

**TOWNSHIP OF DERRY  
BOARD OF SUPERVISORS**

**PUBLIC HEARING  
Tuesday, June 24, 2014**

600 Clearwater Road, Hershey, Pennsylvania 17033

**CALL TO ORDER**

The June 24, 2014 Public Hearing of the Township of Derry Board of Supervisors was called to order at 6:15 p.m. by John W. Foley, Chairman.

**ROLL CALL**

***Supervisors Present:***

Sandy A. Ballard  
Justin C. Engle, Secretary  
John W. Foley, Chairman  
Marc A. Moyer, Vice-Chairman  
Matthew A. Weir

***Also Present:***

James N. Negley, Township Manager/Township Treasurer  
Brandon Williams, Assistant Director of Community Development  
Jon Yost, Solicitor  
Brenda Van Deursen, Recorder

***Public Present:*** Sally Griffith, Anne Newman, Philip Shkuda, Carl Ortenzio, Dan and Patti S., RS & SJ Ruble, Keith Heigel, Bill Pavone, M. Molinari, Kathy S., Ron Lucas, Sue Kellner, P. J., Steven Seidel, Massimo Rizzoto, Junior Lambright, Pat and Pete Foltz

**NEW BUSINESS:**

The purpose of this hearing is to receive public comment regarding Zoning Petition No. 2014-02 to amend the Zoning Map as filed by Molinari & Ruble Partners, LP; Kevin E. and Francine Walker; and Kathy A. and Chean Y. Pang.

**Brandon Williams, Assistant Director of Community Development** – The petitioners request that the zoning classification of 5 parcels of land; located west of Sand Hill Road be changed from Neighborhood Commercial to Suburban Residential. The addresses are 1166 to 1250 Sand Hill Road for a total of 14.6 acres. There is a 1.2 acre parcel owned by Sue Kellner that is not part of the request. Community Development is recommending that Kellner's property be considered to be added to this rezoning petition. They are concerned that if it is not added it will result in a reverse spot zoning with denser neighborhood commercial classification being surrounded by a less dense suburban residential classification.

The proposed suburban residential district is compatible with the recommendations of the Township's existing 1991 Comprehensive Plan. These parcels were in the planning area identified as "The Woodlands." The area was shown in the comprehensive plan as predominately suburban residential with smaller nodes of neighborhood commercial at the Hilltop Road and Sand Hill Road intersection and the Bullfrog Valley Road and Sand Hill Road intersection.

The suburban residential district comprehensive plan in 1991 was recommended to include housing densities between 1 and 2 dwelling units an acre. When the zoning ordinance was adopted in 1993 it was adopted at a maximum density of 1 ½ dwelling units per acre. With this petition a concept plan was submitted showing a proposed development.

Supervisor Ballard said she would prefer not to look at concept plans when they are talking about zoning changes. In the past, there was an issue on Middletown Road that mislead the public. We have no way to know that this plan is going to happen. Vice-Chairman Moyer thought they should look at the concept plan giving it the weight to which it deserves as long as the people know that what we see is not what we may ultimately get.

The concept plan showed 16 single-family dwelling units and it would entail the three southern most properties. The two most northern properties would be maintained with their current improvements.

A full traffic study was not submitted with the proposal; however, the petitioner did provide a trip comparison report. The report concludes that under the proposed development 196 average daily trips will be generated during the weekday. The report also breaks down a couple other uses that would be possible under neighborhood commercial district and they would be a worst case scenario for retail and office based uses. With retail uses you could see as much as 4,000 trips during the weekday.

Vice-Chairman Moyer noted that under the present neighborhood commercial zone it could generate more than 10 times the vehicular traffic than the suburban residential.

Sand Hill Road in the area of this development would remain insufficient to meet current design standards of the Subdivision/Land Development Ordinance. This project could potentially bring some needed improvements to the Sand Hill Road corridor particularly widening of the cartway of 40 feet including two 12 foot drive lanes and two 8 foot wide shoulders. Other improvements would include curbing and sidewalk along the same corridor.

Supervisor Engle asked about traffic improvements that could be required on the road or down the road by the Township if there was commercial development and that much traffic was proposed. Mr. Williams said for commercial uses it would

most likely be nearby intersections that would be recommended for improvements but that would be recommended through a traffic study that would be submitted during a land development plan.

