

September 15, 2013

**SOS ALERT  
WOODLAWN PROPERTIES REZONING: THE FACTS**



In July of 2012, Woodlawn Trustees, Inc. and three real estate development companies – Eastern States Construction Services, Inc., The McKee Group, and Wolfson Group, Incorporated (the “Developers”) – requested that Concord Township change its zoning laws so that they could build up to 205,000 more square feet of commercial space and up to 386 more “dwelling units” than current law allows.

The request related to three zoning parcels covering an aggregate of about 325 acres<sup>1</sup> of land located along Beaver Valley Road and Route 202 in Concord Township, Pennsylvania (the “Property”).

The request was withdrawn on May 14, 2013.

We expect Woodlawn and the Developers to resubmit their requests in substantially the same form, except that: the “McKee and Eastern Proposal,” which covers about 250 acres and the “Wolfson Proposal,” which covers about 75 acres, will be presented separately and, perhaps, at different times. Please read this Alert to understand the possible consequences for the Property and Township if either or both proposals are approved.<sup>2</sup>

**Neither Woodlawn nor the Developers have a legal right to any of the changes they propose – that is a decision to be made by the Township Supervisors acting in the best interest of the Township’s residents. If the changes are not approved, Woodlawn and the Developers will have exactly the same rights as they have today.**

**Executive Summary**

Woodlawn and the Developers want to change the Township’s zoning laws so that they can build more houses and more commercial space than the law currently allows. Once the law is changed, they propose to initiate a process to approve the building of 195,000 feet of commercial space and 434 dwelling units on approximately 325 acres of currently open land. If

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<sup>1</sup> Acreages are approximate due to historical survey imperfections.

<sup>2</sup> Should the resubmitted proposals vary materially from the prior proposal, this Alert will be updated to reflect the changes and made available on our websites.

the requested changes are approved, they could build still more -- up to a total of 225,000 square feet of commercial space and up to 548 dwelling units.

Woodlawn, Eastern and McKee are also asking to change the Township's definition of open space so that the property currently leased from Woodlawn by Penns Woods Winery would be classified as open space.

Because the two Proposals may be presented separately, it is possible that one could be approved and one denied. As a result, there could be several different outcomes. In one scenario, the total number of dwelling units could increase by as much as 200% over the number permitted under current zoning (from 350 units to 736 units); in another scenario the total number of dwelling units increases by about 67% and commercial space increases by about 1000%.

In all cases: approval of the Proposals generally results in more dwelling units, more commercial space, more people, more traffic, more pollution, more infrastructural cost, and greater destruction of historical and natural resources than development under existing zoning. In all cases there would be a very substantial increase in traffic over the increase that would occur if the properties were fully developed under current zoning. These effects will be addressed in more detail in other Alerts, but some data are provided here with respect to traffic increases as that is of particular concern to many.

**Please read this Alert, ask questions, express your views, and attend meetings and informational sessions to learn the facts. If you come to agree with us, please let the Supervisors know that you do not support changing the law. Three Supervisor votes are necessary to make the requested changes in the Law. If three vote against, the changes won't happen.**

### Current Zoning

To understand the changes in the law that Woodlawn and the Developers are seeking we need to understand the current law.

Today, the 325 acres are divided into three zoning parcels:

- A parcel zoned R-2 consisting of about 250 acres (76% of the total area to be developed);
- A parcel zoned C-1 consisting of about 23 acres (8% of the total area to be developed); and
- A parcel zoned R-PRD-1 consisting of about 53 acres (16% of the total area to be developed).

Under current zoning, the following are permitted:

- Approximately 162 single family homes on the 250 acre parcel;
- Approximately 20,000 square feet of commercial space on the 23 acre parcel; and

- Approximately 188 apartments on the 53 acre parcel.<sup>3</sup>

Three other aspects of current law are important to understanding the proposed changes and their effects:

- In addition to zoning laws, environmental and other laws restrict the amount of development that can be done and where it can be located.
- A zoning parcel is a rigid capsule. Land and development rights cannot be shifted back and forth across the boundaries of different zoning parcels.
- Township law already requires 40% open space for any development of five or more houses.

These characteristics of the law work together. Much of the land in two of the parcels cannot be developed due to environmental restrictions or the open space requirements of the law. An appreciable part of the R-PRD1 parcel, for example, consist of streams and spring seepages that can't be developed. They also cannot be included within a redefined RS-2 parcel to satisfy the 40% open space requirement for that parcel.

