

**DERRY TOWNSHIP PLANNING COMMISSION
MEETING MINUTES
December 10, 2013**

CALL TO ORDER

The Tuesday, December 10, 2013 Derry Township Planning Commission meeting was called to order at 6:00 p.m. in the meeting room of the Derry Township Municipal Complex, 600 Clearwater Road, Hershey, PA, by Chairman Matt Tunnell.

ROLL CALL

Commission Members Present: Matt Tunnell, Chairman; Gregg Mangione, Secretary; Ned Wehler; Glenn Rowe

Commission Members Absent: Joyce St. John, Vice Chairwoman

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

Public Registering Attendance: Richard D. Hasz, Dale R. Holte, Ken Scardino – Deer Run Homeowners Association; Craig Smith, Mark Hackenburg – RGS Associates; Kendra Mohr – Pannebaker & Mohr, PC; Jon Sheppard – Sheppard & Son Builder; Robert Shaffer – Act One & Associates

APPROVAL OF MINUTES

On a motion made by Secretary Mangione and seconded by Member Rowe, the Planning Commission unanimously approved the minutes of the November 6, 2013 meeting as written.

OLD BUSINESS

A. Report of the Board of Supervisors' action regarding the Preliminary/Final Subdivision and Land Development Plan for Curry Mill, Plat #1239

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

B. Report of the Board of Supervisors' action regarding a waiver from filing a land development plan for the construction of contractor buildings, as requested by The Hershey Company

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

C. Review of the Sketch Plan for Stover Farmhouse, Plat #1235

Mr. Emerick explained that this plan was considered by the Planning Commission at their August 2013 meeting, and at that time the Commission did not make a recommendation on the waiver requested by the applicant regarding the access driveway location. Specifically, a motion was made to recommend

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that the waiver be denied, and it died for lack of a second; and a motion was made to recommend that the waiver be granted, and it died for lack of a second.

The plan proposes the development of a 2.287-acre parcel of land located on the west side of Middletown Road, north of Deer Run Drive. The property is within the Attached Residential zoning district and contains the Edward Stover homestead. Although the property has frontage along Middletown Road, access is gained by way of an existing 30' easement connecting the subject property through lands of the Deer Run Homeowners Association to Deer Run Drive. The applicant is proposing to improve the 30'-wide access easement with a 24'-wide access drive. The access drive will lead not only to the Homestead, but to a proposed cluster of 3 buildings, each containing 4 single family attached dwelling units.

Mr. Emerick noted that the applicant's method of calculation for development density differs from his, and the applicant believes a greater density than what Mr. Emerick thinks is permitted by the Zoning Ordinance should be permitted. Mr. Emerick asked that if the applicant does not agree with his opinion, as Zoning Officer for the Township, they should appeal his decision to the Zoning Hearing Board.

The applicant has requested the following waivers from the Subdivision and Land Development Ordinance:

- a. From Section 185-25.A to allow the driveway to be located less than 60 feet from the Stover Court/Deer Run Drive intersection. Mr. Emerick recommended that the waiver not be granted.
- b. From Section 185-22.C.(14) to provide access to the property at a single point along Deer Run Drive, through the established access easement. Mr. Emerick recommended that the waiver not be granted.

Mr. Emerick went over his plan review comments. He stated that a recommendation to the Board of Supervisors for approval or rejection of the sketch plan is not necessary. However, it is his understanding that the applicant will bring the requested waivers to the Board of Supervisors for their comment; therefore, it is appropriate that the Planning Commission provide a recommendation to the Supervisors regarding the waivers.

Diane Krug, Dauphin County Planning Commission representative, went over her plan review comments.

Member Rowe recused himself from the discussion and vote because Mr. Gelder's son is marrying Member Rowe's niece.

Craig Smith, RGS Associates, represented the proposal. He stated that there are 3 key issues in the development of this project – One is the discrepancy on the density calculation. The applicant will work through that issue with Mr. Emerick, the Township Solicitor, and possibly the Zoning Hearing Board. The second issue is the waiver request regarding street alignment. The requirement is that the access driveway be located at least 60 feet from the intersection of the street right-of-way. The

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proposal indicates the driveway being 36 feet from the intersection, but if one visits the site, they can see that the edge of this pavement essentially lines up with the inner edge of the access driveway. Mr. Smith thinks the intent of the ordinance is to be 60 feet from the intersection, or in direct alignment with the intersection. The third issue is the waiver request regarding the number of units and the single point of access. Mr. Smith stated an agreement exists that restricts access to Middletown Road, so there is only one point of access for the Stover property. In order to access the site, the 30-foot access easement will have to be used. He noted there is safe access and an adequate turnaround area for emergency vehicles.

