

The regular meeting of the Planning Commission of the Township of Upper St. Clair, duly advertised and posted in accordance with the law, was called to order by the Chairman at 7:30 PM, Thursday, July 16, 2020, in the Upper St. Clair Community & Recreation Center, located at 1551 Mayview Road, Upper St. Clair, PA 15241.

PRESENT: David Wade  
Todd Burlingame  
Jake Polochak  
Rachelle Vopal  
Joel Helmrich  
Kimberly Smith  
Adam Benigni, Director of Planning and Community Development  
Chris Cahillane, on behalf of the Township Attorney  
Christina Phlegar, Planning & Zoning Assistant

ABSENT: Robert Stevenson

PUBLIC: Twenty-six (26)

**CONSIDERATION OF THE MINUTES OF THE INFORMATIONAL AND REGULAR MEETINGS OF JUNE 18, 2020**

On motion by Mr. Burlingame, seconded by Ms. Smith, carried by a voice vote, 6-0, the minutes were approved for filing as written.

**OLD BUSINESS**

**PLC20-1301 – ZONING MAP AMENDMENT FOR REZONING OF 169 MCMURRAY ROAD FROM R-2 SUBURBAN RESIDENTIAL DISTRICT TO C-2 HIGHWAY COMMERCIAL DISTRICT**

Mr. Robert Max Junker, Babst Calland, on behalf of the applicants, Milt and Carol Hamel explained the history of this property and the purpose behind their intent to rezone the property from R2, Suburban Residential District to C2, Highway Commercial District. He further addressed the anonymous letter that was placed in each mailbox throughout the neighborhood, which expressed concern for the rezoning as well as known concerns from the community, Township Staff, and the Planning Commission.

Mr. Milt Hamel, 2337 Harrow Road, described the number of business that had reached out to him after closing Hamel Mortuary and expressed that he does not agree with the direction of the funeral industry and does not want to allow cremation near a residential area. Mr. Hamel further stated that his business has endeavored to serve the community for as long as it has existed and stated that if KinderCare were to buy the property, they would be an asset to the community. He also acknowledged the concerns that the Planning Commission has expressed in regards to traffic and questioned the zoning of the mortuary as listed in the Township's Comprehensive Plan over the years.

Mr. Benigni, Director of Planning and Community Development, stated that the property was shown as "commercial" on the Future Land Use map in the Comprehensive Plan for a few decades prior to the most recent plans but he iterated that the purpose of that particular map is to serve as a guide for any future development. He further surmised the rationale behind the change on the Future Land Use map from commercial to residential but reiterated that the property has always been zoned C2. Conversation ensued

between Mr. Benigni, Mr. Hamel, and Mr. Wade regarding Future Land Use maps, nonconforming uses, and commercial taxes.

Mr. Junker reviewed the Township's 2015 Future Land Use map and expressed the applicant's desire to continue the trend of commercial businesses in that particular area of McMurray Road and stated that the proposed rezoning is consistent with the 2015-2025 Comprehensive Plan.

Mr. Hamel described his experience at the Allegheny County Courthouse. Mr. Polochak questioned the assessed value of the property, discussion ensued regarding the assessed value and the condition of the property. Mr. Hamel expressed his desire to not see the property fall into disrepair.

Ms. Vopal questioned when the taxes were appealed. Mr. Hamel stated that they were appealed in 2013 and Mr. Junker confirmed that the assessed value of the property is \$362,900 as a commercial business.

Mr. Hamel further expressed his understanding of the Planning Commission's concern for the potential number of different types of businesses that could operate on the property if it were to be rezoned as C2.

Ms. Carol Hamel, 2337 Harrow Road, presented in support of the rezoning of 169 McMurray Road and expressed her commitment to the neighborhood. She also addressed a concern that was voiced at the June 18, 2020 regular meeting about the sale of the property, in addition to traffic issues along McMurray Road. She also expressed her concern with the Township's Comprehensive Plan and suggested that the plan favors residential properties over commercial properties. Ms. Hamel further stated that a day care center would have a smaller impact on traffic and the community than new houses would.

Mr. Jared Metcalf, 123 Cypress Drive, expressed his concern with the rezoning of the property from R2 to C2 and the potential for added traffic congestion.

Mr. Burlingame acknowledged Mr. Metcalf's concerns and stated that a traffic study would be required for any new development and clarified that the application at hand is for the rezoning of the property, not for the approval of a KinderCare.

Mr. Wade reiterated that the application at hand is for the rezoning of the property, not for the approval of a KinderCare.

Mr. Jason Depp, 238 Coral Drive, expressed his concern with the rezoning of the property from R2 to C2 and the potential for added traffic congestion and site visibility. He further questioned whether the property values of homes within Ruthfred Acres would drop if the property were to be rezoned.

Mr. Roger Kinger, 71 Ruthfred Drive, expressed his concern for the existing traffic at peak travel hours and urged that a traffic study occur for that particular stretch of McMurray Road.

Mr. Dan Kelly, 120 Highview Drive, expressed his concern for the list of potential uses on the property as well as traffic buildup and pedestrian safety. He further questioned the applicant's proposal of a deed restriction.

Mr. Cahillane explained the idea behind a deed restriction but clarified that the Planning Commission cannot presently consider that proposal as it would be considered contract zoning.

Mr. Lee Van Sickle, 155 Cypress Drive, reiterated her neighbors' concern for the proposed rezoning.

