

DERRY TOWNSHIP PLANNING COMMISSION
MEETING MINUTES
October 4, 2016

CALL TO ORDER

The Tuesday, October 4, 2016 Derry Township Planning Commission meeting was called to order at 6:06 p.m. in the meeting room of the Derry Township Municipal Complex, 600 Clearwater Road, Hershey, PA, by Chairwoman Joyce St. John.

ROLL CALL

Commission Members Present: Joyce St. John, Chairwoman; Glenn Rowe, Vice Chairman; Matt Tunnell, Secretary; Ned Wehler

Commission Member Absent: Don Santostefano

Also Present: Chuck Emerick, Director of Community Development; Brandon Williams, Assistant Director of Community Development; Chris Brown, Derck & Edson; Carolyn Yagle, Environmental Planning & Design; Diane Myers-Krug, Dauphin County Planning Commission representative; Jenelle Stumpf, Community Development Secretary

Public Registering Attendance: Grant Smith, AGC (Barry Newhart); Gary Garver; William Pavone; David Tshudy, Pepper Hamilton, LLP; Steve Ramis, Southpoint HOA and Middletown Road Coalition; Dan Tunnell, Oakmont; Dale Holte, Deer Run HOA; Jeff Gelbaugh, P.O. Box 85, Hershey; Anne Newman, 531 Elm Avenue, Hershey; Ron Lucas, Stevens & Lee; Jay Ziegler, 971 Bullfrog Valley Road; Michael Still, 433 East Main Street, Hummelstown; Jeff Rosensteel, 433 East Main Street; Jen Hynes; Stephen Nowssel, Penny Dougherty – 1632 Sand Hill Road; David Leader, George M. Leader Family Corp.; John Schaefer, 433 East Main Street, Hummelstown; Todd Pagliarulo, 321 Concord Court, Hershey; Tony Seitz, Delta Development Corp.; Rich Gamble; Charles Huth, *The Sun*; Randy Wright; Anne Searer; Eric and Jennifer Spangler; Ronald C. Furlan, 1903 Limestone Drive, Hummelstown; Matt Weir; Roy Michaelson, 1169 Wicklow Court, Hummelstown

APPROVAL OF MINUTES

On a motion made by Secretary Tunnell and seconded by Vice Chairman Rowe, the Planning Commission unanimously approved the minutes of the September 6, 2016 meeting, as written.

OLD BUSINESS

A. Report of the Board of Supervisors' action regarding the Preliminary/Final Subdivision and Land Development Plan for Muscalus Property, Plat #1269

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

**DERRY TOWNSHIP PLANNING COMMISSION
MEETING MINUTES
October 4, 2016**

B. Report of the Board of Supervisors' action regarding adoption of Ordinance No. 672, amending Chapter 225 (Zoning) of the Code of the Township of Derry regarding communications antennas and communications towers

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

NEW BUSINESS

A. Review and comment on the final draft of the proposed Zoning Ordinance

Chuck Emerick stated that this process began in 2010 with the new Comprehensive Plan. The Board of Supervisors adopted the Comprehensive Plan in January 2016. Revising the Township's Zoning Ordinance began late in 2015 and has been a continuing process through 2016. This latest draft of the proposed Zoning Ordinance will come before the Board of Supervisors at their public hearing on October 25, 2016.

Mr. Emerick read the first two comments in the Dauphin County Planning Commission's October 3, 2016 letter, because they are a good summary of what is being presented and where the Township is in the process:

- 1. Overall, the Township should be commended on the layout and readability of the document itself. It is clear great effort was spent on making the content understandable not only to developers, but all potential users of the ordinance and the community as well. Additionally, multiple drafts have been made available for public review along with annotation of the changes, as well as special public workshops for further explanation of some proposed ordinance sections, all of which is above and beyond the requirements of the PA Municipalities Planning Code (MPC).*
- 2. The proposed zoning districts parallel the "nature of place" typologies detailed in the Township Comprehensive Plan. The provisions of the proposed zoning ordinance also support and are consistent with the mission, vision and goals of the Township Comprehensive Plan, as well as the policy direction provided in the Dauphin County Comprehensive Plan, Tri-County Regional Planning Commission Regional Growth Management Plan and best practices of the planning profession.*

Diane Myers-Krug, representative for the Dauphin County Planning Commission, noted that the Commission reviewed the proposed Ordinance at their meeting of October 3, 2016 and supports its enactment, with several comments for the Township's consideration, which are listed in their October 3rd letter.

