

MALVERN BOROUGH
PLANNING COMMISSION
Zoom Conference
Malvern, PA 19355

October 21, 2021
7:30 P.M.

1. CALL TO ORDER – 7:45PM

PLANNING COMMISSION PRESENT:

Carroll Sinquett, Chair
Zoe Warner, Ph.D., Vice Chair
David Knies, Ph.D., Commissioner
Chris Mongeau, Commissioner
Geoff Rubino, Commissioner
Scott Oswald, Commissioner
Mark Niemiec, Commissioner

ABSENT:

Brian Hamilton, Commissioner

Staff & Professionals Present:

Kenneth Kynett, Esq., Planning Commission Solicitor
Daniel Daley, P.E. Borough Engineer
Tiffany M. Loomis, Interim Borough Manager & Zoning Officer

ABSENT:

None

2. MINUTES

A motion was made by Mr. Mark Niemiec, seconded by Dr. David Knies, Ph.D., and carried by a vote of 7-0, to approve the minutes from the August 5, 2021 meeting of the Planning Commission as submitted.

3. UNFINISHED BUSINESS

The Chester County Planning Commission submitted comments regarding the Outdoor Dining Ordinance proposed amendment. Borough Council authorized the MPC to review comments at their September 21, 2021 meeting and recommend accordingly.

The MPC agreed as a body to remain with the original recommendation passing along the Chester County Planning Commission comments to the Borough Council. Please see attached the Chester County Planning review.

4. NEW BUSINESS

The Planning Commission reviewed the sketch plan for 551 Sugartown Road in conjunction with the Borough Engineer's review letter dated October 1, 2021. An additional lot is being created proposing a single family dwelling. Mr. Jim Renehan, Property Owner/ Developer and Mr. Scott Dusher, P.E. reviewed the attached review letter from the Borough Engineer in detail with the MPC. They will respond back to the Borough Engineer and MPC regarding their comments accordingly.

Mr. David Horshall, Highland Avenue, is not in favor of the current grading located along Monument and Highland Avenue stating that stormwater is a an issue. Additionally, traffic is a major concern with more development occurring.

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5. PUBLIC COMMENT

Mr. Joe Raunado commented on the MS4 planning that will take place in the near future.

6. ADJOURNMENT

A motion was made by Dr. Dave Knies, Ph.D., seconded by Mr. Chris Mongeau, and carried by a vote of 7-0, to adjourn the meeting at 9:15 P.M.

Respectfully submitted by,
Tiffany M. Loomis
Interim Borough Manager & Zoning Officer



THE COUNTY OF CHESTER



COMMISSIONERS
Marian D. Moskowitz
Josh Maxwell
Michelle Kichline

Brian N. O'Leary, AICP
Executive Director

PLANNING COMMISSION
Government Services Center, Suite 270
601 Westtown Road
P. O. Box 2747
West Chester, PA 19380-0990
(610) 344-6285 Fax (610) 344-6515

September 13, 2021

Christopher Bashore, Manager/Secretary
Malvern Borough
1 East First Avenue, Suite 3
Malvern, PA 19335

Re: Zoning Ordinance Amendment - Outdoor Dining
Malvern Borough - ZA-08-21-16868

Dear Mr. Bashore:

The Chester County Planning Commission has reviewed the proposed Malvern Borough Zoning Ordinance amendment as submitted pursuant to the provisions of the Pennsylvania Municipalities Planning Code, Section 609(e). The referral for review was received by this office on August 19, 2021. We offer the following comments to assist in your review of the proposed Zoning Ordinance amendment.

DESCRIPTION:

1. Malvern Borough proposes the following amendments to its Zoning Ordinance:
 - A. Permit outdoor dining in all Malvern Borough Commercial Districts by-right (except when a public right-of-way is to be occupied), subject to specified supplemental use conditions;
 - B. The definition of "outdoor café" is replaced so as to properly define this outdoor dining land use as provided for in this amendment;
 - C. The C-1 Commercial District, the C2 -Adaptive Re-Use Commercial District, the C3-Town Center Commercial District, and the C4-High Intensity Commercial District's use regulations are changed to include outdoor café, and other related land uses are amended similarly to reflect the outdoor café land use;
 - D. Supplemental Use Regulations are amended to provide for outdoor café, including location, physical characteristics of the area, seating capacity, hours of operation, parking, design specifications and other requirements;
 - E. Outdoor cafes adjacent to residential districts are subject to specified hours of operation, and no live musical performances are permitted within the outdoor café area;
 - F. Except as permitted by Borough Council pursuant to conditional use approval, the outdoor café shall not be located on or extend onto a public sidewalk where the width of said sidewalk is less than 10 feet, and
 - G. Provisions for the removal of the outdoor cafe are included.

