

**Meeting** brought to order at 7:30 p.m., on Tuesday March 25, 2008 by Chairman Richard Celmer.

**Attendance:**

Chairman Richard Celmer	John Barto III
Vice Chairman Brian Horwith	Leonard Nuss
Secretary Bruce Stettler	Joanne Guth
Attorney Lisa Young	Jeff Johnson
Township Engineer Steve Gitch	Planning Administrator Jane Kelly
Supervisor Ronald Heintzelman	

**Minutes** of the February 26, 2008 meeting were approved as presented.

1. **Wal-Mart Stores East, LP** – Conditional Use in conjunction with Project # NWT 07-020 – Commercial Subdivision, 3872 Route 309, south side of Route 309, opposite Levans Road, 40.61 acres, PC zone, 5 lots, Parcel ID# 5468 4911 9262. Joseph Bubba, Fritzpatrick, Lentz and Bubba; and Bud Newton, Newton Engineering presented the Conditional Use Application.

- ◇ Prior owner was Western Lehigh Valley Corporation.
- ◇ The prior owner of this property received Conditional Use approval in 2001 for Planned Commercial.
- ◇ Wal-Mart Stores East LP is reapplying for the Conditional Use.
- ◇ The previous Conditional Use approval was for a 15-lot subdivision. The current application is for a 5-lot subdivision.
- ◇ The current Conditional Use application has several improvements over the 2001 Conditional Use application.
- ◇ The current application includes LCA water facilities improvements and an onsite proposed water tank with a booster pump.
- ◇ A landscaping plan is now included in the application; this was not included in 2001.
- ◇ Rain gardens are included in the parking lot areas in the current application.
- ◇ The developers have met with PennDot several times regarding the main access across from Levans Road.
- ◇ The 2001 application did not include users for the lots; this application includes a user for Lot 5.
- ◇ The application is in compliance with the required Sections 118 and 308 from the Zoning Ordinance.

Comments from the Planning Commission Members and comments from the floor:

- Attorney Lisa Young states the legal requirements for Conditional Use does not relieve any Subdivision or Land Development requirements. The Sections stated, Sections 118 and 308 from the Zoning Ordinance, are the correct Sections to focus on for the Conditional Use application.
- Attorney David Najarian; representing the North Whitehall for Sustainable Development (known as NWSD) stated the plans their group requested, and were court order granted, were received by their group last week. The group did not have time to properly review their plans. NWSD is requesting the North Whitehall Township Planning Commission hold off making any recommendations regarding the plans. He also stated the North Whitehall Township meeting room was not big enough to accommodate the public attending the meeting. Attorney Najarian also wanted the record set straight regarding the plans the court ordered the Township to give to NWSD. The newspaper reported the Planning Commission gave up their plans for NWSD, Attorney Najarian inquired if this was correct.
- Attorney Lisa Young stated a few members; herself included, gave up their plans for a short time, due to the 24-hour time restraint, until new plans could be provided from Newton Engineering.
- Planning Commission Chairman Richard Celmer stated the question regarding the capacity of the North Whitehall Township meeting room came up at the last meeting. This was investigated and the architect for the building stated the standing capacity was 325.
- Richard Celmer also wanted to remind the floor, the issue before the Planning Commission at this moment is the Conditional Use only. The Subdivision and Land Development plan for Wal-Mart would be discussed separately from the Conditional Use.