Mr. Emerick commented that many of the changes that were made to the draft Ordinance since May 2016 encompassed comments from the public, the Derry Township Planning Commission, and

**DERRY TOWNSHIP PLANNING COMMISSION
MEETING MINUTES
October 4, 2016**

recommendations from the Board of Supervisors. There were few changes to the mapping; most of the changes were to the text of the document. Chris Brown, Derck & Edson, added that no substantive changes were made to the text.

PUBLIC COMMENTS/ PLANNING COMMISSION COMMENTS

Chairwoman St. John asked what the word ‘complements’ refers to in Section 225-301.B.8, which states “*PCW – Planned Campus West. For multi-building, planned campus-type development of residential, commercial and institutional uses, and where all development is accommodated at a traditional scale and intensity of development which complements the surrounding residential neighborhoods.*” Mr. Brown responded that the scale and intensity of the development should not be out of place in Derry Township. The word ‘surrounding’ refers to all of Derry Township.

Steve Ramis, President of the Southpoint of Hershey Homeowners Association and representative of the Middletown Road Coalition. Mr. Ramis thanked the Commission for the opportunity to comment on the draft Ordinance, and agreed that the document is easy to use. Mr. Ramis referenced the July 28, 2016 Middletown Road Coalition’s memo that lists their objections to the draft Ordinance and stated that the revisions made since May have not changed the Coalition’s opinions. Mr. Ramis requested that a copy of the memo be included with this meeting’s minutes. The Coalition believes the Ordinance should be rejected because it is contrary to the resolution that adopted the 2015 Comprehensive Plan, which states in part, “*Whereas, the Derry Township Board of Supervisors affirms that the adoption of this Comprehensive Plan does not change nor directly endorse the change of base zoning in the Township, but rather holistically outlines a philosophical framework for future growth...*” The Planned Campus West district will upzone approximately 470 acres of land between Bullfrog Valley Road and the 52 acres of commercial property along Middletown Road. The Coalition is not opposed to Hershey Trust Company’s Gateway project; however, no one has seen a master plan or any details of the development, nor have there been any studies of the impacts of developing over 200 acres. Mr. Ramis proposed that the Zoning Ordinance should be revised prior to adoption to remove from the Planned Campus West zoning district the parcels west of Waltonville Road up to the 52 acres of property already zoned for commercial use. There is no reason to upzone those parcels now, when the Gateway project will be 7-10 years in the making. He urged the Commission to support this compromise and keep the zoning static on those parcels between Waltonville Road and Middletown Road until the impacts from the Gateway project are known, and to not rush the process of adopting the draft Zoning Ordinance without having the information needed to make informed decisions.

Dale Holte, 2279 Southpoint Drive, President of the Deer Run Homeowners Association and representative of the Middletown Road Coalition. Mr. Holte agrees with Mr. Ramis that the Township staff and the consultants have done a good job with the revisions to the draft Ordinance. There are only minor changes that need to be made at this point. Mr. Holte stated that the Gateway project is not a “field of dreams”, it is a development that will forever change the landscape of Derry Township. There is no plan, no timeframe, no impact study, and no clear benefit to the residents of the Township. The Coalition is concerned that by adopting the draft Zoning Ordinance in its current format, the Township officials and residents are giving away far too much control of this property.

DERRY TOWNSHIP PLANNING COMMISSION
MEETING MINUTES
October 4, 2016

Jeff Gelbaugh stated that changes still need to be made to Section 225-315 (Hershey Mixed Use) regarding impervious and vegetative coverage. Overlay 8 (Derry Road) needs to be added and should indicate 60% maximum impervious coverage and 30% minimum vegetative coverage.

Brandon Williams responded that Overlay 8 encompasses the lands that are along East Derry Road, and the thought is there are some properties on Park Avenue that are of similar sizes. Park Avenue was originally not included in Overlay 8, so the properties would have been required to have a maximum impervious cover of 45%. Overlay 8 was inadvertently not included in Table 29 (Hershey Mixed Use Dimensions) of Section 225-315, and this change will be made.