Member Rowe asked why the driveway easement cannot be aligned. Mr. Smith responded that the best solution would be to shift the easement further to the west to allow the alignment to occur, but that property is owned by the Deer Run Homeowners Association (HOA), so they would need to agree to the movement of the easement, and they will not. Member Wehler questioned why the Deer Run HOA owns the land on which the easement is located. Mr. Smith stated that it was part of the original Deer Run plan as open space.

Member Wehler confirmed that the applicant has approached the HOA about this issue, and has learned that they are not willing to convey additional land. Member Wehler asked if the HOA suggested anything that would cause them to be willing to compromise. Doug Gelder (the applicant) stated that he is not aware of any such suggestions, and added that as he understands it, the complaint the HOA was getting from its members had nothing to do with the driveway, but that residents on Farmhouse Lane would have an obstructed view due to proposed units. Mr. Gelder noted that the subject property is zoned Attached Residential, so there was never a guarantee that it would remain undeveloped. Regarding the number of units allowed on the proposed cul-de-sac, Mr. Gelder pointed out that Farmhouse Lane (which is a cul-de-sac) contains 20 units. He also noted that the off-set intersection at Alyshia Lane, which was constructed by the Township, is a “train wreck” compared to what is being proposed. Mr. Gelder stated that if the Township grants a waiver to use the intersection in the proposed location, he will approach the HOA again to see if they will allow the shifting of the easement, because at that point it will not make sense for the HOA to oppose something the developer can do anyway.

Kendra Mohr, attorney for the Deer Run HOA, stated that in response to Mr. Gelder's comment that “it's only 12 more people”, it is actually 12 additional *homes*, resulting in more than 12 residents and vehicle trips into and out of the site. The HOA is concerned about the requested waivers being granted, due to safety reasons. They are also concerned that there are no provisions for sidewalks on the access driveway, which means that people will be walking/biking in the access driveway. They do not think enough parking has been proposed, and the overflow will park on Deer Run Drive which is already busy. Ms. Mohr referenced the 1995 agreement that Mr. Emerick mentioned in his presentation, and stated that her opinion regarding bringing utilities to the property through the 30'-wide easement is the exact opposite of Mr. Gelder's attorney's opinion. The applicant will have to find another way to bring utilities to the site. The Deer Run residents like what is there now, and they bought their properties because of the aesthetics. They do not believe the property was ever intended to be additionally developed, even though it is zoned Attached Residential. There was a time when Mr. Gelder had the ability to move the access easement to align it with Stover Court, and he did not do so.

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Member Wehler asked for verification that basically, the property cannot be developed because of the driveway. Mr. Emerick answered yes, from an alignment and safety standpoint. Member Wehler asked if that is considered a hardship for which there is a precedent. Mr. Emerick stated that the property is already developed, making the presentation of a case for a hardship difficult. Member Wehler questioned why access to Middletown Road was expressly removed. Mr. Emerick did not know and additionally, he wondered why the Township was not made a party to the agreement.

Member Rowe commented that PennDOT can also prohibit access on Middletown Road if the property has access on a side street.

Gary Garver, representing the Stover estate, commented that the reason why the tract was not developed with Deer Run is because when his grandfather died, his aunt and uncle had a life estate in the farmhouse. Mr. Garver believes they can make a hardship case because they are trying to preserve the farmhouse. The family had the property listed for approximately 3 years, and there were no other interested buyers who did not want to demolish the farmhouse. This proposal will allow the family to settle the estate. Chairman Tunnell asked if there is an agreement that ensures the preservation of the farmhouse. Mr. Garver responded that there is, between him and Mr. Gelder.

Mr. Gelder stated that he has met with the Deer Run HOA representatives on several occasions, and he never heard any of the additional objections listed by their attorney. He added that many residents have told him that they think the Stovers should be allowed to do what they want with their property, and the HOA Board does not necessarily represent the entire development's opinion.

Dale Holte, president of the Deer Run HOA, commented that he takes exception to Mr. Gelder's characterization that the Board's opinion does not represent that of the residents. There have been many meetings and signatures on petitions against the proposal. Perhaps another use would be accepted by the residents, but they do not want this one. Chairman Tunnell asked if the HOA would still oppose the development if the other concerns listed by Ms. Mohr could be corrected. Mr. Holte stated that he cannot give a complete answer without further discussion with others. He went on to say that it seems as though the Township regulations are always changing because of the waivers that are granted. Mr. Emerick commented that he received a copy of a petition signed by 52 residents of Deer Run, and the majority of signatures seem to be those of residents on Farmhouse Lane and Stover Court.

Chairman Tunnell asked if the need for relief from the Zoning Hearing Board regarding density changes what the developer wants the Planning Commission to review. Mr. Smith responded that they are viewing it as two separate issues – the density issue and the two waivers being requested. Chairman Tunnell questioned if 12 units are necessary for the development to work. Mr. Smith stated that it is possible with 10 units, but they need approval of the waivers because nothing can happen without the access.