Likewise, the right to build can't be shifted from one parcel to another. So, the 188 apartments, for example, can be built, if at all, only on the R-PRD1 parcel; the commercial piece can be built only on the C-1 parcel. In short: you can't build everywhere; the different zoning parcels matter.

### **The Two Proposals**

As discussed above, there are two proposals:

#### **The Woodlawn, Eastern States, McKee proposal is:**

- **To increase the number of “dwelling units” permitted on the 250 acre R-2 parcel from approximately 162 to approximately 548, of which approximately 434 would be built immediately<sup>4</sup>;**
- **To revise the Township’s existing definition of “open space” so that approximately 25 acres of land occupied by Penn Woods Winery can be classified as open space.**

#### **The Woodlawn, Wolfson Proposal is:**

- **To consolidate the 23 and 53 acre parcels currently zoned C-1 and R-PRD1 and to increase the commercial space permitted from approximately 20,000 square**

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<sup>3</sup> All numbers are expressed as approximations because of possible variations in classification of wetlands, steep slopes, etc.

<sup>4</sup> Each Proposal permits greater building than presented in the plan that accompanied it. Because, the Proposals, if approved, would make that greater amount of building legally permissible, this Alert addresses the consequences of that as well as the consequences of the development actually proposed.

feet to 225,000 square feet, of which 194,000 would be built immediately. The right to build about 188 apartments on the R-PRD1 parcel would be eliminated.

**Analysis of the Proposals**

**The Woodlawn, Eastern States/McKee Proposal.** The Woodlawn, Eastern States/McKee Proposal covers the R2 parcel, which contains about 250 acres or **76% of the total area affected. Under current zoning**, approximately **162 single family homes** can be built, subject to requisite approvals and legal compliance. **Under the Proposal**, up to **548 “dwelling units”** could be built on the same parcel, of which approximately **434 are scheduled to be built immediately. These units would consist of a mixture of 182 duplexes, 120 “over-55” dwelling units built in quads, and 132 detached homes. The building types of the additional 114 units that could be built are unspecified.**

Set forth below is a summary of some of the effects of the Woodlawn, Eastern States/McKee Proposal on this parcel:

**R-2 Parcel  
(250 Acres)**

	Permitted by Current Zoning	<u>Woodlawn/Developer</u>	
		Proposed to be built If Rezoned	Permitted by Rezoning
Dwelling Units	162	434	548
Population Increase <sup>5</sup>	420	998	1260
Population Density	.65 @ acre	4.0@ acre	5.0@acre
Traffic Increase <sup>6</sup>	771 (veh) 1542 trips @ day	1413 (veh) 2826 trips @ day	1861 (veh) 3720 trips @day

It is also important to keep in mind the effect of this Proposal on the impervious surface area (that is the area covered by buildings or pavement) of the parcel. The Proposal will very substantially increase that area as compared to a build out under the existing zoning. The result will be increased run off and pollution.

Because the R2 Parcel is the largest of the three parcels, it is not surprising to learn that it contains much of the most important habitat for animals and plants and a substantial plurality of the important historical and cultural resources found on the three parcels. Thus, the very

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<sup>5</sup> The population increase was estimated using both standard estimation methodologies and data from comparable housing types in the area.

<sup>6</sup> The traffic increases were estimated using standard methodology. When and if final plans are prepared, these estimates can be refined. See ITE Trip Generation Manual, 9th Edition, Land Use Code 820 (“Shopping Center”), Land Use Code 221 (“Low Rise Apartment”), Land Use Code 210 (“Single Family Home”), Land Use Code 251 (“Senior Adult Housing: Detached”), Land Use Code 230 (“Residential Condominium, Townhouse”).

dramatic increase in the density of its development permitted under the Woodlawn, Eastern, McKee Proposal very dramatically and adversely affects those resources.

**The Woodlawn/Wolfson Proposal (76 acres).** The Woodlawn/Wolfson Proposal covers two zoning units and about 75 acres. Under the existing zoning, the 23 acre C-1 parcel is zoned for approximately **20,000 feet of light commercial space. 188 apartment units may be built on the R-PRD1 parcel.** Under this Proposal, these two parcels are consolidated and **225,000 feet of commercial space permitted, of which 194,000 would be immediately built.** In short, the amount of **commercial space increases nearly 1000%**, with possible further increases in the future. The 188 apartments are eliminated.