Dave Weaver, 1163 Galway Court, commented that approving this Ordinance gives up any kind of oversight or control of future development of the Gateway project. Development may be inevitable; however, studies regarding traffic, stormwater, and educational impacts should be conducted prior to the rezoning of the property. Mr. Weaver suggested that the Master Plan approval process should be a requirement, not an option. He also stated that it appears as though none of the major changes suggested by the public were included in this draft of the Ordinance.

Mr. Brown explained that the Master Plan approval process is a conditional use process, so the rezoning of the subject parcels to Planned Campus West will not automatically authorize all permitted uses. The developer will still have to go through the conditional use process for approval which will require, at a minimum, the submission of a plan and impact studies. Mr. Brown added that, specifically regarding traffic impacts to Middletown Road, the Board of Supervisors commissioned the Township's consulting engineer, HRG, to do a study of the existing conditions and the future impacts to Middletown Road. The study is being finalized and will be available for public review in the near future.

Secretary Tunnell asked Mr. Brown to provide the parameters of the Middletown Road study. Mr. Brown responded that HRG analyzed existing conditions and several future land use considerations in and outside of the Township.

Vice Chairman Rowe commented that any kind of roadway infrastructure can be built to handle the traffic resulting from development, but you have to look at what is realistic given physical constraints in the area. He asked if the Township has thought about finishing the study before the Zoning Ordinance is finalized. Mr. Brown stated that hopefully the study and its recommendations will be ready soon enough that the Board of Supervisors is able to use it as a resource in making an informed decision about the adoption of the Zoning Ordinance.

Chairwoman St. John questioned what will happen if it turns out that the Middletown Road traffic study's recommendations do not support the traffic increase that will result from the rezoning of the parcels in the Planned Campus West district. How will the Township control the increase of traffic if developers choose not to do the Master Plan approval process and the Planned Campus West parcels are developed individually? Mr. Emerick answered that because of the incentives that are offered, it would be foolish for someone to develop a property without going through the Master Plan approval process.

DERRY TOWNSHIP PLANNING COMMISSION
MEETING MINUTES
October 4, 2016

Secretary Tunnell commented that regarding the Planned Campus West zoning uses chart, it seems that single family attached dwellings and two-family detached dwellings in this area would have a by-right ability to.... Mr. Emerick interrupted to state that he talked to the consultants about Secretary Tunnell's question earlier today, and the intention will be to remove all by-right residential uses except within a Master Plan process.

Randy Wright, 1342 East Derry Road, appreciates that East Derry Road is no longer listed as being in a thoroughfare overlay. However, several commercial uses are still permitted in this area that are not compatible with the existing residential uses. Mr. Wright noted that most of the houses in his area of East Derry Road are only 15 feet apart and he is concerned that a neighboring property could be converted into a commercial use. The Zoning Ordinance could be revised to encourage the continuation of the modest residential area in this district. A simple fix would be to make these permitted commercial uses specific to the East Chocolate Avenue or the Palmdale Future Development Area thoroughfare overlays.

Eric Spangler inquired about the Community Heritage Buffer Overlay, as it effects his property at Bullfrog Valley Road and Hill Church Road. Mr. Brown explained that the Community Heritage Buffers provide protection for existing aesthetics that were noted in the Comprehensive Plan as being important to the Township. Mr. Spangler stated that in the Comprehensive Plan, his property is listed as 2.2 which allows 3 dwellings per acre and asked how many dwelling units per acre are permitted in the Conservation district, which is what his property is proposed to be rezoned to. He stated that with the adoption of the current Zoning Ordinance over 20 years ago, the Board of Supervisors downzoned his property to Agricultural/Conservation from high density residential because public sewer and water were not available to the property at that time, and told Mr. Spangler that as soon as the utilities were extended to this area of the Township, they would change the zoning back to what it had been. Mr. Spangler stated that he made the request, and the rezoning was not granted. Public water and sewer are now available and the change was not made. He also asked what the maximum impervious coverage percentage will be in the Conservation zoning district. Mr. Brown replied that the maximum impervious coverage limit in the Conservation district is 15%, which is the same as it is currently in the Agricultural/Conservation district, and the allowable density is still the same at 1 unit per 5 acres. Mr. Spangler stated that his goal is to have his property rezoned to what it was prior to 1993 and he thought that was going to happen, based on the future land use classification of 2.2 in the Comprehensive Plan. Mr. Emerick noted that the conservation easement on Mr. Spangler's property exists currently.