The soils in the area of the development have moderate limitations for homes with basements due to the presence of rock in the soil. The main management concern with these soils would be controlling erosion and maintaining vegetative surface layers at the top of the soil. Community Development has received more complaints of erosion in this area than any other area in the Township. Erosion only worsens when significant tree removal results from developing individual properties along Sand Hill. The Township staff have met with the Dauphin County Conservation District numerous times to investigate damage from runoff caused by cutting of trees. The majority of this site would drain towards the Bullfrog Valley Pond area which was devastated with the erosion that took place during Tropical Storm Lee.

This rezoning may be beneficial to ongoing efforts to reduce runoff in the area when considering that suburban residential district permits a 30% impervious lot cover whereas the neighborhood commercial permits 60%. Special care would be needed to control erosion, for design stormwater management facilities in the neighborhood and for general landscape to prevent erosion and protect properties downstream.

Community Development is supporting this rezoning request with the recommendation that the lands of Sue Kellner be included in the rezoning to avoid possible reverse spot zoning claims. Rezoning to suburban residential would be compatible with any discussions with future land use under the new comprehensive plan.

The Board was provided with letters from the Dauphin County Planning Commission recommending the Kellner property be included in the rezoning.

**Ron Lucas, attorney for the applicant** – The application reflects three parcels under equable ownership. One of the properties that was co-applicant under our application, we thought belonged to Mr. and Mrs. Pang. Mr. Lucas became aware several weeks ago that the Pangs completed a transaction to sell their property to the tenant, Junior Lambright. As a result of that, the partners reached out to Mr. Lambright. Mr. Lambright gave no indication that he wants his property withdrawn from the rezoning and there has been no indication that he has any opposition to the rezoning. Mr. Lucas said they are not representing Mr. Lambright tonight. This does not affect the request for rezoning because the Township at any time can rezone a property without a consent of the property owner.

The Derry Township Planning Commission discussed the issue of Sue Kellner's property. Mr. Emerick recommended to them that the Kellner property should be included as part of the rezoning request. The Planning Commission discussed this and made a motion to recommend approval of the rezoning specifically excluding the Kellner property.

There has been discussion if this is spot zoning. Mr. Lucas pointed out on the map small areas of different type of zoning throughout the Township. The zoning request is consistent with the comprehensive plans and with the smaller tracts the Township has zoned for the past 21 years.

**Eric Mountz, Traffic Point and Design Engineer, Harrisburg** - A traffic evaluation associated with the amendment to the zoning was done and the results were submitted in a letter dated May 5, 2014 in conjunction with the application. They looked at the traffic that could potentially be generated by by-right users located within the neighborhood commercial district and then compared that to permitted use within the proposed suburban residential district which was consistent with the sketch plan that was presented for 16 single-family homes.

The evaluation compared the 16 single-family homes to two uses that would be allowable within the neighborhood commercial district, office uses and retail oriented uses.

Comparing the traffic with the proposed residential uses in the amended zoning district:  
16 single-family homes would generate 196 daily trips during the peak hours which is the one busiest hour during the weekday - 21 trips in the morning and 20 in the afternoon. On an average, the residential use is about 1 new trip every 3 minutes over the course of an hour.

Comparing that to the office user that would be allowable under the neighborhood commercial:

Office user would be 1,590 daily trips and the peak hour traffic generation in the morning = 234 trips and in the p.m. would be 222 trips.

Comparing it to retail users which are the higher intensity users:

Could have upwards of 4,170 new trips generated by retail users and the peak hours in the morning = 93 and 315 in the p.m. and 459 trips for weekend.

The analysis shows that the suburban residential generates significantly less traffic when compared to some of the by-right users allowed under the current neighborhood commercial.

Vice-Chairman Moyer asked about any road improvements that could be required in the event this stays neighborhood commercial and there is commercial development in lieu of residential. Mr. Lucas said a traffic study could identify issues at nearby intersections, but the only thing the Township can require is improvements necessary for the driveway. Anything related to nearby intersections would be voluntary on the developer. If the neighborhood commercial generates more traffic and the traffic study shows the intersection may need improvements, the Township cannot require those.

