick stated that there was a continual problem with Jo Ann Avenue and its proximity to the traffic signal, but he thinks Alyshia Way helped alleviate that.

Mr. Murphy stated that in terms of traffic, it has been their experience that this concept would generate a substantially lower number of vehicle trips than the maximum number noted by Mr. Emerick. Regarding the offset from the intersections, he does not think it is going to be a big deal considering the small number of units and corresponding trips.

Mr. Seidl stated that he is concerned about the increase in maximum impervious coverage if this property would be rezoned. He is not as concerned about the traffic impact.

Member Wehler asked if the density in the Attached Residential-zoned area of Stone Creek is comparable to what is allowed in the Attached Residential district. Mr. Emerick stated that it is a tough question to answer because the Stone Creek density is far from what it could have been.

Secretary Rowe is concerned that granting the rezoning request would set a precedent for the adjacent lot to the south to also be rezoned to Attached Residential, and that would add even more density. He does not think this is the right location for Attached Residential zoning. Secretary Rowe added that although Mr. Murphy is comfortable with addressing the stormwater, it is a big issue in the Township.

Member Mangione thinks that to rezone the property to Village Residential instead of Attached Residential would help make it more developable, but he agrees that the density permitted in the Attached Residential district does not fit in this location.

**MOTION**

On a motion made by Member Mangione, seconded by Secretary Rowe, and a unanimous vote, the Planning Commission made a recommendation to the Board of Supervisors that the proposed zoning amendment not be implemented.

**B. Review and recommendation of Zoning Petition No. 2014-02, as filed by Molinari & Ruble Partners, LP; Kevin E. and Francine Walker; and Kathy A. and Chean Y. Pang, to change the zoning of 5 tracts of land, addressed from 1166 Sand Hill Road to 1250 Sand Hill Road, from a Neighborhood Commercial classification to a Suburban Residential classification**

Mr. Emerick commented that the site proposed for rezoning is comprised of 5 individual properties. Four of the properties contain existing improvements and one property is presently unimproved. There is another tract that should be incorporated into this proposal. It is tax map parcel 24-052-038, land of Sue Kellner, which could add approximately 1.2 acres to the development. If it is not a part of the proposal, the tract will end up in a reverse spot zoning situation, being a Neighborhood Commercial tract stranded within the Suburban Residential district. The 1991 Comprehensive Plan Future Land Use Plan proposes this area to be zoned Suburban Residential with inclusions of Neighborhood Commercial at the intersection of Hilltop Road

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and Sand Hill Road, and at the intersection of Bullfrog Valley Road and Sand Hill Road. If this land were to be designated as Suburban Residential, under today's standards, it could yield about 17 dwelling units.

Mr. Emerick recommended that the rezoning be implemented with the condition that tax map parcel 24-052-038, land of Sue Kellner, be included.

Diane Krug, Dauphin County Planning Commission representative, stated that the Commission supports the proposed rezoning, but they also suggest that the Kellner parcel be included in the rezoning.

Secretary Rowe asked what could potentially be built on the Kellner parcel, if its zoning remained Neighborhood Commercial. Mr. Emerick responded that it could be any of the permitted uses in that district. There are buildings on the property currently that may be able to be converted to a commercial use. Secretary Rowe does not think there could be a really intense commercial use on that property, given its size (1.1 acres).

Ron Lucas, an attorney with Stevens & Lee, represented the applicants. He stated that 3 of the properties are proposed to be developed; the other 2 are not, but those owners also desire their properties to be rezoned. Mr. Lucas stated that the Kellner property is not part of the rezoning petition and the applicants do not have any control over that property. Regarding Mr. Emerick's comment that the proposal would result in reverse spot zoning, Mr. Lucas noted that throughout the Township's Zoning Map there are several small areas of Agricultural/Conservation zoning and no one called it reverse spot zoning in 1993 when the Township laid out the Zoning Map. There is definitely a need and a market for Suburban Residential lands. Of the total 14.6 acres proposed to be rezoned, approximately 12 would be developed with a cluster option. The preliminary sketch plan shows 16 single family dwellings on public streets. Mr. Lucas noted there is more control regarding stormwater management if the development is done as part of a subdivision plan, as opposed to lot by lot. There will be more stormwater controls for these lots than if the lots were developed without a subdivision plan. The steep slopes on the site will be preserved. Additional right-of-way will be dedicated to the Township, which would also not happen with individual lot-by-lot improvements. The needed improvements to the roads are not going to happen unless there is a development plan to contribute to it. The applicants believe it is the appropriate time to upzone the properties in conformance with what the Comprehensive Plan projected because there is now public water service in this area.

Keith Heigel, Light-Heigel & Associates, stated that he has talked to HRG about what can be done to be more effective with stormwater management in this area, beyond what is required by the Township's Stormwater Management Ordinance. Conceptually, the developer has agreed to be able to control both the rates and the volume up to the 100-year storm duration, and they believe this will make it more effective when considering back-to-back short duration, heavy rainfall storms. Mr. Heigel stated that the developer will also be installing curb and sidewalk and providing road widening and improved drainage at the development's intersection with Sand Hill Road. This rezoning has a lesser potential of earth disturbance by going from Neighborhood Commercial to Suburban Residential, and less of a potential impact on traffic and stormwater.

Eric Mountz, Traffic Planning & Design (TPD), commented that they had done a full traffic impact study in conjunction with previous rezoning proposal (which has since been withdrawn), and are now using the study as a reference. This proposal is a lot less intense than the previous proposal. TPD did a comparison of the

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traffic generation associated with the proposed use in the Suburban Residential zoning district and the potential development of the properties if they were to remain in the Neighborhood Commercial zoning district. The results showed that the proposed use in the Suburban Residential district is significantly different when compared to the office occupancy of the potential by-right scenario in the Neighborhood Commercial district. There would be approximately 1,400 less trips on a daily basis. When compared to a retail use in the Neighborhood Commercial district, there would be approximately 4,000 less trips per day. There would also be a reduction of delivery and service vehicles and an increase in driver familiarity with the area.