Ken Gall, Hershey Trust Company, commented that there has been a lot of focus on one particular piece of real estate. The Hershey Trust Company, as Trustee for Milton Hershey School, owns 5,900 acres of land in Derry Township. There is a lot of give and take in the Zoning Ordinance and he thinks the Planning Commission and Board of Supervisors need to consider the overall impact. The land which is being referred to as the Gateway project is currently zoned to allow for up to two million square feet of commercial offices, and the Economic Development-zoned land along Middletown Road currently permits big box retail uses. The tradeoff is the Master Plan process and the uses that are permitted only through the Master Plan process. The Trust Company will be required to go through a Master Plan approval process for the development of the Gateway project. Mr. Gall asked the Planning Commission to remember that, because it seems as though the focus is only on one

DERRY TOWNSHIP PLANNING COMMISSION
MEETING MINUTES
October 4, 2016

particular area. He noted that the residents in Stafford Heights and Jacobs Creek are not at this meeting because the proposed zoning will change the vacant land in that area to Planned Campus South, and Mr. Gall thinks everybody will be thrilled to have Milton Hershey School continue to do what they do in that area, because otherwise, at some point, that land was going to be 400 houses. He stated that the Trust Company has not submitted plans for the Gateway project because they do not want to develop complete plans until they know what the zoning is going to be and what the process is going to be.

David Tshudy of Pepper Hamilton, representing Hershey Trust Company, stated that he submitted a comment letter to Brandon Williams on October 3rd. He urged the Planning Commission to make a recommendation to the Board of Supervisors that the draft Zoning Ordinance be adopted in its current form. Mr. Tshudy stated that a lot of time has been spent looking at and commenting on the Master Plan process as a conditional use, and he thinks that the section of the Zoning Ordinance related to this process is written in a way that it is very protective of the Township, and it is also clear to an applicant what is required to be submitted.

Secretary Tunnell stated he appreciates the sentiment in Pepper Hamilton's letter that supports transparency and open communication and processes with the Township and any residents who may be impacted by the development in that area. He asked Mr. Tshudy's thoughts on the Middletown Road Coalition's recommendation that the amount of land that is proposed to be included in the Planned Campus West zoning district should be reduced for the time being and rezoned in the future as needed. Mr. Tshudy said they stick by their position that they would like to have the Ordinance adopted as a whole in its present draft. Development of the area west of Waltonville Road will require the Master Plan process whether the zoning is changed now or in the future and in that location, different aspects will be looked at under the conditional use process because of the surrounding characteristics. As it develops, that area may need to be part of a Master Plan, especially for transportation infrastructure purposes as the first phase of the Gateway project gets developed.

Secretary Tunnell commented that there is so much concern in the Middletown Road corridor and thoughtful, conscientious planning will be necessary for future development. The results of the Middletown Road traffic study might say there should not be any further development in the subject area because there are no reasonable infrastructure improvements, or the results might propose a way to move future development forward. He thinks not upzoning the area to the west of Waltonville Road with the adoption of the draft Ordinance is a good compromise. If the upzoning goes through, there are numerous commercial uses that could occur without going through the Master Plan approval process. Perhaps the Master Plan process for conditional uses could be applied to the Conservation zoning of the area to the west of Waltonville Road so that the development of the land would have to go through some type of public review process.

Mr. Brown confirmed that if nothing was done to the middle ground that is currently zoned Agricultural/Conservation, then it will only be developed in the Agricultural/Conservation way. If the land is rezoned to Planned Campus West, there are going to be additional entitlements through the zoning process. When viewed holistically, there have been some reductions in the Economic Development and the Business Office zoning districts that are tradeoffs. To look very specifically parcel by parcel, yes there are going to be ups and downs at different times, but the net effect is very

DERRY TOWNSHIP PLANNING COMMISSION
MEETING MINUTES
October 4, 2016

consistent. Mr. Brown thinks the Middletown Road traffic study looked at existing conditions and also what could be there if the Zoning Ordinance is enacted as drafted, and that is a paramount piece of information in this conversation. He suggested that the Planning Commission make a recommendation to the Supervisors to adopt the draft Zoning Ordinance in its current form, conditional upon the results of the HRG Middletown Road traffic study.

