

TOWNSHIP OF DERRY
BOARD OF SUPERVISORS
PUBLIC HEARING

Tuesday, June 24, 2008
600 Clearwater Road, Hershey, Pennsylvania 17033

CALL TO ORDER

The June 24, 2008 Public Hearing of the Township of Derry Board of Supervisors was called to order at 6:05 p.m. by Chairman, Michael H. W. Pries for the purpose of a revised Zoning Petition No. 2007-01 and the revised request to amend the Derry Township Comprehensive Plan as filed by Stover Community Partners, LP; The Church of Jesus Christ of Latter-Day Saints; and the Stoverdale United Methodist Church.

ROLL CALL

Supervisors Present:

E. Christopher Abruzzo, Township Secretary
Kelly C. Fedeli
August (Skip) T. Memmi, Jr.
George W. Porter, Vice-Chairman
Michael H. W. Pries, Chairman

Also Present:

Jill E. Horner – Assistant Township Manager
Edward L. Small – Director of Community Development
Jon A. Yost - Township Solicitor
Brenda Van Deursen - Recorder

Public Present:

Kevin Parrey, Ben Curry, Tyler Parrey, Alex Fuller, Iwoma Laszkiewicz, Mark Curry, Garrett Frey, Sandy Ballard, Nate Pfeifer, Kendra Pfeifer, Andrew Hoover, Tom Hoover, Matt Bonanno, Dennis Trout, Lindsey Derenyi, Andy Smith, Matt Weir, Janet Weir, Charles Conz, Rebecca Lengerich, Matt McElwee

Edward L. Small – Director of Community Development – Mr. Small shared that at the January Public Hearing the applicants, Stover Community Partners, LP, The Church of Jesus Christ of Latter-Day Saints, and the Stoverdale United Methodist Church joined in a request to change zoning on the official zoning map of five complete parcels of land totaling 23+ acres. The difference between the January hearing and this hearing is that the area for proposal is now reduced to 10.53 acres. It contains vacant land and the Stoverdale Cemetery/Church/classroom building. The applicants have provided the Board with traffic improvements which include: turning lanes approaching the signal on Stoverdale Road, pedestrian crossing at Stoverdale Road and Middletown Road, right-in and right-out on Middletown Road, adding acceleration and deceleration lanes, and a right-in and right-out exit/entrance on the narrowing of the parcel on Wood Road. He said the Derry Township Planning Commission recommended the revised zoning change be implemented and that the revised request to amend the Comprehensive Plan also be implemented. The Dauphin County Planning Commission wrote prior to both hearings,

that the zoning change in the Comprehensive Plan should not be implemented. Derry Township School Districts and the municipalities adjacent to Derry Township were notified of this proposal. Only one response from the East Hanover Township indicates they have no issue with the proposal.

Chairman Pries explained that after the developer does their introduction and provides the Board with the information, the Board will ask questions. Afterwards it will be opened up to the public. He said a decision is not made at the public hearing, but will be taken to the Board of Supervisors meeting to vote on.

David J. Tshudy, Raleigh, Wolfson, Sheffey, Schrum and Lundberg – Mr. Tshudy's firm represents Stover Community Partners, LP in this request for re-zoning. He introduced co-counsel, Mark Jonas from Eastburn & Gray, P.C., and Jack Raudenbush from Raudenbush Engineering. He mentioned that Dan Sheffey of Stover Community Partners, LP is not present because he is out of the country. Mr. Tshudy explained that the original request for the entire 22.3 acres to be rezoned from the agricultural conservation district to the neighborhood commercial district came in September 2007. That proposal included 5 tracts of land, one owned by Stover Community Partners, LP, and three owned by entities related to the Stoverdale UMC Church. The final parcel is owned by The Church of Jesus Christ of Latter-Day Saints (LDS). At that time, there was discussion regarding traffic being created by the possible development of these sites. In response to the discussion, a new proposal was presented in which only 10.53 acres of property would be re-zoned from the agricultural conservation district to the neighborhood commercial district. The 10.53 acres is the area owned by the Stoverdale UMC Church as well as 6.4 acres owned by the Stover Community Partners, LP. The remaining 6 acres of the Stover Community Partners, LP will remain in the agricultural conservation district and all of the LDS property will remain in the agricultural conservation district.

In addition to the revision to the plan, Stover Community Partners, LP has made certain representations with regard to how the property will be developed and what will be presented on the Land Development Plan. Certain traffic improvements will be made to Middletown Road which were outlined in a letter dated May 6, 2008 to the Board of Supervisors. Also, a letter dated and provided today to the Board, relates future uses of the agricultural conservation (AC) district. The Stover Community Partners, LP have agreed to any parking lot that may be placed in the agricultural conservation portion of the Stover Community Partners land. At least one-half of it will consist of the pervious asphalt or some other similar covering which will allow for stormwater to go directly through that covering into the ground to eliminate stormwater going onto the wooded property. The remaining portion will remain undeveloped and in its natural condition. Mr. Tshudy stated the concept behind requesting the rezoning is to provide for some commercial facilities to support the growing residential development that exists to the west side of Middletown Road.