Mr. Ronnie Delauter, 70 Ruthfred Drive, expressed his concern for added traffic and turning restrictions.

Ms. Carol Logan, 203 Melrose Place, sympathized with the Hamel's desire to sell their property but expressed her concern for traffic congestion.

Mr. David Plutt, 179 Cypress Drive, questioned whether the property could be rezoned back to residential if it were to be rezoned as commercial.

Mr. Max Junker, stated that the Township has the power to rezone any property, thus the owner of the property would not necessarily have to go through the approval process to be rezoned.

Mr. Jason Depp, questioned if there would be occupancy limits on a future business if the property were to be rezoned to commercial.

Mr. Wade stated that occupancy limits are required. Mr. Benigni added that PennDOT would have most of the say in any traffic study as to the level of service that would be needed for that property.

Audience members expressed concerns for the type of businesses that would be allowed to operate if the property were to be rezoned. Mr. Wade stated that the property was never zoned commercial.

Ms. Donna Hill, 119 Cypress Drive, pointed out that if homes were to be built on the property, she would not be bothered by additional delivery trucks in the neighborhood.

Ms. Rebecca Reitmeyer, 74 Ruthfred Drive, expressed her appreciation for the clarifying information that had been provided up to that point. She further reiterated that a traffic study should be completed outside of the pandemic and during the school year, and that she would not be opposed to the addition of new homes rather than commercial businesses.

Mr. Tom Davis, 160 Highview Drive, questioned why an entrance/exit couldn't be created off of Drake Road to relieve some of the traffic congestion.

Mr. Wade clarified that a traffic study would be the subject of review for future approvals if the property were to be rezoned.

Mr. Jared Metcalf, questioned if there was a threshold for the number of cars in a traffic study that would prevent development or if it was more of a consideration.

Mr. Burlingame explained the process that applicants are required to go through with a traffic study. Mr. Metcalf reiterated that the community does not want a commercial business on that property.

Mr. Benigni addressed Mr. Davis' question concerning Drake Road as it relates to traffic studies.

Mr. Brad Hamel, 2012 Murdstone Road, asked the audience if they expressed interest when the Dunkin Donuts and Toss Pizza were developed down the road; discussion ensued regarding their commercial zoning classification and traffic congestion.

Mr. RT Walker, broker for the Hamel's, stated that the traffic concerns should be studied/addressed even before a rezoning occurs as those issues will persist no matter the type of business that were to go in.

Mr. Benigni stated that Township staff has tried over the years to work with PennDOT for a better solution for the intersection in front of 169 McMurray Road and Wiltshire Park but PennDOT has, in the past, expressed that nothing is warranted for that intersection. He explained that the Township will work to have PennDOT complete an engineering study but ultimately, this endeavor has no impact on the rezoning proposal.

Mr. Max Junker thanked the audience for their interest in the application and disagreed that the Planning Commission cannot entertain a deed restriction on the property. He continued to read the proposed deed restriction and expressed that traffic concerns will be required to get addressed by potential developers. Mr. Junker further addressed the difficult position that the Hamel's are facing and understand any concerns for the potential change to the property.

Mr. Depp stated that the funeral home did not have a consistent flow of traffic while operating as a business.

Mr. Wade expressed his concern that the existing business did have a benign traffic impact while most other potential businesses will have a significantly larger impact on traffic.

Mr. Burlingame echoed Mr. Wade's concerns and expressed that the Township does not take rezoning lightly. He thanked the public for providing feedback on the application.

Ms. Reitmeyer thanked Mr. Burlingame and pointed out that the business has not been in operation for about three years and stated that the most activity she has ever seen was while filming took place for the movie, *The Perks of Being a Wallflower*, at the old King's property.

Ms. Vopal expressed her concern for the promises presented by the applicant and described them as misleading because there is no assurance that a KinderCare would build on that property, nor would they necessarily stay long term. She further stated that KinderCare could back out of the agreement with the applicant at any point, which would pave the way for any number of businesses to buy the property instead.

Mr. Helmrich stated that during his years serving on the Planning Commission he has seen a number of applicants make promises that they have not delivered on.

Mr. Benigni explained to the public the three points that the Planning Commission must consider when reviewing proposed zoning applications and clarified the difference between the Comprehensive Plan and Zoning Code, and further expressed staff's concerns with the proposed rezoning.

Mr. Wade asked if there were any further questions and/or comments from the audience. There being none, a motion was made.

**MOTION:** THAT the Planning Commission recommend the Board of Commissioners deny PLC20-1301 – Zoning Map Amendment for Rezoning of 169 McMurray Road from R-2 Suburban Residential District to C-2 Highway Commercial District.

Motion by Mr. Burlingame seconded by Ms. Vopal, carried by unanimous voice vote, 6-0.

Mr. Wade further clarified to the public that although the Planning Commission made a recommendation for denial, this application can still be presented during a public hearing to the Board of Commissioners for the final vote.

Mr. Cahillane clarified that the Board of Commissioners have the ability to decide whether or not they will even set a public hearing date; discussion ensued regarding procedure.

Mr. Benigni clarified that a notice will be sent in the mail to all property owners within 200' of 169 McMurray Road, as well as all those who signed in for the meeting, after a public hearing date has been set.

**NEW BUSINESS**

NONE

**ADJOURNMENT**

There being no further business, it was moved, seconded and carried unanimously that the meeting be adjourned at approximately 9:27 PM.

Respectfully submitted,

Christina Phlegar  
Planning and Zoning Assistant