Member Wehler asked if traffic counts were calculated to compare the full buildout of the lands in question under the current zoning and the full buildout under the proposed zoning. Mr. Brown responded that it is part of the HRG traffic study.

There was discussion about the timeline dictated by the Pennsylvania Municipalities Planning Code for the Zoning Ordinance review and adoption process. Secretary Tunnell asked if the Planning Commission could table making a recommendation to the Board of Supervisors on the draft Zoning Ordinance. Mr. Emerick stated that the Board of Supervisors' October 25, 2016 public hearing on this matter has already been duly noticed. The Planning Commission's review of the Ordinance is part of the process, whether or not they make a recommendation to the Board of Supervisors. If the Planning Commission tables making a recommendation, that is what will be reported to the Supervisors. Per the MPC, the Commission has 45 days to make a recommendation to the Supervisors but ideally, the recommendation should be made prior to the public hearing.

Rich Gamble stated that the Township's biggest problem is the infrastructure in the roadways, and now the Zoning Ordinance is proposing to rezone approximately 400 acres. What is going to be built, and can the infrastructure support it? The draft Zoning Ordinance is on the right track but let's get it right the first time and have all of the factual information available. If the Planning Commission tables making a recommendation on the adoption of the Zoning Ordinance, it will allow more time for the Middletown Road traffic study to be completed.

John Schaefer, Pastor at Grace United Methodist Church, 433 East Main Street, stated that a lot of his church members are in favor of the Planned Campus West zoning, except for the ones who live along Middletown Road; however, traffic is bad everywhere in Township. He thinks progress is a good thing and growth needs to continue to happen because there are young families who cannot afford the housing costs in the Township. Mr. Schaefer supports the Hershey Trust Company and hopes that they would add affordable housing so that these families can remain in Derry Township.

Ron Lucas, attorney with Stevens & Lee, represented the Garver family. He stated that their property is located east of Middletown Road, south of Stoverdale Road, and north of Kaylor Road, and is currently zoned Agricultural/Conservation. About 15 years ago, the Garvers wanted to rezone a portion of their land to a commercial classification and were told by some of the Supervisors to hold off. The draft Zoning Ordinance shows a gap in the Planned Campus West zoning along Middletown Road that was not shown on the Comprehensive Plan Future Land Use Map. Why were the Garver lands excluded from the Planned Campus West zoning district? Mr. Emerick responded that there was a conscientious thought that the development of the Gateway project would be through the Master Plan process and would provide substantial improvements to the roadway system, including Middletown Road, as well as a road connection between Bullfrog Valley Road and Waltonville Road. The Garver lands will produce traffic on Middletown Road. The Township does not want to create projects that

DERRY TOWNSHIP PLANNING COMMISSION
MEETING MINUTES
October 4, 2016

will generate additional traffic on Middletown Road without the substance to create improvements that are needed. Mr. Lucas stated that there should not be discrimination based on the size of the parcels. The Garvers are interested in developing a 55+ residential community. The property has access to two roads that have traffic signals; there will not be any access driveways to Middletown Road. The Garvers are requesting that the “gap” on the Base Zoning Districts Map be filled in to rezone their property to Planned Campus West or R-3.

David Leader inquired about the zoning of the property at 1528 Sand Hill Road. It is currently Neighborhood Commercial and is proposed to be zoned Conservation. There are existing business and professional offices on the property, but Mr. Leader is concerned about the change in impervious coverage. The Neighborhood Commercial zoning district permits a maximum impervious coverage of 60% and a similarly low vegetative coverage percentage. In the Conservation district and Overlay 12, the maximum impervious coverage would be 15%, which would significantly restrict the use of the property in the future.

Chairwoman St. John questioned how the Township will address the matter of an existing business in an area that will be limited in impervious coverage. Mr. Emerick answered that existing nonconformities are protected by the Ordinance and can be expanded within certain limits.

In a response to a request for clarification from Carolyn Yagle of Environmental Planning & Design, Mr. Leader said the ideal situation would be for their property at 1528 Sand Hill Road to remain in a zoning district that is similar to Neighborhood Commercial. A compromise would be to not have such a drastic reduction in maximum impervious coverage.