During and after Mr. Tshudy's presentation, he answered questions from the Board of Supervisors which are presented below:

Chairman Pries: I did not have a chance to read the letter dated June 24th, but noticed it states that "for any portion of the property remaining in the AC district that is used for parking, at least 1/2 of the parking area will consist of pervious asphalt or similar covering" and "the portion of the property remaining in the AC district not used for said parking and stormwater management facilities will not be developed." How much area is that?

Mr. Tshudy: The 6 acres that does not have access to Wood Road. According to the Township's zoning ordinance, only 15% of the area could have parking lots on it.

Mr. Memmi: Is it true that the piece of land that the LDS Church owns will stay in the zoning classification that it is in today and the majority is going to stay in its natural state? Also, does LDS Church have a petition before the Zoning Board requesting relief necessary to build a church on its 9.2 acre lot? Has the request from the original petition from September 2007 been changed to remove the LDS Church property entirely from the request?

Mr. Tshudy: Yes.

Mr. Memmi: How much of the land looking to be developed is buildable?

Mr. Raudenbush: Roughly two-thirds or 4 acres.

Mr. Porter: Is the land owned by LDS agricultural?

Mr. Tshudy: : It is and it will remain that way.

Mr. Porter: Did the Church of LDS ask for any zoning relief to exceed the 15% of the pervious coverage?

Mr. Small: There was none sought or none granted.

Mr. Porter: Mr. Tshudy's promise is if this zoning is granted, the agricultural portion of Stover Community Partners, LP will remain agricultural. Other than a maximum of 15% of which would be used for parking for the commercial aspect, are you willing to put in writing that the remaining 5.3 acres will remain in an undeveloped state for all time?

Mr. Tshudy: It will be noted on the land development plan which will be a recorded document.

Mr. Porter stated if any of the agricultural area is paved, the applicant will use at least 50% of pervious parking material which is one of DEP's best management practices for stormwater management.

Mr. Porter: Does the 4 acres owned by the Church (cemetery) have public sewer?

Mr. Tshudy: It is not currently on the public system.

Mr. Porter: If this is rezoned and the area owned by Stover Community Partners, LP is able to be developed, will Stover Community Partners, LP bring public sewer to the two church properties and the cemetery property?

Mr. Tshudy: The idea would be to do that.

Mr. Abruzzo wanted to clarify that the Derry Township Code 225-22. It describes agricultural conservation district and the permitted uses. The permitted uses include farm, single-family detached dwellings, public or private utility service structures, veterinarian office or hospital, kennels, parks and recreation facilities, municipal buildings, communication antennas, etc. Is that correct?

Mr. Tshudy: They are permitted by-right uses. The area by the LDS property will remain AC and will not be used for even permitted uses. If there is any use, it would be used for parking lot or stormwater management facilities to support the commercial development which would front Middletown Road and the 15% pervious permitted would be used for those purposes.

Mr. Abruzzo: Are you planning on putting parking on that area?

Mr. Tshudy: There is no plan. The correct reading of the zoning ordinance is that where property splits between two zoning districts, it would end up being an accessory facility to the principal use which would include parking and stormwater facilities. He restated that if there would be a parking lot, it could only be 15% of the 6 acres.

Mr. Abruzzo: Does the property upon which the church will be built need any zoning change to build the church?

Mr. Tshudy: There is currently a petition before the Zoning Hearing Board requesting the necessary relief to build a church on the LDS Church property, but there will be no change to the zoning classification of the LDS Church property.

Mr. Porter: Mr. Small, does the church need a use variance to build a church there?

Mr. Small: Two areas of relief have been granted in May. The first is the use relief and the second one dealt with the steeple height.

Mr. Abruzzo: There is mention in the materials that the Comprehensive Plan would have to be amended. Mr. Small, why do you support amending the Comprehensive Plan?

Mr. Small: The importance of keeping the Comprehensive Plan parallel with the zoning ordinance is to know there is some protection in the act. The Comprehensive Plan is much more valuable as a study document if it reflects what you would like the zoning ordinance mapped to reflect.

Mr. Abruzzo: Mr. Small, was there foresight at that time that there would be the residential development that is currently along Middletown Road?

Mr. Small: I believe so. The future land use map, an instrument of the Comprehensive Plan did reflect the ability to open up this corridor along Middletown Road. It was the Comprehensive Plan that laid the groundwork for the big changes along the corridor.

Chairman Pries shared that over the last several months he has talked to residents in the Joanne Avenue, Locust Avenue, Deer Run and Southpoint area. Those residents were looking for more goods and services in the vicinity of their homes so they don't have to drive across town. However, he received an email today from an individual that resides in Southpoint who is opposed to the plan.

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

VISITOR/PUBLIC COMMENT:

Sandra Ballard, 650 Cocoa Avenue – Ms. Ballard commented that the restriction should run with the land and be like a conservation easement rather than adding a note to the land development plan.

