

## AGENDA

**LOWER SWATARA TOWNSHIP  
PLANNING COMMISSION**

**REGULAR MEETING  
OCTOBER 23, 2008, 7:30 P.M.**

1. Call to order
2. Roll call.
3. Approval of Minutes of the September 25, 2008 Meeting.
4. Discuss the request of Delta Development Group for a zoning map amendment for property located adjacent to Route 283. The properties in question are currently zoned Residential-Agriculture (Shope property) and Residential-Suburban (Ball property). The request is to rezone these properties (approximately 112 acres) to Commercial-Highway.
5. Other pertinent business.
6. Adjourn.

**MINUTES**

**LOWER SWATARA TOWNSHIP  
PLANNING COMMISSION**

**REGULAR MEETING  
OCTOBER 23 2008, 7:30 P.M.**

Meeting was called to order by Chauncey Knopp at 7:30 P.M. with the following present:

Chauncey D. Knopp, Chairman  
Eric A. Breon, Vice Chairman  
Paul Wagner  
Kimber Latsha  
Christopher DeHart  
Diane Myers-Krug, Dauphin County Planning Commission  
Peter R. Henninger, Solicitor  
Darlene E. Stoudt, Recording Secretary  
Ronald J. Paul, Secretary

Excused:

Brenda Wick, Engineer

Others in Attendance:

Scott Fegan, Delta Development  
Ken Helstrom, Delta Development  
Leroy Kline, Delta Development  
Allison Dougherty, Patriot News  
Dennis & Barbara Felty  
Geraldine & Charles Cain  
Carol Siegfried  
Clyde Rabuck  
Dick Carberry  
Brad Erickson  
Don Williams  
Megan Anderson  
Roger Erickson  
Jessica Stegall  
Murray Ott  
Nancy Avolese  
Laddie Springer  
Tom Ritchey  
Vicki Garver  
Gary Steward  
Robert Wealand  
Other concerned Residents

## **MINUTES**

Motion was made by DeHart and seconded by Breon to approve the Minutes of the September 25, 2008 meeting.

Motion unanimously approved.

## **DELTA DEVELOPMENT GROUP ZONING MAP AMENDMENT**

The Planning Commission discussed the request of Delta Development Group for a zoning map amendment for property located adjacent to Route 283. The properties in question are currently zoned Residential-Agriculture (Shope property) and Residential-Suburban (Ball property). The request is to rezone these properties (approximately 112 acres) to Commercial-Highway.

Mr. Knopp, chairman of the Planning Commission stated the purpose for this meeting is to answer a number of questions posed by the residents in the area surrounding the proposed rezoning. The first topic was a question from the previous meeting regarding whether this could be termed "spot zoning." The Township solicitor will be available to answer any questions on this subject. Secondly, there was some questions on the commercial uses in the Township and some additional information was requested on the environmental impact to the area. Mr. Knopp indicated that a traffic analysis involving Penn DOT and the Township Engineer will be completed when a plan is submitted.

Peter Henninger, Township Solicitor, addressed the "spot zoning" question. He indicated that he had received a report from the developers reviewing the case law with regards to spot zoning, and attempting to show the difference between the Baker case that was cited at the last meeting and this request for rezoning. Mr. Henninger stated that it is his opinion that this request does not constitute spot zoning as the circumstances are significantly different than the Baker case. Specifically, the size of the tract to be rezoned is not indicative of what would be termed spot zoning. Generally, spot zoning cases involve much smaller tracts of land, even though the Baker case did not. But in the project before us, there are three tracts of land that are included in the request, whereas the Baker case only involved one large tract. Even more significant is the issue that the request is consistent with the Township Comprehensive Plan. The Future Land Use Map and the Comprehensive Plan show this area a Commercial Zone, and a proposed connector road is shown on the Transportation Map of the Township between Route 441 and North Union Street. These items alone make this much different than the Baker case. There were other numerous situations that constituted the Baker case for spot zoning. In that case, the Township did everything wrong. Beyond the case, it is important to point out that Dauphin County Planning Commission has also reviewed and opined that this change is consistent with the Future Land Use of the Township and the Comprehensive Plan. Mr. Henninger reiterated that he had reviewed several other cases that were cited,

but once again did not find anything in them that would sway his opinion that this instance could be spot zoning.

