

BOROUGH OF LEMOYNE PLANNING COMMISSION
July 9, 2019 **MEETING MINUTES**

The monthly meeting of the Lemoyne Planning Commission was held Tuesday, July 9th, 2019 at 7:00 p.m. at 510 Herman Avenue, Lemoyne, PA.

Roll Call

LPC Members Present: Mr. Zach Border, Ms. Gale Gallo, Mr. Gene Koontz, Mr. Thomas Bank

LPC Members Absent: None

Borough Staff: Mr. Tom Yurchison, Code Enforcement Officer; Mr. Cliff Karlsen, Maintenance Department Superintendent; Mr. Mike Knouse, Borough Engineer; Mr. Michael J. Cassidy, Esq., Borough Solicitor

CCPD Staff: Ms. Stephanie Williams

Applicants/Representatives: Mr. John Getz, Mr. Dennis McGee – Zoning Map Changes for 326 Herman Avenue; Mr. Scott Staiger, Consolidated Properties; Mr. Jamie Strong, McNees Wallace & Nurick LLC – Convenience Store Text Amendment

Guests/Residents: Attached

Press: none

The meeting was called to order by Chair Zach Border at 7:00 p.m.

Review/Approval of June Minutes

The meeting minutes for the June meeting were reviewed. Ms. Gallo motioned for approval of the minutes, Mr. Koontz seconded, with all in favor.

Public Comments

Mr. Charles Hooker of 230 Walnut Street requested that public comments be allowed after presentations for the agenda items. Mr. Border accepted the request.

Unfinished Business

Zoning Map Changes for 326 Herman Avenue and 501 Bosler Avenue

Mr. Getz introduced himself as the potential buyer of the 326 Herman Avenue property. His intention is to store a portion of his car collection at the site. He is a member of local preservation groups and his intention is to preserve the character of the building. He wants to be a good neighbor and be a part of the community.

Mr. McGee discussed a few issues with the site – the most notable being the issue of parking. There is limited parking on site outside of the building. Parking at the rear is only accessible from the church parking lot next door. Mr. Getz has worked with the church to be able to meet his personal parking needs, but it is unlikely that a business use requiring parking would be able to use the site.

Ms. Williams stated that the County recommended approval of rezoning for both sites.

Mr. Koontz motioned to recommend to Borough Council approval of rezoning for both sites, Ms. Gallo seconded, with all in favor.

New Business

Text Amendment Review for allowing convenience stores in the downtown district

Mr. Strong presented the revised text amendment and Mr. Border asked for questions or comments from the Commission.

Ms. Gallo questioned the conflict regarding car wash facilities between Section 2 vs. Section 3(4)(i). Section 2 allows such facilities while Section 3(4)(i) prohibits such facilities. Mr. Strong stated that Section 3(4) imposes

specific standards only for the Downtown District while Section 2 imposes general standards for the entire Borough.

Ms. Gallo discussed Section 3(4)(c) and questioned whether the definition for “video gaming terminals” should be expanded. Mr. Cassidy stated that such games are regulated at the State level and that further guidance from the State is coming. It is his opinion that leaving the definition ambiguous until that guidance is issued would be best.

Ms. Gallo noted that Section 3(4)(d) should read “lot shall be in”.

Ms. Gallo questioned the text in Section 3(4)(f) regarding the word “lot” and whether multiple parking “lots” would allow multiple canopies. Mr. Knouse stated that this was addressed by the definition of “lot” in the ordinance.

Mr. Bank stated that Ms. Gallo had addressed several of the questions he had with the ordinance. He questioned whether the refrigeration equipment for a convenience store would be an issue as it typically ran 24/7/365. Mr. Staiger stated that this was not an issue with newer equipment. Mr. Bank stated that from experience with the Turkey Hill on Third Street that the noise has only increased since new equipment was put in a few years ago.

Mr. Koontz stated that most of his questions had been addressed.

The floor was opened to public comments.

Mr. Charles Hooker – 230 Walnut Street

Mr. Hooker stated that his property was adjacent to the proposed convenience store property and that he had a number of recommended changes to the ordinance. He made a letter and petition available (see attached).

