

TOWNSHIP OF DERRY BOARD OF SUPERVISORS

PUBLIC HEARING

Tuesday, December 7, 2010

600 Clearwater Road, Hershey, Pennsylvania 17033

CALL TO ORDER

The December 7, 2010 Public Hearing of the Township of Derry Board of Supervisors was called to order at 6:00 p.m. by Chairman E. Christopher Abruzzo.

Chairman Abruzzo advised that all public meetings are recorded for providing accurate minutes.

ROLL CALL – All present.

E. Christopher Abruzzo, Chairman
Sandy A. Ballard
Kelly C. Fedeli, Vice-Chairman
Marc A. Moyer, Secretary
Todd Pagliarulo

Also Present:

James N. Negley - Township Manager/Township Treasurer
Edward L. Small - Director of Community Development
Brenda Van Deursen - Recorder

Public Present: Michael H. Small, Glenn Watson, Dean McCorkel, Ronald Hand, Charleton Zimmerman, Tom DeDonatis, Nick Malowskey, Thomas Humphreys

Press Present: Nick Malowskey, Patriot News

NEW BUSINESS:

Public Hearing regarding Zoning Petition No. 2010-02 as filed by Dean J. McCorkel.
Edward L. Small, Director of Community Development

The petitioner requests that the zoning classification of the property addressed as 940 Fishburn Road, Hershey be changed from a Village Residential (VR) classification to an Attached Residential (AR) classification.

The subject parcel abuts an Attached Residential zoning district that includes the Cambridge Commons Development. To the East and North of the development are dwellings that are included in the Attached Residential District.

Mr. Small explained the Comprehensive Plan. It began in the late 1980's, but was not approved until 1991. In 1991, Phase 1 and 2 of Cambridge Commons was approved before the Comprehensive Plan had begun. Phase 4 and 6 postdated the Comprehensive Plan and Phase 6 postdated the new ordinance that came as a result of the Comprehensive Plan.

The subject property's driveway is to the southeast and corresponds with the right turn into the Giant Parking lot across Fishburn Road. The applicant provided a traffic assessment, which indicated the increase of the average daily traffic for six townhouse dwellings would increase the ADT by about .4%. This would be a negligible increase. Our Township Engineer, HRG, reviewed the assessment and concluded the same as the applicant's findings.

The plan for Cambridge Commons relied upon the zoning ordinance and also the Comprehensive Plan and how one affected the other. The plan had protection from the 1987 Preliminary Plat #420. It did not need a favorable zoning district designation in order to continue because all phases were submitted in a timely fashion from the beginning of the approval of the Preliminary Plan. The decision to make Cambridge Commons an AR zone where the townhouses were permitted must have taken place after the judgments were made on the planning area that included the Future Land Use Map. The Future Land Use Map has the subject area including all of Cambridge Commons zoned for the future to be single-family detached dwellings with a Village Residential designation.

Mr. Small thought if there had been a future look toward higher density in the district, it probably would have a different Future Land Use Map designation rather than VR, which creates all of these to be non-conforming uses. The Derry Township Planning Commission reviewed the proposal at their meeting of November 3rd and recommended that the request be denied. The Dauphin County Planning Commission commented that they did not support the amendment.

Chairman Abruzzo asked Mr. Small to summarize the reasons for Dauphin County Planning Commission denying the application. Mr. Small said some members mentioned while the proposed use is in accordance with Cambridge Commons, it is not consistent with other properties along Fishburn Road. One member indicated he would be more comfortable considering a zoning change if there were feedback from adjacent neighbors. Generally, a feeling that the property has less in common with Cambridge Commons than it does with those adjoining along Fishburn Road.

Michael H. Small, Attorney representing the petitioner, Dean McCorkel. Mr. M. Small referred to a packet of items he sent the Board and wanted them incorporated into the record of this meeting.

Michael Small deposed Glenn Watson, Project Manager with Dennis E. Black Engineering. In summation, Mr. Watson stated Mr. McCorkel asked him to prepare a plan for a six-unit townhouse. He looked at the zoning ordinance of Derry Township and realized it was not zoned properly to do that proposal. They also realized as a Village Residential zoned piece of ground, a townhouse building is not appropriate. They would have to obtain waivers, special exceptions or ask for the parcel to be rezoned. Mr. McCorkel's request is that we try to impact the Township's ordinances in a most minimal fashion with whatever proposal they do ask. That was the purpose for providing an illustrative sketch plan, which was submitted in the packet to the Board.