Member Wehler commented that the developer should obtain Zoning Hearing Board approval for the proposed density before coming to the Planning Commission for a recommendation on the waivers.

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Mr. Smith stated that they would like to get Planning Commission and Board of Supervisors approvals on the waiver requests first.

MOTION ON WAIVERS

- *Member Wehler made a motion that the Planning Commission make a recommendation to the Board of Supervisors to grant the waiver requested from Section 185-25.A regarding driveway location. Secretary Mangione seconded the motion.*

Discussion: Chairman Tunnell commented that a hardship exists, and there are benefits to having the original farmhouse preserved. There is a pretty big policy issue when this many members of a homeowners association express concerns about a development, and he thinks the Supervisors should look into that. Member Wehler stated that issues regarding utilities, sidewalk, and the preservation of the farmhouse need to be addressed as part of the land development plan submission.

The motion passed with a majority vote. (Chairman Tunnell voted in the affirmative; Member Rowe recused himself.)

Regarding access to site, Chairman Tunnell asked if there would be conditions to a land development plan approval regarding the design of the road(s) and their maintenance. Mr. Emerick responded that they are proposed to be private roads; therefore, the Township regulations could not be applied.

- *Secretary Mangione made a motion that the Planning Commission make a recommendation to the Board of Supervisors to grant the waiver requested from Section 185-22.C.(14) regarding the required number of access points. The motion died for lack of a second.*

Member Wehler made a motion that the Planning Commission make a recommendation to the Board of Supervisors to deny the waiver requested from Section 185-22.C.(14) regarding the required number of access points. The motion died for lack of a second.

Chairman Tunnell stated that he would like to hear the results of the Zoning Hearing Board case regarding density before the Planning Commission makes a recommendation on the waiver regarding the number of access points; however, he is not necessarily opposed to granting the waiver. He would also like Township staff to be comfortable that there are no safety issues, but he thinks that is achievable through the design.

D. Review and recommendation of revisions to the Preliminary/Final Subdivision Plan for Woodland Hills, Plat #1203

Mr. Emerick explained that this plan was last before the Planning Commission in June 2011. The Board of Supervisors conditionally approved the plan in September 2011, but it was never recorded. Originally, the main area of the subdivision was a parcel of 16.56 acres. Also included was a portion of the 1.0039-acre property of Douglas R. Miller, designated as Lot 6. A portion of that lot, 6A, was to

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be subdivided and included in the plan as part of proposed Lot 1, leaving 0.7696 net acres for Lot 6 after the loss of 6A and existing Clark Road right-of-way area. Mr. Miller has decided to not participate in the plan any longer.

There is an effect on the property of Mr. and Mrs. Kreamer, shown as abutting Parcel 14 on the plan. There is a land transfer, depicted on a separate plan, which is also in process at the Township. The Zoning Hearing Board has already granted some relief for lot configuration for this project, although this current plan modification does require additional relief related to lot depth for Lots 1 and 2.

Plat #1203 proposes the creation of 5 new lots, using the lot area exception criteria of Section 225-163 of the Zoning Ordinance. The design includes a short extension of Hillside Road, which will terminate in a cul-de-sac of conforming dimensions and slopes. This design presents no extension of Woodland Avenue.

Mr. Emerick; Jason Hinz, HRG; and Diane Krug, Dauphin County Planning Commission representative, went over their plan review comments. Ms. Krug added that at their meeting, the Commission had concerns about stormwater runoff because of the steep slopes and previous problems in this area.

Mr. Emerick noted that since the waiver requests for this plan have not changed since 2011, there is no need for the Planning Commission to act on them again.

Jon Sheppard, applicant, stated that all of the review comments will be addressed.

MOTION

On a motion made by Secretary Mangione, seconded by Member Wehler, and a unanimous vote, the Planning Commission recommended approval of the revisions to Plat #1203, subject to the Zoning Hearing Board granting relief regarding minimum lot depth, and subject to the outstanding comments of Township staff and HRG being satisfactorily addressed.

NEW BUSINESS

None.

OTHER BUSINESS

- Regarding the Comprehensive Plan and Zoning Ordinance updates, Mr. Emerick reported that a committee interviewed the three top consultants as chosen by a selection committee. It appears that staff will be requesting approval from the Board of Supervisors before the end of the year to move forward with the execution of documents with the chosen consultant. He expects the revision process will take between 12 and 18 months. Adoption of the documents may take longer than that.

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- Secretary Mangione asked if anything new has been submitted for the Molinari & Ruble Partners, L.P. rezoning proposal. Mr. Emerick answered no.

ADJOURNMENT

On a motion made by Member Wehler, seconded by Member Rowe, and a unanimous vote, the meeting adjourned at 7:30 p.m.

Respectfully submitted,

Gregg Mangione
Secretary

Submitted by:

Jenelle Stumpf
Community Development Secretary