Mr. Mountz added that one thing they did review is the current Township comprehensive plan in the context of the current zoning, neighborhood commercial for the roadways

surrounding the area. It identified the need for roadway widening for much of all the roadways in the vicinity of the development and also the need for the realignment of Sand Hill, Roush and Bullfrog Valley.

Vice-Chairman asked about a connector road that was referenced. Mr. Mountz said the 40 foot cross section identified for Sand Hill is consistent with collector standards identified in SALDO.

Mr. Lucas said in reference to the sketch plan a deed restriction agreement can be done indicating the applicants would do a cluster option.

**Keith Heigel, Engineer for Light-Heigel & Associates, Inc.** - The Township's ordinance required them to do a calculation to come up with a net developable area. The applicant is proposing to change the zoning to suburban residential which gets the net developable area for dwelling units down to 1 ½ per net developable area. That would net the 16 lots they are looking at and cut the impervious area in half. The cluster development they are proposing will provide 35% as open space. This will help the stormwater in terms as what can be generated off the site.

There are two components regarding stormwater; the rate as the way the stormwater would flow and the volume of the stormwater that is being generated. With Act 167, the ordinance would require the applicant to look at the year storms (1, 5, 50 and 100) predevelopment and then control the rate between the two, the pre and post. It would also ask them to take a look at the 2 year storm and to be able to store the volume of the storm. They are prepared to take a look at doing more with the volume in regards to the challenging water shed. The applicant would look at the difference in the rates and controlling those, but they would go beyond the two year volume and look at the 5, 10, 50 and the 100 year volume to see what they can do to reduce those rates. They believe they have some solutions that will take care of the stormwater this plan will generate, and also some of the problem areas along the Sand Hill Road area.

Vice-Chairman Moyer asked about the general topography of the land. Mr. Heigel explained how the stormwater would flow in the different areas. There are two discharge points. Vice-Chairman Moyer asked if there is consideration to the location of basins at those collection points. Mr. Heigel said they talked to our Township engineer about how they would work on conveyance in and along Sand Hill to help alleviate some of the issues that are currently there and how they would take care of the additional stormwater. Traditionally, they would try to get the stormwater quickly to a basin and control it. Control facilities would be numerous.

#### **PUBLIC COMMENT**

**Carl Ortenzio, 690 Hill Church Road** – Mr. Ortenzio asked about the area along Hill Church Road. Mr. Heigel said it will remain green open space and they will be dedicating it so it will remain such and reforest some of those areas.

**Sue Kellner, 1236 Sand Hill Road** – Mrs. Kellner objects to the rezoning of her property from neighborhood commercial to suburban residential. In the 1970s Mrs. Kellner and her husband bought the property to use for their carpet business.

**Patricia Kellner-Boyle – daughter of Sue Kellner** – Mrs. Boyle finished reading the letter for her mother, Sue Kellner: *We requested a change in zoning to allow commercial uses. Our request in zoning was joined by a number of the neighbors at that time and was approved by the Township many years ago. If the zoning of our property is changed to suburban residential the property will become a nonconforming use. As such, I will be restricted to using, leasing, or selling the property for a limited number of uses, which will be substantially less than those currently available to me, my tenants or future owners. This will be a downzoning of my property and would result in a substantial financial harm despite the substantial efforts of my late husband and me to obtain the current zoning. I don't object to the rezoning of the area requested by the applicant, just to my property. It would be unfair to cause a change in my zoning due to the request of a neighboring owner developer to change his or their zoning. Please allow my property to remain zoned as neighborhood commercial.*

**Junior Lambright, current owner of Pang's property** – Mr. Lambright was approached several times to sign the petition and he chose not to sign it. At the current time, he didn't think it was in his best interest. He said that if they don't change Sue Kellner's zoning, then he thinks there is no reason to change his.

**Philip Juris, 58 Locust Avenue** – At the last meeting with the Planning Commission it concluded that the property be rezoned suburban residential with the exception of the property at 1236 Sand Hill Road. The decision was referred to this evening in a different way. The proposal seems to contradict that recommendation that all including the Kellner property be rezoned as suburban residential. He questioned what took place between then and now that changed this.