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- Attorney David Najarian stated the plans are needed for Conditional Use; the plans are referenced in the Conditional Use application.
- Attorney Lisa Young stated plans are not required to be submitted for Conditional Use application. This applicant submitted more than was required. The Planning Commission needs to send a recommendation to North Whitehall Board of Supervisors, favorable or unfavorable, for the Conditional Use application. The Board of Supervisors will have a hearing to approve or deny the Conditional Use.
- John Halasovski, 7892 Sassafra Road, New Tripoli, questioned if the residents do not want Wal-Mart, how could they be forced to have one in their Township?
- Unidentified gentleman in back of room, stated Mr Halasovski is not talking for him, he is in favor of Wal-Mart coming in. This will give competition to King's.
- Many unidentified residents commented:
  - Have the letters received at the Township for or against Wal-Mart, been put in stacks, to see which has more?
  - Family ancestors go back to the 1700's and North Whitehall Township is not the place for a big box size store.
  - The elected officials should be interested in what the residents believe.
  - Many residents are concerned with traffic on Route 309 and surrounding roads.
- Richard Celmer stated Wal-Mart would have to satisfy PennDot on traffic issues for Route 309.
- Attorney Joseph Bubba stated the traffic issues would be dealt with during the Land Development stage.
- Planning Commission member Leonard Nuss stated all these comments have nothing to do with the Conditional Use application.
- Judith Danko, 5820 Harvest Place, Schnecksville, can someone please explain to the residents why the applicant is here for Conditional Use, what is the procedure and what does the Planning Commission have to do tonight?
- Unidentified gentleman, could someone other than the attorneys please explain this?
- Richard Celmer stated Conditional Use was approved in 2001, developer says it still stands and the Board of Supervisors questioned if that is correct. The Board of Supervisors asked the Planning Commission to make a recommendation for or against the approval of the Conditional Use. Due to the confusion, of the 2001 Conditional Use still being valid, the developer agreed to reapply for the Conditional Use to clarify the issue.
- Attorney Lisa Young stated if the developer meets the ordinance, the residents cannot stop it, just because they do not like it or want it.
- Many unidentified residents commented:
  - He is not a lawyer, but in his opinion, North Whitehall Township is a farming community that grew up too fast. No one had anticipated the size of the development and now wells are going dry and there is too much traffic.
  - She is not originally from this area, but now lives in the Township; she is close to everything without having it in her backyard. How can you not speak from the heart when talking about your community? This is what America was founded on during our emancipation from England.
- Richard Celmer stated the recommendations on approval or denial cannot be made with the heart, they must be made on Zoning Ordinance and SALDO procedures following due legal process.
- Unidentified resident, in reference to the approval for the Conditional Use in 2001, did not include the traffic and crime occurring now.

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- Attorney Joseph Bubba stated the commercial square footage was higher in 2001. The former owner had no idea what the track would be used for. The current owner has provided this information for the proper reviews.
- DelRoy Seip, 5227 Hoffmans Drive South, Schnecksville, stated not one more state police has been added to the force since 1972. Does Wal-Mart have crime at their place of business? How many state police officers are on duty in the Township right now? He is asking the Planning Commission, do you think there is enough police force in North Whitehall Township for Wal-Mart?
- Many unidentified residents commented:
  - Did Wal-Mart look at the area proposed? Is the overall picture looked at for the development?
  - Can the entrance to Wal-Mart be approved without the traffic study?
- Planning Commission member John Barto III questioned to the residents, if the plan did not say Wal-Mart, would the Conditional Use application or the Subdivision and Land Development matter to them? Is everyone upset just because it is Wal-Mart?
- Planning Commission member Bruce Stettler stated all these comments have nothing to do with the Conditional Use application.
- Unidentified resident, the Conditional Use states the access road from Wal-Mart must come out on a highway.
- Attorney Joseph Bubba stated the access road must come out on an arterial roadway. Route 309 is an arterial roadway.
- Many unidentified residents commented:
  - What is the definition of an arterial roadway? Please consider that in your decision.
  - When do Conditional Uses expire?
  - I do not like prejudices of any kind; if the letter of the law is being followed the applicant has a right to put in what they want. If a big box does not go in, 10 little boxes will go in. I would like to thank the attorneys for being clear and I support the letter of the law.
- Jim Archibald, 5559 Stephanie Drive, Schnecksville, stated the traffic in relationship to this development is much more than just in front of the property. North Whitehall Township has only 1 mil of taxes, much lower than many surrounding Townships. Wal-Mart will change the face of the community, with growth comes additional tax burden.
- Kay Bagenstose, 5075 Roth Road, Orefield, is very concerned with traffic on Route 309 and other Township roads, such as Kernsville Road.
- Unidentified resident, who is the current landowner?
- Attorney Joseph Bubba stated Wal-Mart Store East LP is the current landowner.
- Unidentified resident, who would own the property once the track is subdivided?
- Attorney Joseph Bubba stated, Lot 5 will be owned by Wal-Mart and the additional lots 1 thru 4 are undecided. They could be sold, leased or retained. The current deed is in the name of Wal-Mart Store East LP.
- Susan Keuler, 5785 Harvest Place, Schnecksville, regarding Route 309 - Was it looked into what the state and Township can demand?
- Unidentified resident, is concerned with the access to Route 309.
- Richard Celmer reminded the residents, the access to Route 309 approvals would come from PennDot.