Supervisor Ballard said we should not be looking at a sketch plan. Dauphin County comments make clear that we have situations in the past where zoning changes have

been presented prior to Board of Supervisors and examples of sketch plans have been introduced. Unfortunately, that gives one the impression that is what is going to happen. Once we rezone the land, anything that is allowed in that zone is allowed. As Dauphin County discourages the Township from the practice of accepting sketch plans as part of the zoning amendment process, all permitted uses within the proposed zone must be considered possibilities when deliberating a proposed change such as this. To look at this really constricts the discussion to limited potential. When rezoned, all permitted uses have the potential to occur on the site and need to be factored into the zoning decision. Supervisor Ballard proposed in the future that we do not accept sketch plans.

Mr. Watson said Supervisor Ballard's request is fair. The sketch plan was for illustrative purposes only to show that we could fit Mr. McCorkel's request in the allotted space in compliance with the zoning ordinance requirements for yard and lot area and net developable acre criteria.

Mr. Watson explained the shape of the lot is triangular and is wedged into an area between two more intense uses. In the course of preparing the Comprehensive Plan and the Future Land Use Plan in particular while Cambridge Commons did not exist at the time on the ground, it did on paper. As Mr. E. Small pointed out it was protected by at least a submission in some form of a preliminary plan. From that standpoint alone, the zoning map, which followed the Future Land Use Plan, is not in harmony with the Future Land Use Plan. By having this triangle piece of Village Residential wedged in between two higher, more intense uses, it does seem not to be something the Future Land Use Plan had in mind. That would be one reason that it would be beneficial to rezone this property. It would soften it from the higher intense uses with that little wedge of a very low intense use property by converting it to AR.

Mr. Watson said there is really no reason not to approve the rezoning. It makes sense from a planning standpoint. It provides a bridge between those two more intense uses instead of having a one single family dwelling between a higher intensity use on the south and a high intensity use on the north.

Chairman Abruzzo thanked them for their presentation and said the Board will take it under advisement.

VISITOR/PUBLIC COMMENTS

Carol Donovan, Cambridge Commons – Ms. Donovan asked if the original buildings on the property were going to stay. Mr. McCorkel said the three buildings would be torn down. Mr. McCorkel suggested Ms. Donovan look at the sketch plan by contacting Community Development.

Ron Hand, 30 Glasco Court, Cambridge Commons – Mr. Hand stated the following concerns:

1. A retention pond – They have a continual problem with water flowing through their properties onto Fishburn Road. It then flows under Fishburn into the Giant's holding ponds. There is always flooding because Giant's holding ponds do not work. A few years ago, he was told that when PennDOT redid the road,

- they told the builder of Giant Foods they would not have to put an additional storm sewer lines in which has caused a lot of problems.
2. Having sufficient amount of green space.
 3. The ability to see traffic coming out of the development going down Fishburn Road.
 4. Will they be allowed to make a left turn to go onto Fishburn or will they be required to make a right turn.
 5. The signage for people heading south on Fishburn are not allowed to go into the Giant is not being enforced.

Mr. Hand asked for a copy of the Planning Commission's letter that this was denied. Mr. Small said he would give him a copy.

Charleton Zimmerman, 1300 Block, East Derry Road, Palmdale – Mr. Zimmerman handed the Board a document and mentioned he talked with the Dauphin County Tax Assessment Office. Mr. Zimmerman said his only interest is the professional competency of the zoning and building codes departments and applying the codes fairly and judiciously. He heard HE&R is going to put a request in to change the zoning of 10 acres of Village Residential to expand the golf course at the Country Club. There is too much spot-zoning happening. His understanding in talking to engineers is that anything in a residential that's three or more units is termed commercial. Unless Mr. McCorkel is going to divide it up into individual lots, it's a commercial property.

ADJOURNMENT

Chairman Abruzzo adjourned the meeting at 6:45.

SUBMITTED BY:

Marc A. Moyer
Township Secretary

Brenda Van Deursen
Recording Secretary