He summarized his concerns as follows:

- 24 hour operation adjacent to a suburban residential district was not compatible due to associated noise, light, and other pollution. As such, he proposed language to disallow 24 hour operation on a property adjacent to a residential district.
- A proposal for a “noise study” for any continued violations of noise ordinances adjacent to a residential property.
- A proposal for a definition of screening to include noise barriers to provide a calculated noise reduction.
- He cited potential chemical pollution from underground fuel storage. He stated that studies show harmful benzene levels even with state-of-the-art storage facilities.
- He questioned possible contamination of underground water lines from chemicals leaching into plastic water lines.
- A proposal for a limit of 500’ from residential districts or from water lines to facilities storing fuel underground.
- He questioned the effects of the proposed project on pedestrian traffic along Third and Market Streets.
- He provided a petition with nine signatures in support of not recommending approval of the text amendment.

Mr. Jeff Ichter – 145 Washington Terrace

Mr. Ichter spoke in support of the project. He mentioned empty storefronts throughout town that were all occupied 25 years ago. He desired more development in Lemoyne, not less.

Mr. Mark McDermott – 151 Washington Terrace

Mr. McDermott spoke in support of the project. He mentioned that he oversaw many local apartments and that many of his tenants work alternate shifts and would benefit from a place to shop during off hours.

Mr. Bob Huggler – 221A S. Third Street

Mr. Huggler spoke in support of the project. He stated that adjacent properties were going to hear traffic noise with or without the convenience store. Light pollution is already present with the LED streetlights that were installed in recent years. The proposed convenience store is not a Giant or WalMart that will draw hundreds or thousands of people.

Ms. Williams stated that the County recommends reuse and encourages retail, but admits that there is a conflict between the pedestrian nature of the Downtown District and the drive-in/refueling nature of the proposed use.

Mr. Knouse spoke to Mr. Bank's comment about the numbering of the proposed text amendment and that Section 3 (4) is due to subsections (1) through (3) currently being used in the ordinance and Section 3 (4) being added to those subsections.

Mr. Cassidy provided a legal review of some of the issues regarding uses such as alcohol sales, gaming, and other topics brought up in the discussion.

Ms. Gallo questioned alcohol or cannabis sales at the establishment. Mr. Cassidy explained that the alcohol sales for such an establishment would be regulated as a restaurant. He was unsure if that would be possible with the nature of the building. Ms. Gallo expressed concern that alcohol sales would attract a late night crowd from other areas and the implications of that. As such, she requested further info on alcohol sales regulations.

Mr. Knouse spoke to the procedure for the amendment. At this time the LPC would (or would not) recommend the draft ordinance to Council. Council would send the ordinance to the County for review, schedule public meetings on the topic, and other associated tasks.

Mr. Staiger addressed a concern about property issues. He stated that the national firm takes care of the facilities, not the franchisee.

Mr. Koontz asked about the issues of noise screening brought up by Mr. Hooker and wondered whether they would be addressed in the process along with requirements for traffic and runoff. Mr. Knouse stated that there were performance standards for noise issues, not an actual study. Stormwater would be addressed in Land Development.

Mr. Koontz stated that his understanding was that the potential for contamination of water lines was just with PVC or HDPE piping and that the lines in Lemoyne were iron.

Finally, Mr. Koontz stated that the Borough was not equipped to legislate benzene at the local level. Mr. Cassidy stated that it was regulated at the State and Federal level. Mr. Hooker stated that his request was for a buffer zone between the storage and residential use.

Mr. Hooker also stated that there was an ordinance restricting restaurant use in proximity to a residential property.

Mr. Strong stated that pollution issues were regulated by various agencies and that any project would have to meet those requirements. He further stated that the use was a convenience store. Although the State may apply a restaurant liquor license, that is not the same as the zoning use category. He concluded by asking for a recommendation to Council so as to start the formal process of review.

Mr. Border asked for a recommendation on the proposed amendment.

Ms. Gallo asked if the LPC was to provide the draft ordinance. Mr. Cassidy stated that she was correct. Ms. Gallo stated that she felt that there were unanswered questions regarding the games of skill and alcohol sales. She asked whether she understood correctly that the Borough could regulate games of skill but not alcohol sales. Mr. Cassidy confirmed this. That since games of skill are not currently regulated at the State level, they can be regulated at the Local level.

Mr. Bank questioned whether the LPC was expected to write their own draft or whether the intention was to accept the Consolidated Properties proposal as the draft ordinance. Ms. Gallo said that yes, the intention was to use the Consolidated Properties proposal.

Mr. Koontz moved to recommend the current proposal from Consolidated Properties to Council with the grammatical change mentioned previously by Ms. Gallo. Mr. Border seconded.