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- Attorney David Najarian distributed copies of Sections 308 and 118 from the Zoning Ordinance and stated all of these sections should be included in the review process.
- Richard Celmer informed the residents the Township has professionals to review the plans.
- Unidentified resident asked how many parking spaces would a business of this size have? She knows a smaller business was turned away for not having enough parking spaces.
- Richard Celmer stated the Township Zoning Office is keeping track of the number of parking spaces that are proposed and the number of spaces required.
- Unidentified resident questioned if the concern the Board of Supervisors had with the 2001 Conditional Use approval still stands.
- Betty Lees, 4418 Route 309, Schnecksville, she is a 30 year resident of the Township and she wants to know if she understands correctly, the resident's concerns do not matter in regards to the Conditional Use application if the developer is following the letter of the law. She believes the Planning Commission members are not ready to make a decision on this recommendation.
- Unidentified resident is upset that she was not aware of the Conditional Use approval in 2001. She is concerned with the quality of life in North Whitehall Township.
- Laura Warmkessel, 2077 Juniper Drive, Coplay, is concerned with a supercenter being open 24/7 and property values decreasing. She believes a smaller commercial use would bring in less traffic. She is also concerned with noise pollution.
- Unidentified resident questioned if anyone looked at the future of Wal-Mart, what would the condition of the store be in years after the business opens. Who is in charge of making sure the business and its surrounding area does not look crappy in the years to come?
- Charles Knauss, 3525 Apple Road, Orefield, states opening one Wal-Mart is like opening 30 smaller stores. Small, local businesses use local banks and invest in local communities. Wal-Mart is a bad neighbor.
- Many unidentified residents commented:
  - Did Wal-Mart look into the traffic and neighboring volunteer firefighters? How will the volunteers get to the firehouse? How will the fire trucks get out on Route 309 with the additional traffic? Public safety is a concern now with the school buses, ambulances and fire trucks. It will only be worse with Wal-Mart. This is just a common sense factor.
  - Concerns with water and water tables, straining wells.
  - Has South Whitehall Township been approached with any input? Shouldn't the neighboring Townships look at the whole picture?
  - Whole property will now be blacktop or buildings, where will the water go? There will be more flooding down the line. Concerned with the water table and water not being able to get to the table thru the blacktop.
- Richard Celmer stated Wal-Mart would be getting their potable water from Lehigh County Authority.
- John Ritter, 3726 Park Avenue, Neffs, 30 year Township resident, doesn't the MPC require a certain amount of land to be set aside for certain uses. If Wal-Mart completes all that is required, can they do whatever they want?
- Unidentified resident questioned if the application is deemed complete with no traffic study and will the complaints be transferred to PennDot?
- Richard Celmer stated the traffic study will go to PennDot and PennDot will make their own decisions without the complaints being transferred to them.
- Unidentified resident questioned if the 2001 approval, seven years have past, does it even apply anymore?