Vice Chairwoman St. John asked what the size of the lots would be in the proposed cluster development. Mr. Heigel responded that they would each be about one-third to one-half an acre in size.

Mr. Heigel noted that one of the reasons for the proposed road location is that the electric company prefers to not have to remove trees. The developers are also planning to reforest the area that does not currently have trees. Member Wehler commented that the area is currently undeveloped for the most part, and there is a good amount of infiltration that happens naturally during storm events. There is a flooding problem further down in the watershed, and the development site is part of the watershed. We are already in excess of the capability of the Bullfrog Valley to handle the stormwater that occurs today. Member Wehler does not think the regulations in the Township's Stormwater Management Ordinance are going to protect the lower part of the valley from increased flooding effects if this proposed development is approved. He questioned if the developers are intending to over-control with their design so that they are reducing the natural runoff in a way that would be beneficial to the watershed. Mr. Heigel answered yes, and that is why he talked to HRG to find out what more could be done, as he explained earlier. In addition to the ordinance requirements, they will have volume control as well as rate control.

Secretary Rowe asked Mr. Emerick for his thoughts on the easement shown on the sketch plan at the end of the cul-de-sac. Mr. Emerick stated that he would like some interconnectivity to the adjacent land that is not yet developed so that the Township does not end up with numerous cul-de-sac developments.

Member Wehler asked if the developer intends to control or restrict the removal of trees and the clearing of lots so the end result is not 16 clear-cut lots. Mr. Heigel responded that they are trying to utilize the areas with no trees first, and they want to minimize the removal of the other trees for both aesthetic and stormwater-related reasons. It remains to be determined exactly how those restrictions would be written.

Sue Kellner, owner of 1236 Sand Hill Road, stated that she is very concerned about the stormwater runoff from the proposed project. Her property lies downstream of the subject property. The proposed development could have a huge impact on her property. She has already had major problems with stormwater runoff as a result of the development of the property across the street.

Steve Seidl, 1312 Sand Hill Road, disagrees with the proposed interconnectivity to the adjacent property, which already has a dwelling on it. He thinks the disconnect between the Comprehensive Plan and the Zoning Map is significant, and it concerns him that we are only now getting around to implementing the Suburban Residential zoning that was forecasted in 1991. Mr. Emerick stated that the Comprehensive Plan was written to be a 20-year plan and there is not a lot of disconnect between the Comprehensive Plan and the Zoning Map. Much of the rezoning that has been done has been in conformance with Comprehensive Plan.

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Mr. Seidl stated that in general he supports this specific proposal, but he is concerned with the broader context of it, and allowing for interconnectivity to Agricultural/Conservation-zoned land for future development is a mistake. Mr. Seidl asked why the other applicants (not involved in the development proposal) want their properties to be rezoned. Mr. Emerick stated that the rezoning will make the existing uses on their properties (dwellings) more conforming. Mr. Seidl asked if either of these lots could be redeveloped under the Suburban Residential district in a different configuration or density. Mr. Emerick responded that the Suburban Residential district allows 1.5 dwelling units per net developable acre and the total acreage of the two lots is 1.8 acres. They could possibly do some subdivision, depending on lot frontage and connectivity to other lands.

Mr. Heigel stated that they are very aware of the grades in the area of Ms. Kellner's property, and the contours would allow for the flow of the water to be diverted away from Ms. Kellner's property and into the proposed development's stormwater management system.

Mr. Lucas clarified that he would prefer to not have the interconnectivity easement, but they put it on the sketch plan because Mr. Emerick asked for it.

Vice Chairwoman St. John asked Mr. Emerick if he feels comfortable that stormwater will be able to be controlled. Mr. Emerick stated that if done properly, development sometimes solves problems rather than creates them. He sees an advantage to a cluster development, which will reserve 35% of the total development area as open space, whereas traditional lot by lot development will not.

Secretary Rowe thinks the applicants have presented a strong case to change the zoning into something less intensive, from traffic and drainage standpoints. Additionally, representatives for the developers have talked about a commitment to overdesigning the stormwater management system.

**MOTION**

Secretary Rowe made a motion that the Planning Commission make a recommendation to the Board of Supervisors that the proposed zoning amendment be implemented; that the proposed access to the adjacent property be discussed during the subdivision plan review process; and that the rezoning proposal be allowed to move forward with Sue Kellner's property remaining as Neighborhood Commercial.

Member Mangione seconded the motion. He added that there was a lot of discomfort with the first proposal and he thinks the petitioners returned with a proposal that addressed some of the comments from not only nearby neighbors but the Planning Commission as well. He respects Ms. Kellner's comments regarding the problems she had with the development across the street, and hopefully that can be avoided with the proposed development.

Member Wehler agreed with Secretary Rowe's and Member Mangione's comments, and stated that the reduction of density in this proposal makes sense to him.

The motion passed unanimously.

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**C. Review and recommendation of the Preliminary/Final Land Development Plan for the Pennsylvania State Police Historical, Educational, and Memorial Center, Plat #1240**

This plan was withdrawn by the applicant.

**OTHER BUSINESS**

None.

**ADJOURNMENT**

On a motion made by Member Wehler, seconded by Secretary Rowe, and a unanimous vote, the meeting adjourned at 8:10 p.m.

Respectfully submitted,

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Glenn Rowe  
Secretary

Submitted by:

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Jenelle Stumpf  
Community Development Secretary