Ms. Williams questioned whether it would be submitted for County comment. Mr. Knouse stated that Council would send it to the County.

Mr. Border asked for a vote. Mr. Border and Mr. Koontz voted in the affirmative, Ms. Gallo in the negative, and Mr. Bank abstained.

Mr. Border explained that the next steps would be that the draft would go to Council and then sent to County and the LPC for review, and upon approval it would be sent back to Council for review.

Officer Reports

Mr. Bank brought up the issue of 5G towers and distributed a printout from an online article he had recently read. The article stated that the 5G range was roughly a city block. With the recent installation of a 5G tower on the corner of Warren and Clark Street for AT&T, he questioned whether there would be multiple towers for each provider on every block. Mr. Cassidy replied that municipalities cannot regulate telecommunications. Mr. Bank pointed out that the current zoning ordinance regulated cell towers, but that was when a “cell tower” was a large structure with an extended range. The new technology was smaller towers with a much more limited range. As such, regulations should be reviewed to account for the changing technology.

Mr. Bank also brought up the issue of accessory structures. A large pole barn is under construction in the 300 block of Walton Street. It appeared that the new structure was substantially larger than the principal structure – in conflict with the ordinance requirement that accessory structures are no larger than 100% of the footprint of the principal structure - and also was not “compatible in design and harmonize with the residential use or dwelling” as required by the Development Compatibility Overlay.

Mr. Karlsen furnished a printout from the County GIS website showing the area of the residence circled with an area of 2004 s.f. and that was how he determined the footprint for the applicant. He also showed aerial photos of the area from the same website showing other detached garages and stated that the building in question was compatible.

Mr. Bank stated that in his position as a Registered Architect, he had never had a Code Official supply data for a project. Typically it is the applicant or their representative (Architect, Engineer, Surveyor, etc) who would provide and certify project data. As such, he questioned the liability to the Borough for making such determinations. He concluded by recommending that Council consider this issue and how best to review that actions are being taken properly.

Staff Reports

Mr. Karlsen stated that there were four properties coming before the LPC for rezoning due to being improperly zoned. These properties are on Pear, State, and 8th Street and the issue is that when the property owners applied for refinancing, they were declined because the current Zoning Ordinance would not allow these existing non-conforming properties to be rebuilt in the event of damage to 51% or more of the structure.

Miscellaneous Comments/Announcements

Mr. Border announced that there would be a joint Community Development / Planning Commission meeting the following evening, Wednesday (07/10) at 7:00pm to discuss the Aesthetic Overlay issue.

Next Meeting

The next regular meeting of the Lemoyne Planning Commission will be held on Tuesday, August 13th, 2019 at 7:00 p.m. at 510 Herman Avenue, Lemoyne, PA.

The meeting was adjourned at 8:35 p.m.

**Minutes prepared by
Thomas Bank, Secretary
Lemoyne Planning Commission**

Charles A. Hooker
230 Walnut St.
Lemoyne PA, 17043

July 9, 2019

By Hand

Borough of Lemoyne Planning Commission
510 Herman Ave
Lemoyne, PA 17043

Re: Proposed Zoning Text Changes

To whom it concerns,

This follows my letter of May 14, 2019 to the Planning Commission.

The undersigned writes regarding Consolidated Properties' request for an amendment to the borough zoning ordinance that would allow the operation of 24-hour convenience store businesses within the downtown zoning district and adjacent long-established residential Borough neighborhoods.

The undersigned opposes any such amendments to the ordinance.

The operation of 24-hour convenience store businesses would have many negative impacts on the quality of life of Lemoyne residents in the form of various kinds of pollution.

This pollution would impact suburban-residential neighborhoods immediately adjacent the Market Street property under consideration as well as other Borough residents.

This letter suggests a number of zoning text changes to eliminate or mitigate these negative impacts.

Please fully consider amending the present ordinance to include these changes.

Noise Pollution

Borough zoning ordinance § 550-49 B. 2., Table 550-7-2 provides standards for noises arising from nonresidential uses.

At the lot line abutting a Residential Zoning district, a maximum sound Level of 60 decibels is permitted between the hours of 7AM to 9PM Monday – Saturday and excluding major holidays.

A maximum Sound Level of 52 decibels is permitted at the lot line abutting a Residential Zoning district between the hours of 9PM to 7AM Monday – Saturday, all day Sunday and over major holidays.