- Unidentified resident questioned if Zoning Ordinances can be changed?
- Attorney Lisa Young stated yes, Zoning Ordinance could be changed, thru the Zoning Department, the Board of Supervisors, the MPC or thru resident petition.
- Eugene Wolfgang, 3426 Faye Drive, Orefield, is concerned with traffic, sewage and the Jordan Creek drying up. Who has the final say in the Conditional Use?
- Richard Celmer stated the Board of Supervisors has the final say on the Conditional Use and the DEP will address the sewage concerns. Mr. Celmer also requested all residents with concerns to use the sign in sheets to comment on their concerns. These sign-in sheets will be kept for public record with the minutes of tonight's meeting.
- Planning Commission member Brian Horwith questioned what stages of the process can the Planning Commission introduce requirements and stipulations.
- Attorney Joseph Bubba suggested conditions be added at the Land Development stage.
- Planning Commission member Joanne Guth questioned if the recommendation on the Conditional Use has any outcome on the Subdivision or the Land Development.
- Attorney Lisa Young stated the Conditional Use recommendation has no outcome to the Subdivision or Land Development.
- Brian Horwith questioned if Attorney Najarian's concerns can be brought to the Board of Supervisors.
- Attorney Joseph Bubba, asked, "Does Wal-mart meet the basic criteria for Conditional Use? If so, the approval should be forth coming".

**John Barto III motioned to send a favorable recommendation to the Board of Supervisors and ask them to listen to the residents concerns when making their decision. Leonard Nuss seconded motion.**

More comments from the floor:

- John Getty, 3331 Woodlea Road, Orefield, Aren't the Conditional Use, Subdivision and Land Development all one?
- Unidentified resident stated, with the decision on the recommendation, someone will be offended and most likely that someone will be us. The buck should stop here.
- Unidentified resident concerned with the 2001 approval might not apply now. We need time to change the Zoning, do not recommend this now.
- Unidentified resident, stated please consider us, the residents, when making this recommendation.
- Attorney David Najarian stated each Planning Commission member needs to make decision if all criteria are met for Conditional Use.
- Brian Horwith questioned if a Special Exception is necessary.
- Attorney Lisa Young stated the Zoning Officer did not believe a Special Exception was necessary.
- Leonard Nuss stated the Planning Commission members have all the criteria necessary and they have reviewed the criteria along with the Township's professional consultants review letters.

**A vote on the motion was taken; Brian Horwith abstained due to missing the developer's presentation, all others agreed with the motion.**

2. **North Whitehall Commercial Center Subdivision (Wal-Mart)**– Preliminary – Project # NWT 07-020 – Commercial Subdivision, 3872 Route 309, south side of Route 309, opposite Levans Road, 40.61 acres, PC zone, 5 lots, Parcel ID# 5468 4911 9262. 90-Day clock starts 3/25/08, 90-Day deadline ends 6/22/08.
- a. Keystone Engineers have reviewed the plan and offered their comments and recommendations in a letter dated March 19, 2008.
  - b. Zoning Officer's review is contained in his letter dated March 18, 2008.
  - c. Sewage Enforcement Officer's review is contained in his letter dated March 14, 2008.
  - d. Traffic Engineer's review is contained in his letter dated March 20, 2008.

**John Barto III moved to table the Preliminary Plan, subject to presentation by developer at future Planning Commission Meeting, seconded by Jeff Johnson, all others agreed.**

3. **North Whitehall Commercial Center, Lot 5, Wal-Mart Store** – Preliminary – Project # NWT 07-021 – Land Development, 3872 Route 309, south side of Route 309, opposite Levans Road, 32.67 acres, PC zone, Parcel ID# 5468 4911 9262. 90-Day clock starts 3/25/08, 90-Day deadline ends 6/22/08.

Attorney Joseph Bubba; Fritzpatrick, Lentz and Bubba, representing Wal-Mart, informed the Planning Commission at the beginning of their meeting that the Land Development Plan would not be presented at this meeting.

- a. Keystone Engineers have reviewed the plan and offered their comments and recommendations in a letter dated March 19, 2008.
- b. Zoning Officer's review is contained in his letter dated March 18, 2008.
- c. Sewage Enforcement Officer's review is contained in his letter dated March 14, 2008.
- d. Traffic Engineer's review is contained in his letter dated March 20, 2008.

**John Barto III moved to table the Preliminary Plan, subject to presentation by developer at future Planning Commission Meeting, seconded by Jeff Johnson, all others agreed.**

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**John Barto III motioned to adjourn the meeting at 10:25 pm, Jeff Johnson seconded, all agreed.**

Meeting Adjourned: 10:25 pm

Jane K. Kelly  
Recording Secretary  
Planning Administrator  
North Whitehall Township