Dave Weaver, 1163 Galway Court, commented that he appreciates the Trust Company's commitment to the Master Plan process. He again suggested that the Zoning Ordinance be revised to *require* a developer to go through the Master Plan process for projects in Planned Campus West zoning district between Bullfrog Valley Road and Middletown Road.

Ron Lucas, attorney with Stevens & Lee, represented Jay Ziegler, owner of Ziegler's Auction House at the corner of Sand Hill Road and Bullfrog Valley Road. The property is currently zoned Neighborhood Commercial, and the proposed zoning would split the property into R-1 and Conservation. Mr. Lucas thinks it is very difficult to find something in the draft Zoning Ordinance, and it is hard to figure out the zoning of a property in a short amount of time and whether any overlays apply. Mr. Lucas noted that auction houses are a permitted use in the R-1 district under Overlay 12; however, the problem with the proposed rezoning of Mr. Ziegler's property is that there could be difficulty in establishing a new commercial use in the future. By making the auction house a permitted use, the Ordinance takes away the rights of the owner. The combination of the overlay and the district creates problems; the impervious coverage issue is not the only problem for the property owners in this area of the Township. There is not a quick fix to solve the impervious coverage problem, and someone from the Township should sit down with the owners in this area and explain to them what to be able to expect as far as what they can put on their properties in the future.

DERRY TOWNSHIP PLANNING COMMISSION
MEETING MINUTES
October 4, 2016

Jay Ziegler stated that he has talked to a number of his neighbors in the Neighborhood Commercial zoning district, and they would like to meet with a Township representative to discuss permitted uses in this area.

Ron Furlan, Limestone Drive, asked if there will be a response document that answers all of the public comments that were received. Mr. Emerick answered no. Mr. Furlan requested that the Township consider enacting a noise ordinance. He also commented that in his line of work, he has seen problems with overlay districts in other Townships in that they opened the door to property reassessment and re-evaluation. He believes the Planning Commission should make a recommendation to the Board of Supervisors that they move slowly in the approval process and wait for the final results of the Middletown Road traffic study.

Member Wehler asked why there is such a large difference in minimum site area requirements for the Master Plan process between the Hershey Mixed Use district and Palmdale Mixed Use district (1 acre) and 10 acres otherwise. Mr. Emerick responded that in the Hershey Mixed Use and Palmdale Mixed Use districts, an owner could assemble several tracts of land and do a conscientious, comprehensive Master Plan, but to get much more than an acre is a stretch. The Township wants good, planned development so the standard was lowered in these districts. We want to encourage the additional uses but we want them done well. In the other areas of the Township that would fall under the Master Plan requirements, they tend to be larger tracts of land so that 10 acres is approximately what would be needed to do a meaningful development in the areas outside of in-town Hershey.

There was discussion about the review timeline and options that the Commission has when making a recommendation to the Board of Supervisors regarding the adoption of the Ordinance. Secretary Tunnell thinks there are issues involved that are well beyond nuance and require further review and discussion. He does not think it is respectful of the process or the public to move forward with the adoption of the Ordinance without knowing the results of the HRG Middletown Road traffic study.

Vice Chairman Rowe agreed with Secretary Tunnell that even though we are 95% of the way through the approval process, we should not rush the adoption without having the results of the traffic study. Mr. Brown clarified that the Board of Supervisors commissioned the study for information, not for improvement recommendations.

Jason Garver questioned why the HRG traffic study was only for Middletown Road. Mr. Brown responded it was what the Supervisors requested because of Middletown Road being a problem corridor. General traffic for the Township was included as part of the Comprehensive Plan from a holistic point of view.

Jennifer Spangler, 918 Hill Church Road, asked what prompted all of the zoning changes in areas of the Township where the owners did not request a change. Mr. Brown stated that the general catalyst was the Comprehensive Plan update, and the changes represented in the Comprehensive Plan resulted from numerous listening sessions with residents of the Township to understand where and how people want the Township to grow and evolve.

**DERRY TOWNSHIP PLANNING COMMISSION
MEETING MINUTES
October 4, 2016**

Chairwoman St. John thanked the public for their comments. She thinks the Master Plan process is very beneficial; however, it is also important to note that there are a lot of unknowns regarding the areas outside of the Planned Campus West zoning district and comments that were not addressed in the proper way within the Zoning Ordinance.