**Steve Seidel 1312 Sand Hill Road, Chateau Hershey Development** – Mr. Seidel is a licensed professional engineer. He heard Mr. Heigel talk about the various stormwater frequencies and wants to make sure he is clear what they are proposing and whether special conditions will be replaced on the rezoning. If there are special conditions that would ensure that the property is developed to those standards then that would give him the assurance that we won't have greater flooding problems that are already occurring in the whole Sand Hill Road and Bullfrog Valley area. Any new development is going to cause an increase in runoff especially if you are cutting down trees.

The before analysis is very important that we document what those storms are and that they are proposing there will be no more water runoff up to the 100 year storm. He suggested the Board add this as a condition to the plan. As far as neighborhood commercial, suburban residential may be better than neighborhood commercial, but you need to look at the whole picture and make sure you've got commitments in place that go beyond just the normal requirements especially since this is a predominantly a wooded

area with steeper slopes than normal. In terms of any buffers, Mr. Seidel thinks it should be spelled out to make sure there is reasonable buffer.

Some of the green areas, specifically the ones closer to Chateau Hershey and the properties that are to the southeast, will not contain trees because that area is a right of way to the power lines. If you put trees in that area the power company will cut them down.

He is concerned that once you change this to suburban residential we get into more and more of the argument that it is surrounded by suburban residential so let's make it all suburban residential. We missed the point that there is some value and some purpose to agriculture conservation specifically from a stormwater management and traffic management. He is okay to rezone this property with the right provisions. He referred to an easement that was proposed to this property that is zoned agriculture conservation. It already has a home on it that meets the zoning of approximately 5 acres zoning. Hopefully, this is just not a plan as an entry to come back and rezone all this area through Bullfrog Valley to suburban residential.

**Cathy Seidel, 1312 Sand Hill Road** – Mrs. Seidel doesn't believe what is shown as green on the map is necessarily trees. She would like the builders to submit to the Board something that does show where they plan to retain trees and where they plan to plant new trees. They have been driving on some terrible roads both Sand Hill Road and Bullfrog Valley Road since this past winter. We had rain a couple of weeks ago, which didn't seem unusually hard. After the rain, she noticed the storm sewers between Hill Church Road and Chateau were very heavily covered in good size rocks as well as debris. Commendably for the Township, they came through and cleaned it up a couple days later. Any additional runoff is going to be bad for both roads as well as for the creek. Additional traffic is going to make it more hazardous for bicyclists. She would like to see signs put up on these roads that will make motorists aware of bicyclists.

**Phil Shkuda, 11 Foxanna Drive** – Mr. Shkuda lived at this property located on the corner of Sand Hill Road and Foxanna Drive for 11 years. He is an eye witness to all the traffic that goes by. He is sure a lot of the traffic is not from local residents because it's a cut-thru street from Hummelstown to get down to the hospital or out 743. There is congestion down around Cherry Lane that occurs almost constantly during the day especially during rush hour times. It may not sound bad just to add a few more cars, but it will impact the area. There have been billboard size signs that have gone up around Roush for the farmland on either side to be purchased. He is concerned that the farmland property may be turned into some sort of housing development. His idea is to make it 5 acres for each home to cut down the density of housing which will reduce the traffic and runoff of stormwater.

Mr. Lucas said with neighborhood commercial there will be more traffic and more impervious than with suburban residential. The Township has some controls over the building of the house, but they don't have control of the unified property with more stormwater management controls that a development can provide. The applicant is

proposing more stormwater management controls. In the area of the power lines, there are no trees today and it will not be a tree area. They will do a best ground cover. In the other areas they are preserving as open space and can dedicate to the Homeowner's Association with an easement that it cannot be developed. Another area is just open field and they plan to add trees to that area as well as stormwater controls. They do not want the proposed easement and will gladly remove it. The applicant is proposing what is consistent with the comprehensive plan spelled out suburban residential.

Chairman Foley said this will be before the Board in the month of July for their consideration.

ADJOURNMENT

Vice-Chairman Moyer moved to adjourn the meeting at 7:20 p.m. Supervisor Ballard seconded. ***The motion carried, 5-yes 0-no.***

SUBMITTED BY:

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Justin C. Engle  
Township Secretary

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Brenda Van Deursen  
Recording Secretary