She referred to the minutes from the January 22nd hearing; she didn't believe traffic was the only concern raised by the public. She mentioned with all the traffic not many people will cross over Middletown Road. Ms. Ballard said there are major concerns with community safety, flooding and runoff. She said it may be premature to rezone or change the law to accommodate a particular property owner who has the opportunity to do other things with the land until they know what the draft of the stormwater plan is. She encouraged the Board not to make any decisions lightly.

Solicitor Yost said that normally we do not rely on plan restrictions alone. We almost always have a restrictive covenant that has the same effect as a conservation easement and it would run with the land. We would deal with this when we get to the land development stage. Porter reaffirmed with Mr. Tshudy that he and the applicant are willing to enter into something that would run with the land which would be binding for all future purchasers.

Rebecca Lengerich, 917 Muirfield Drive – Ms. Lengerich said she was the person who sent the e-mail referenced earlier. She prepared her remarks thinking the LDS Church property was part of the rezoning since it was on the information that was publicly available. She questioned if the Board could actually vote on this tonight because what was advertised would lead a person to believe all the properties were still included in the rezoning. Mr. Small explained the initial advertising called for 5 parcels of land. The amended advertisement that led to this hearing calls for 4 parcels to be effected excluding the parcel owned by LDS Church. Ms. Lengerich still questioned that the name of the LDS Church was still in the information that she received on Friday. Mr. Small said they still are petitioners, but their land is not in this amended plan. Supervisor Abruzzo asked Ms. Lengerich if that changed her mind when preparing her remarks. She said no. Ms. Lengerich stated that she is opposed to the rezoning mainly because of the traffic. The intersection of Stoverdale Road and Middletown Road is highly backed up during certain times of the day. There is plenty of other land available that is already marked neighborhood commercial property. By having agricultural conservation land, we gain the opportunity to have the water flow down and end up in Swatara Creek. Finally, she said she tried reading through the Comprehensive Plan a while ago to understand what happened in this location. The Comprehensive Plan did foresee the development in the Southpoint neighborhoods. What didn't follow the plan was Stone Creek which was supposed to be business. Ms. Lengerich said this parcel should not be rezoned for neighborhood commercial because it is doing us a benefit in absorbing the water.

Andy Smith, 1473 Spring Hill Drive – Smith stated he is opposed to this plan because he does not see a need to put commercial development in this location. There is already existing land zoned for commercial development and the proposed businesses already exist in the Township. He believes the people in this area who feel under service should have thought about it before they moved there. He believes it is going to create more impervious surface which will further contribute to chemical and thermal pollution in the local streams. He mentioned Swatara Creek is quite polluted and is also quite eroded. He is concerned about people walking across Middletown Road to get to the services. Mr. Smith expressed concern about the Creek running along Stoverdale being adversely affected by this development. He said if it wasn't for the Chronicle, a lot of people would not know about this hearing. Communication needs to be improved.

Matt Weir, 1986 Church Road – Mr. Weir stated he is opposed to this plan and most other plans when they change agricultural conservation land to some other category. The Comprehensive Plan is our constitution for our growth and our Township. He said the only good reason for amending a Comprehensive Plan is that it will improve the lifestyle of the members of our community. The bad reason for amending it is someone is going to make a lot of money. If the Comprehensive Plan is going to be amended it should be the minimum amendment to afford relief. Mr. Weir said the natural area in this case is not going to be developed and improved, but degraded or destroyed. The Township will improve because we are going to issue a lot of permits and make a lot of money for fees to develop our open space. That will look good on the budget so we don't have to raise taxes. Eventually we are going to run out of open space to sell and then we are going to be faced with the choices of either reducing services or raising taxes. The applicants are going to develop their financial statement and improve their bottom line. That is not a good reason for changing our Comprehensive Plan.

Lindsey Devini, 828 Zurich Drive – Ms. Devini opposes this plan and echoed much of what the others had said. Her first concern was lack of publicity of the Hearing. She mentioned she sensed a lot of confusion among the Supervisors. She said if they are going to be changing the law, there should be a thorough understanding of the issue. Ms. Devini said the Supervisors need to take time to deliberate this. She said under the General Code: under the Zoning Ordinance which was developed in accordance with the Comprehensive Plan, under Policy and Goals, mentions the preservation of natural scenic and historic values to prevent the overcrowding of land. This proposed plan seems to contradict this.

Dan Williams, 875 Stoverdale Road – Mr. Williams addressed the Board at the hearing in January regarding the entire rezoning issue and was against it then and still is. He echoed a lot of the concerns that were presented this evening. Peak travel times will be horrible. There is also natural springs that cross under Stoverdale Road and will swale when we get heavy rain. He mentioned a neighbor who cleans out the stream because it provides water to his well.

ADJOURNMENT:

Chairman Pries closed the public hearing at 7:10 p.m. to go into the regular Board of Supervisors' meeting.

SUBMITTED BY:

E. Christopher Abruzzo
Township Secretary

Brenda Van Deursen
Recording Secretary