There was further discussion by the Planning Commission regarding potential motions. It is not the desire of the Commission to recommend rejection of the Ordinance because they feel the Ordinance is very close to being ready for adoption; however, there are still some outstanding issues that need to be addressed. Secretary Tunnell commented that, since it is unclear to the Commission whether or not they have a statutory obligation to provide a definitive recommendation to the Board of Supervisors to adopt or reject the Ordinance and in order to avoid any ambiguity in the review process, he believes the Commission should make a recommendation to reject the current draft of the Zoning Ordinance.

Penny Dougherty, 1632 Sand Hill Road, stated that she represents the 95% of the Township residents who have no clue what the Planning Commission, Township staff, and the Township planning consultants are talking about, whether it is zoning or putting a road through someone's kitchen. She added that this Township has no clue what is going on here, and asked the Commission to put that in their decision process.

MOTION

On a motion made by Member Wehler, seconded by Vice Chairman Rowe, and a unanimous vote, the Planning Commission made a recommendation to the Board of Supervisors that the Zoning Ordinance process continue; that the public comments made at the October 4, 2016 Planning Commission meeting are taken into account; that the public comments made at the Board of Supervisors public hearing are taken into account; and that, after all of the public comments are heard, the Zoning Ordinance is revised and brought back before the Derry Township Planning Commission for a recommendation to approve or reject the document. The Planning Commission's motion is not a recommendation for approval of the current draft of the Zoning Ordinance, nor is it a recommendation for rejection.

B. Review and recommendation of Ordinance No. 682, which would amend Chapter 225 (Zoning) of the Code of the Township of Derry regarding changing the definition of the term 'Sign' and adding a definition for the term 'Attraction Branding'

Chuck Emerick explained that the Township's 1993 sign regulations were intentionally written to encompass any form of advertising as a way to protect the Township's vision and identity. These regulations have served the Township well in regulating the number, size, location, movement, and illuminations of signs so that they can clearly communicate the intended message while minimizing clutter, unsightliness, and confusion. In the 1993 regulations, the Township had excluded "legacy" type symbols from the signage definition, including Hershey Kisses-shaped lights and vegetation shaped in a manner to depict a symbol or word, as these are items that provide us with an unequaled sense of place and promote the heritage of our community. This present amendment to the current Zoning Ordinance is proposed with that understanding and a desire to promote public art as noted in the 2015 Comprehensive Plan. In addition, and in consideration of Hersheypark having a visual

DERRY TOWNSHIP PLANNING COMMISSION
MEETING MINUTES
October 4, 2016

presence on multiple public streets and from many other vantage points, it also seems appropriate to exempt the “branding” of the Park attractions from the sign regulations. Here the branding is meant to convey the theme and heritage of the Park, which is also a part of our community and heritage.

MOTION

On a motion made by Secretary Tunnell, seconded by Vice Chairman Rowe, and a unanimous vote, the Planning Commission made a recommendation to the Board of Supervisors that Ordinance No. 682 be adopted as written.

OTHER BUSINESS

None.

ADJOURNMENT

The meeting adjourned at 9:19 p.m.

Respectfully submitted,

Matthew Tunnell
Planning Commission Secretary

Submitted by:

Jenelle Stumpf
Community Development Secretary (*stenographer*)

****These comments are included as part of the 10/4/16 Planning Commission meeting minutes per the request of Steve Ramis, Middletown Road Coalition****

To: Chuck Emerick
From: Middletown Road Coalition
Date: July 28, 2016
Subj: Proposed Zoning Ordinance

The proposed draft of the new Derry Township zoning ordinance runs completely contrary to the goals and concerns of the Middletown Road Coalition especially as it relates to the area designated as Planned Campus West (PCW.) Development of PCW, which involves a significant acreage in the township, will have consequential impacts upon the surrounding communities in terms of population density, increased traffic, air pollution, loss of wildlife habitat, loss of agricultural lands, etc. without the requirement to identify the extent of those impacts. As residents whose developments are contiguous to the proposed PCW section of the draft zoning ordinance, we would like to comment on what we see as issues and problems should the zoning ordinance be adopted in its present form.