Dennis Felty of Davis Drive stated that this project appears to increase the amount of commercial land in the Township by about 300 percent, and will change the nature of area and the ambiance of the neighborhood significantly. It would also be a large reduction the amount of area for residential use in the Township.

Laddie Springer questioned the solicitor on his expertise on spot zoning. Mr. Henninger replied that as attorneys, they do not refer to themselves as experts on anything, unless they are certified as such in very few fields. However, he indicated that he has over 20 years of experience in land use law and municipal law. As to the question has he ever been wrong, Mr. Henninger replied that yes, of course, he has been wrong, but on spot zoning issues he has not. Mr. Springer asked Mr. Henninger if he was uncomfortable with this zoning, to which he replied that he was not, except that he would be more comfortable if the tracts owned by PPL, BobBob, and PennDOT tracts were included, or even if the tracts around the Ball property that come out to the interchange were included.

Mr. Felty again questioned the developers as to whether it was their practice to own and develop properties on a long-term basis, to which the reply was yes. A partnership may be involved with other entities based on a relationship with other tenants, but it this developer's intent to stay involved until the completion of the project. Mr. Felty also asked if after the rezoning takes place could the property be sold to another developer. Mr. Kline replied that there could be a possibility of entering into a joint venture with another partnership based upon the tenant interest. Mr. Kline also stated that they have a 20-year history of staying with a project until completion or stayed involved in if it would have a turnover.

Geraldine Cain of Oberlin Road questioned whether a truck stop or something else different than the hotel and other uses shown could be placed on the tract. Mr. Kline indicated that they have no intention of spending the kind of money that is needed for the property acquisition and road improvements to put in a truck stop. It is not economically feasible for an alternative use of this property. Mr. Paul interjected that in addition to Mr. Kline's comments, the zoning ordinance of the Township also has limits on what is allowed in Commercial Districts as well, and a truck stop is not a permitted use in the Commercial-Highway (C-H) District. Any use must be consistent with the ordinance.

Richard Carberry stated that his concern remains with the traffic study to be conducted, mainly whether the study might show too much truck traffic. Mr. Paul stated that the infrastructure would have to handle what the traffic study says. The area cannot be overpopulated with uses that cannot be handled by the study. Most of the roads around the area are controlled by PennDOT. Mr. Kline stated that one of the things that is being explored is a way to improve the local highway system, but keeping the traffic related to the project off of Union Street. A meeting with PennDOT showed that they are very interested in improving conditions at several intersections in the Township, and

keeping additional traffic off the local roads. The developer stated that they will continue to make improvements to the road layout and will continue to meet with neighbors as the project progresses. A map of the proposed roadway layout was distributed to the residents at this time.

Jessica Stegall, 790 Fulling Mill Road, questioned whether she would lose her front yard for road improvements. Mr. Kline stated that in the area which she lived, the developers are striving to stay within the current PennDOT right-of-way. Mr. Henninger explained that that meant there could be further widening in front of her dwelling, but since the right-of-way was already there it would not require any further property of hers to be taken.

A question from Geraldine Cain regarding the front of her property on Oberlin Road, prompted Mr. Kline to explain that it is the developers' desire to take all traffic off that portion of roadway, except for those who live in the area. There would be virtually no impact on her property due to the reconfiguration of the roadway, an area once again that PennDOT was very interested in due to the number of accidents that occur there.

Laddie Springer questioned whether anyone had addressed the environmental concerns that the residents had expressed interest in having explored. Mr. Kline stated that there were two environmental experts in the original application that was submitted, and additionally the developers have three environmental planners on their staff that provided the impacts on the original application. He cited several areas of the supplemental information that is being provided.

There were several other questions regarding traffic and street lights on Oberlin Road and North Union Street. There was also discussion on the realignment of the proposed extension of Spring Garden Drive, which seemed to be an improvement.