LANDSCAPES:

2. The Borough's commercial districts (as well as the entire Borough) are located in within the **Urban Center Landscape** designation of [Landscapes3](#), the 2018 County Comprehensive Plan. The vision for the **Urban Center Landscape** is historic downtown and established neighborhoods serving as civic, economic, and population centers with a traditional town

character, accommodating substantial future growth at a medium to high intensity. Transportation infrastructure improvements and amenities supporting a walkable community should be provided and integrated into the public transportation and roadway systems. [Landscapes3's Urban Center Planning Principles](#) promote, among other land use principles, pedestrian oriented uses in downtowns. Outdoor cafes can be consistent with the objectives of the **Urban Center Landscape**.

COMMENTS:

3. We commend Malvern Borough for encouraging opportunities for increasing street vitality and activities within its commercially-zoned areas. The Chester County Planning Commission's eTool on Main Street Economic Vitality is available at:
<https://www.chescoplanning.org/MuniCorner/eTools/51-MainStreetEconVitality.cfm>
4. The Borough may wish to clarify the definition of Outdoor Café; in Section 220-201 the definition of Outdoor Cafe begins as follows: "An outdoor area, such as a patio, deck, porch, or similar structure, of an associated restaurant, ..." This definition as written appears to imply that an Outdoor Cafe is to be located on some sort of "structure" associated with the use (note: "...a patio, deck, porch, or similar structure..."). The Borough should clarify whether a sidewalk is a "similar structure".
5. Section 220-2418.E. of the proposed amendment states that:

"The outdoor café shall be separated from parking areas or traffic flow areas by fencing, screening or buffering. However, in any location where the outdoor café is not separated from the flow of traffic or parking areas, no table shall be located within six feet of the curb or the boundary of that area, whichever is closer."

The Section should be clarified regarding whether "traffic flow" is related to pedestrian traffic flow (such as on a sidewalk) or automotive traffic flow. We also recommend that this Section be strengthened to ensure that appropriate and safe pedestrian access, including crosswalk areas, will be preserved around the outdoor cafe areas. Pedestrian connectivity between sidewalks and buildings is an important component of a complete sidewalk system in the **Urban Landscape**.

PennDOT's Design Manual 2-Chapter 6: Pedestrian Facilities and the Americans with Disabilities Act (ADA) recommend that sidewalks be a minimum of five feet in width. Additional information on this topic is provided in the Pedestrian Facilities Design Element of the County Planning Commission's [Multimodal Circulation Handbook \(2016 Update\)](#), which is available online at: www.chescoplanning.org/MuniCorner/MultiModal/02-PedFacs.cfm.

6. Malvern Borough's emergency service providers should be requested to review the proposed outdoor seating areas to ensure that safe access and egress is maintained for first responders.
7. Section 220-2418.F. prohibits live musical performances within the outdoor café area. The Borough should also consider whether recorded music will be permitted, and whether live performances originating within the building should also be limited when the music is audible outside, especially when the outdoor café is near a residential district.
8. The Borough should require applicants to discuss how litter will be collected, especially litter that is wind-blown from the site.

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9. The Borough should determine if applicants should pay a rental fee for the use of the public right-of-way. However, the Borough should consider how municipal fees, permits, and conditions may affect Outdoor Cafe if the Borough wishes to encourage this use.
10. Section 220-2418 of the amendment could be interpreted to include food trucks as part of an outdoor café arrangement. The Borough should determine if this is intended; we suggest that such an arrangement may be appropriate with certain conditions. Additional information regarding food trucks is available in this Chester County Planning Commission eTool: <https://www.chescoplanning.org/MuniCorner/eTools/55-FoodTrucks.cfm>
11. The Borough should determine if permits for outdoor cafés should be time-limited.
12. Outdoor café uses abutting or adjacent to residential districts are required to stop serving customers before 9:00 p.m. on Sunday through Thursday and clear all tables of food before 10:00 p.m. On Friday and Saturday, customer service must stop at 10:00 p.m. and all tables must be cleared before 11:00 p.m. The Borough should consider whether hours should also be limited for outdoor cafés in the Borough's commercial districts.
13. Additional information regarding outdoor dining is available in this Chester County eTool: <https://www.chescoplanning.org/MuniCorner/eTools/54-OutdoorDining.cfm>

RECOMMENDATION: Malvern Borough should consider the comments in this letter before acting on the proposed zoning ordinance amendment.

We request an official copy of the decision made by the Malvern Borough Council as required by Section 609(g) of the Pennsylvania Municipalities Planning Code. This will allow us to maintain a current file copy of your ordinance.