These problems are as follows:

1. This draft zoning ordinance conflicts with the resolution adopting the 2015 Comprehensive Plan.
2. This zoning ordinance removes control of zoning decisions from the Board of Supervisors (current and future.)
3. This zoning ordinance changes zoning (mostly up-zoned) on more than 500 acres of property without any plans for development having been submitted.
4. This zoning ordinance presumes that sufficient incentives are available to induce the use of master plans for future development in the area but has no mandatory requirement to do so no matter how many acres/parcels are being proposed for development.
5. The zoning ordinance will have physical, social and environmental impacts that have yet to be identified and addressed.

The draft zoning ordinance runs contrary to the resolution adopting the 2015 Comprehensive Plan which states in part, "*WHEREAS, the Derry Township Board of Supervisors affirms that the adoption of this Comprehensive Plan does not change nor directly endorse the change of base zoning in the Township, but rather holistically outlines a philosophical framework for future growth...*" It also sets up a cascade of other issues as described in the following paragraphs.

It was stated in a previous public meeting on this subject that the Zoning Ordinance must comply with the municipality's Comprehensive Plan. However, Section 303(c) of the PA Municipal Planning Code expressly provides "*that no action by the governing board of a municipality shall be invalid nor shall the same be subject to challenge or appeal on the basis that such action is inconsistent with, or fails to comply with, the provision of a comprehensive plan.*" Courts have consistently held that where there is a conflict between the comprehensive plan and the zoning ordinance, the zoning ordinance prevails on the grounds that it is regulatory

****These comments are included as part of the 10/4/16 Planning Commission meeting minutes per the request of Steve Ramis, Middletown Road Coalition****

in nature while the comprehensive plan is merely recommendatory. (Blue Ridge Realty & Development Corp. v Lower Paxton Township. 414A. 2nd 737 (1980) Additionally, the MPC states that "Zoning ordinances shall encourage the continuity, development and viability of agricultural operations." Art VI Para 603(h) That does not seem to be the case here.

If the proposed ordinance is adopted, it would remove from the current Board of Supervisors and future Boards the power to decide on how the Comprehensive Plan should be implemented. What potentially could be a positive and enlightened approach contains none of the protections or controls currently available to the Supervisors in making zoning decisions. By making zoning changes without having plans to review, the Supervisors are locked into any permitted and conditional uses, which could have unintended consequences, such as the Sheetz development at the corner of Stoverdale and Middletown Roads which was not envisioned when that property was re-zoned in 2008.

Furthermore, most of the property in the PCW is being up-zoned. There are several property owners in this area, the Milton Hershey School (the Trust) holding the most acreage. It is no secret that the Trust desires to develop their property between Bullfrog Valley and Waltonville Roads. And while there is great confidence that the Trust would do the right thing, there are no guarantees that conditions could not change before a master plan is approved. One only need look at the Post Office building retrofit to see how quickly things can change for the worse. And since there is no requirement for developers to submit master plans under the proposed ordinance, a developer, for example, could apply for and have a "right" to build structures for any of the permitted uses as individual projects.

We cannot ignore the fact that additional development will create additional traffic on Middletown Road, Waltonville Road, the 322 Service Road and Bullfrog Valley Road. By changing zoning, the path is cleared for developers to construct more than 500 townhouses on the section of PCW between Stoverdale Road and Kaylor Road. The property between Bullfrog Valley and Waltonville Road could conceivably be developed with many more dwelling units than that. More traffic creates more air pollution, creates more health hazards, creates more policing problems, etc.

We suggest that current zoning remain as is. Use overlays in the sense that master plans would be encouraged for development within the overlay boundaries and projects that meet the goals of the Comprehensive Plan would be favorably reviewed. Further, there needs to be a requirement for impact studies regarding traffic, environmental changes, storm water run-off, etc. PCW is bounded by 2 lane roads some of which could be widened but Middletown Road is pretty much restricted to 2 lanes for the foreseeable future. With the build out of projects already approved and the potential for a big box store near Rutters, traffic on Middletown Road would only get worse and the addition of turn lanes will not provide much improvement. Any project plans in PCW should be required to provide impact studies and demonstrate ways any negative impacts could be mitigated.

Adoption of the Zoning Ordinance in its present form is a bad idea. Let's not sacrifice the future of Derry Township and its residents to current expedencies.