Mr. Felty once again stated his concern with the change this will bring to the community and the ambiance of the area. He stated that nothing is obligating the Township to allow a commercial area to go in, and linked the economy to a reason the Township should consider not allowing this change. This prompted some more comments regarding "mall glut", and the need to preserve residential area and limit the commercial areas.

For the record, Mr. Knopp read a letter addressed to Mr. Paul from Lehman Shope, current owner of the farmland in question. The letter outlined several reasons why Mr. Shope is selling this tract and his concern for his neighbors. He also asked that the Board of Commissioners rezone his land as necessary.

Mr. Wagner expressed his deep regard for Mr. Shope as a fellow farmer. He stated that he understands that Mr. Shope is at an age that he can no longer continue to farm this land, and for someone else to purchase the land for a farm is almost impossible, unless it would be for chickens or hogs. Mr. Wagner said that although he himself hates to see land use change, that out of respect for Mr. Shope he would make a motion to

recommend to the Board of Commissioners to approve the applicant's request for a zoning map change from Residential-Agriculture (R-A) and Residential-Suburban (R-S) to Commercial-Highway (C-H) for tax parcel numbers 36-011-006, 36-011-017, and that portion of tax parcel number 36-011-012 north of SR 441. The motion was seconded by Mr. Latsha.

Motion unanimously approved.

Mr. Wagner additionally made a motion to recommend that the Board of Commissioners consider adding to the proposed rezoning to Commercial-Highway (C-H) tax parcel numbers 36-006-002, owned by PennDOT, 36-011-001, owned by Bob Bob Associates, and 36-011-011, owned by PPL, and seven (7) additional properties located on the west side of North Union Street, north of where the Ball property intersects with North Union Street, north to the 283 interchange. The motion was seconded by Mr. Latsha.

Motion unanimously approved.

Mr. Henninger added that at the previous Board of Commissioners meeting, a decision was made that regardless of the outcome at the Planning Commission this evening, this request would still need to go before the Commissioners, and a Public Hearing will have to be held prior to their consideration of the zoning map change. Therefore, the Board of Commissioners authorized a Public Hearing to be scheduled for Wednesday, November 12<sup>th</sup> at 7:00 PM. This meeting will be published twice in the Middletown Press and Journal. The property will also be posted around the perimeter, and as a courtesy, all adjoining property owners will receive a letter informing them directly of the date and time of the meeting. The Board of Commissioners has then scheduled for consideration at their Regular Meeting on November 19<sup>th</sup> beginning at 7:30 PM to approve or reject the proposed zoning change request that night.

Prior to adjournment, Mr. Carberry questioned whether the Shope farm could have been developed for residential use. Mr. Paul stated that it could have been residential; however, he pointed out the numerous negative reasons why residential would have been a less attractive choice. He also pointed out that the Comprehensive Plan deemed this area for future commercial growth. As to a question whether businesses within the Township are given a tax break, Mr. Paul stated that this is a rumor. Lower Swatara Township has never given a tax break to any business, and does not plan to do so. Mr. Henninger also pointed out that there is a lot of land within the Township that is tax exempt, such as Penn State, HIA, Turnpike properties, etc. The fact that there has only been one tax increase affecting the General Fund for this Township in the last 20 years was stated. Steady growth has permitted that to happen.

Mr. Breon encouraged the residents to stay involved in the process over the next few years, as the roadways are developed in particular. To this end, Brad Erickson stated that he felt insulted that a Public Hearing date was set before the vote even happened. Mr. Breon then again explained that the meeting was set regardless of how the Planning

Commission voted, since it would still proceed to the Commissioners, whether the recommendation was favorable or not.

Mr. Williams wanted to know what led the Planning Commission to give a favorable recommendation after listening to all the negative input from the residents. He wanted to know more opinions than Mr. Paul's and the Solicitor. Mr. Knopp reiterated that this change is consistent with the Comprehensive Plan in his response to Mr. Williams, and thanked the residents for their interest.

A motion was made by Latsha and seconded by DeHart to adjourn the meeting.

Motion unanimously approved.

Meeting adjourned at 8:27 PM.

Respectfully submitted:

---

Ronald J. Paul, Secretary