The operation of a convenience store would constantly violate these standards.

First, operation of 24-hour convenience store requires regular restocking and fuel replenishment by heavy trucks.

The sound level created by an idling diesel-engine truck can range from 90 to 100 decibels at distances of up to 50 feet or more from the sound source. An accelerating diesel engine heavy truck can produce sound levels of over 110 decibels.

Large tanker trucks required for refueling gas station underground tank systems produce noise in excess of these levels.

Customers to a 24-hour convenience store will produce additional noise.

Depending on multiple factors, a typical idling passenger car can produce noise between 40 to 60 decibels. During car acceleration noise levels rise.

A typical operating motorcycle produces noise in the range of 90 to 100 decibels. Accelerating and "muffler modified" motorcycle can produce far greater noise levels.

Moreover, a typical car stereo can have a maximum volume of about 110 decibels, although certain models can produce sounds over 170 decibels.

Beyond noise due to motor vehicles, the operation of a convince store may include additional noise sources (speakers, music) that increase overall noise levels.

Please keep in mind that the decibel scale is logarithmic. A noise measuring 70 decibels is perceived by a listener as **twice as loud** as a noise measuring 60 decibels. A noise measuring 80 decibels is perceived by a listener as **four times as loud** as a noise measuring 60 decibels.

These noise violations would negatively impact the nature of neighboring residential neighborhoods and places unwanted health and quality of life stresses on residents, including deprivation of the quiet enjoyment of their properties, sleep disruption, and physiological stress. See: <https://www.epa.gov/clean-air-act-overview/clean-air-act-title-iv-noise-pollution>.

No means of mitigation exist for these noise violations. While the borough might place regulations and/or the threat of fines upon the business operator and/or property lessor, it cannot realistically regulate the vehicle activity of convenience store patrons 24-hours a day.

In view of the above, and in order to respect the nature of the long-established residences adjacent the subject Market Street property, as well as other homes within Lemoyne I ask that the Commission recommend the following amendment be made to the borough zoning ordinance:

In the Downtown Zoning District, no structure occupied in whole or part by a 24-hour convenience store or like 24-hour commercial use shall be permitted within 300 feet of a residential zoning district.

"24-hour convenience store" and "24-hour commercial use" is defined as operation of a commercial use open to patrons between the hours of 10:00PM and 6:00AM between consecutive calendar days.

In the absence of the above, I ask that the Commission establish a procedure requiring any entity seeking amendment of the Zoning Ordinance that may violate Lemoyne's noise ordinance

to require a Noise Survey directed and conducted by the Borough and financed by the requesting entity. The purpose of the Noise Survey is to evaluate and assess and residential noise impacts before any given amendment is granted. In the case of such a Noise Survey finding the Lemoyne's noise ordinance will be regularly violated, the Borough may deny the amendment or, if feasible, require the entity to construct a Noise Barrier at its expense to reduce noises to prescribed levels.

In co-ordination with the above, I ask that the Commission amend the § 550-10 "Definitions" section of borough zoning ordinance toward "SCREENING" as follows:

SCREENING — A barrier between adjacent properties, uses, and/or zoning districts composed of a mixture of landscaping, trees, berms, shrubs, fences, walls and/or other similar type materials, that is intended to mitigate negative impacts (e.g., visual, noise, airborne, etc.) of the more intense/dense use and/or zoning district on the less intense/dense use and/or zoning district. ***A "NOISE BARRIER" is a form of SCREENING that specifically mitigates the negative impacts of noise comprising predominantly of a wall formed from concrete or like material and engineered to provide calculated noise reductions to benefited residences.***

FYI, the above noise information was gathered from EPA websites, other government websites, <http://www.auto-decibel-db.com> along with other web resources.

Chemical Pollution – Benzene and USTs (Underground Storage Tanks)

The convenience store under consideration would include operation of a gas station.

Among other compounds, gasoline contains benzene, a constituent harmful to human health. Documented adverse health effects of benzene include cancer (particularly leukemia), anemia, increased susceptibility to infections, and low birth weight.

While people interact with benzene at some level on a regular basis, prolonged exposure produces a number of health concerns.

According to the World Health Organization air quality guidelines, there is no safe level for benzene.

US government agencies provide some guidance regarding benzene exposure.