The consequences of the changes are extreme. Among them:

- Traffic increases by an estimated 4,521 vehicles (or 9,042 trips) per day after netting the traffic increases that would have occurred with full build out under existing zoning;<sup>7</sup>
- The cost of the road improvements necessary to handle increased traffic volume in an already congested area spirals;
- Impermeable surface area necessary to accommodate the large commercial build increases, dramatically, worsening already significant runoff and pollution problems and damaging an historic watershed that feeds directly into the Brandywine River, a major source of drinking water for Wilmington, Delaware.
- The historical and archaeological features of these properties are destroyed;

### **The Proposals Combined**

If we look at the two proposals together the results are easy to see:

- **if both Proposals are approved**, as compared to a complete build out under existing zoning:
  - commercial space increases by 1000%;
  - total dwelling units increase by 65%;
  - traffic increases by a net of 4,521 vehicles per weekday and 9,042 trips per weekday;
  - population density increases by 3X on the R-2 parcel; and
  - traffic on Beaver Valley Road increases by 1542 trips per day.

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<sup>7</sup> Standard methodology suggests that the 20,000 square foot commercial development permitted under the existing zoning would result in an increase of 1193 vehicles or 2386 trips each day. The larger development contemplated by the Proposal would result in an additional increase of 4048 vehicles or 8096 trips per day. Some portion of these vehicles would, in each case, be already in transit. That proportion can be estimated only when and if definitive plans are prepared. The same methodologies assign 617 vehicles (or 1238 trips per day) to the apartments. So: the net result is current zoning (2581 vehicle or 5162 trips per day increase) subtracted from new zoning (7102 vehicle or 14,204 trips per day increase).

- **If the Woodlawn/Wolfson Proposal is denied and the Woodlawn/Eastern States/McKee Proposal approved**, the results are different, but still dramatic:
  - Total permitted dwelling units increase 200% from 350 to 736 (as compared to current zoning); and
  - Traffic increases 275%; and
  - Even if “only” 434 units are built on the R-2 parcel, the increases are 177% and 200% plus, respectively.

**It is important to recognize that these comparative statistics assume full build out under the existing zoning laws. As compared to the present, we can anticipate traffic increases of more than 7000 cars and 14,000 trips per day in an area that has been called “one of the most congested” in the Commonwealth.**

### Conclusion

To summarize:

- Woodlawn and the Developers want to change the law.
- If the law is changed, they can build far more commercial space and dwelling units than the law allows today. The percentage increases are stunning.
- If they succeed:
  - Dwelling units are increased;
  - Population is increased;
  - Commercial space is increased;
  - Traffic is increased;
  - Impermeable surface area is increased;
  - Pollution (light, waste, and carbon-related) is increased; and
  - Destruction of historical and cultural resources is increased.

### FAQs

Based on our discussions with Township residents, there appears to be some confusion about some aspects of the Proposals. In question and answer format, we address below several frequently asked questions.

**Question:** Do Woodlawn and the Developers have a right to build the developments and commercial facilities that they propose to build?

**Answer:** No. Existing zoning does not permit the developments that are contemplated. To build these facilities and dwelling units, the law must be changed. Woodlawn and the Developers propose that, first, the law be changed; and, then, that their development plans be approved in a separate process.

**Question:** I have heard that Woodlawn and the Developers can build almost as much under the existing law. Is that true?

**Answer:** No. Under the existing law, 20,000 square feet of commercial space can be built on the C1 parcel, 162 houses can be built on the R2 parcel, and 188 apartments can be built on the R-PRD1 parcel. The Proposals contemplate building up to 225,000 square feet of commercial space and up to 548 dwelling units.

**Question:** I have heard that Woodlawn and the Developers will develop the “whole thing” if the proposals are turned down. Is that true?

**Answer:** It would be illegal for them to do so. Environmental and other laws prohibit the development of substantial portions of these properties. Existing zoning laws require 40% of the R-2 and R-PRD1 parcels to be kept as open space. There are some easements to the properties, including a pipeline easement. Historic preservation laws may prohibit the destruction of some buildings and archaeological sites. Only certain types of buildings can be constructed on each parcel. Based on our analyses, it appears that between approximately 125 and 135 acres on the R-2 and R-PRD1 parcels cannot be developed and must be kept “open.” In short, the “whole thing” simply cannot be developed under the existing zoning.