OSHA regulations prescribe a maximum allowable amount of benzene in work place air to be 1 ppm (1 part per million) averaged over 8 hours. That understood, the Center for Disease Control indicates that long-term exposure to lower benzene levels in air within a range of 0.4 ppb can notably increase cancer development risks. See www.atsdr.cdc.gov.

A number of recent scientific studies indicate that benzene is released from gas station use and underground storage tanks at higher than previously understood levels.

A 2018 study of gas stations found that benzene emissions from underground gasoline storage tank vents alone exceeded (8 ppb) at a distance of 162 to 518-feet.

See: <https://www.sciencedirect.com/science/article/pii/S0048969718337549>

A 1999 study evaluating outdoor and indoor benzene concentrations at residences located between approximately 100 to 330 feet of gas stations and found median outdoor benzene concentrations of 3.1 to 1.9 ppb, respectively. Median indoor concentrations higher, reaching 4.1 and 5.2 ppb, respectively.

See: <https://www.sciencedirect.com/science/article/pii/S1352231099000977>

A 2003-2004 study documented a significant relationship between instances of childhood leukemia and living near a gas station.

See: <https://www.ncbi.nlm.nih.gov/pubmed/19213757>

Beyond the above-noted health risks, operation of a gas station raises additional environmental issues. Petrochemical surface run-off from the subject Market Street location would be believed to run directly into Lemoyne Sewer system and the Susquehanna River without remediation.

Additional environmental or health damage may be caused by gasoline contamination through storage tank leakage or spillage resulting into ground contamination and seepage into public water supplies.

In view of the above, and in order to preserve the health of long-established residents adjacent the subject Market Street property, as well as other Lemoyne residents, I ask that the Commission recommend the following amendment be made to the borough zoning ordinance:

In the Downtown Zoning District, no structure occupied in whole or part by a gas station shall be permitted within 500 feet of a residential zoning district and/or Borough water supply lines.

Other Concerns

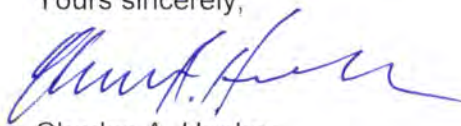
While the present letter is focused on noise and chemical pollution, I also ask the Commission to maintain focus on the negative impacts of Light Pollution and Traffic Pollution brought to neighboring residential neighborhoods by a operation 24-hour convenience store.

Specifically, in addition to negative impacts brought by vehicle congestion, please also consider the impacts to pedestrian safety at the 3rd and Market Street intersection and surrounding streets.

Thank you for your attention and consideration.

If questions remain, please let me know.

Yours sincerely,

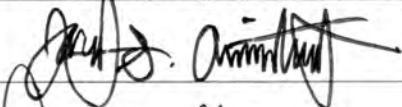
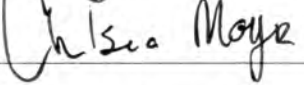
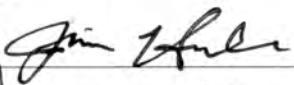
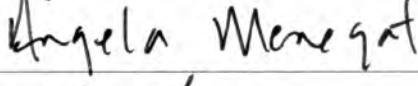


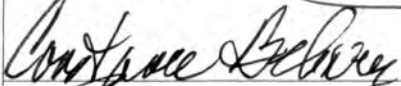




Charles A. Hooker

Lemoyne Borough Petition

Potential Zoning Ordinance Changes to Allow Operation of 24-hour Convenience Store Adjacent Residential Neighborhoods

We, the undersigned, all residents of Lemoyne borough, oppose allowing the operation of 24-hour convenience stores under the present version of Lemoyne's zoning code in view of the negative impacts such business would place on residential neighborhoods in the form of noise pollution, light pollution, traffic pollution, and other forms of pollution to the community. The undersigned all ask that the zoning board to prohibit the operation of 24-hour convenience stores within 300 feet of a residential zoning district.

Property Owner Signature	Printed Name	Address
	Jared Armistead	324 Market St, Lemoyne ^{Val's Cafe}
	Chelsea Mayer	226 Walnut St Lemoyne
	Jim Hreske	218 Walnut St Lemoyne
	Angela Menegat	202 Walnut Street Lemoyne
	Sraksavanh Phomsopha	148 Walnut St. Lemoyne
	Catherine Manthey	237 Walnut St. Lemoyne
	Constantine Behney	311 Walnut St.
	Brett Meador	313 Walnut St
	James McNaughton	327 Walnut St Lemoyne PA 17043