Sincerely,



Wes Bruckno, AICP
Senior Review Planner



EDWARD B. WALSH & ASSOCIATES, INC.
Complete Civil Engineering Design / Consultation Services
Whiteland Business Park
855 Springdale Drive, Suite 202
Exton, PA 19341

October 1, 2021

Ms. Tiffany Loomis, Interim Borough Manager
Malvern Borough
1 E. 1st Avenue - Suite 3
Malvern, PA 19355

Re: Renehan – 551 Sugartown Road
Sketch Plan Review #1
EBWA Project #2780-142

Dear Ms. Loomis:

In accordance with Malvern Borough's request, I have reviewed the above referenced project for compliance with the Borough's Zoning, and Subdivision & Land Development Ordinances. The following information was submitted for review:

- Sketch Plan for 551 Sugartown Road, prepared for Renehan Building Group, LLC, dated August 25, 2021, prepared by JMR Engineering, LLC., one plan sheet.

The applicant is proposing to consolidate and subdivide parcel 2-6-29 (owned by Paoli Memorial Grounds) and parcel 2-6-30 (owned by William & Linda Dondero) into two lots and construct two single-family dwellings. The parcels are located at the corner of Sugartown Road and Monument Avenue. Access for Lot 1 is proposed to at the same location as the existing driveway and access for Lot 2 is proposed to be off of Monument Avenue. The following comments and recommendations are offered for the Borough's consideration of the submitted plan:

Zoning Ordinance

1. Section 501 - The tract is located in the R-2 Zoning District. Single-Family Detached dwellings are uses permitted by right.
2. Section 502 – Area and Bulk Regulations. The proposed subdivision is noted to be in compliance with the applicable area and bulk regulations for the R-2 Zoning District. The plan must be revised to clearly identify the title line of the parcel and the legal / required right-of-way line for Sugartown Road and Monument Avenue, and detail the net lot areas for each lot.

REGISTERED PROFESSIONAL ENGINEERS & LAND SURVEYORS
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3. Article XXII – Natural Resource Protection Standards - The plan must be revised to indicate all Natural Resource and impacts to the resources, including trees and steep slopes. It appears that a portion of the existing site is wooded with mature trees. Also, further analysis is required to determine if the steep slopes adjacent to the roads are regulated (natural or manmade). The applicant should coordinate this interpretation with the Borough Zoning Officer.
4. Section 2306 – Obstructions to vision at intersection
No obstructions to visibility at intersections shall be permitted. No fence, wall, or other structure shall be erected, allowed, or maintained and no hedge, tree, shrub, or other growth shall be planted or allowed to exist that obstructs required sight distance at street intersections, vision for through traffic at ... driveways, street intersections or along streets. A clear sight triangle shall be maintained in accordance with the standards set forth in the Malvern Borough Subdivision and Land Development Ordinance.

The sight triangles and distances must be evaluated at the driveway(s) to ensure the visibility meets the Borough Code requirements.

Subdivision and Land Development Ordinance

1. Section 300.B – Based upon the noted criteria (greater than 1,500 sf of impervious coverage), the project is classified as a Major Subdivision application.
2. Section 300.C – Review Process. The following requirements are required for the Major Subdivision project:
 - a. A site visit with the Planning Commission should be scheduled by the applicant if requested by the Planning Commission.
 - b. Existing Resource and Site Analysis Plan.
 - c. Four-step design process documentation.
3. Section 300.G – Any plan applications for tracts of land along the municipal boundary shall, at the same time as any plans or supplementary documentation are submitted to the Borough, include submission of one additional complete set of such plans and documentation, which shall be forwarded by the Borough to the adjacent municipality for its comments. This shall be completed during the land development stage of the project.
4. Section 503 – Street Standards. *Where a subdivision abuts or contains an existing street of inadequate right-of-way width, additional right-of-way width shall be dedicated to conform to the standards set by the Borough. Where a subdivision abuts or contains an existing street of inadequate cartway width, the applicant shall be required to widen and/or reconstruct the roadway to meet current Borough standards. Monument Avenue is considered a Local Distributor, therefore the minimum standards are a 50-foot wide right-of-way and a 32-foot wide cartway. Sugartown Road is a major collector, therefore the minimum standards are a 60-foot wide right-of-way and a 34-foot wide cartway.*

5. Section 513 – Driveways.

- a. Section 513.K.1 - *The driveway within the legal right-of-way of the public road, or for a distance of at least 20 feet from the edge of the cartway, whichever is greater, shall not have a grade in excess of 4%. Additional design information must be submitted to ensure compliance.*

The applicant should discuss with the Borough the existing driveway off of Sugartown Road to determine if it needs to be brought into compliance with the current ordinance (it appears to be an existing non-compliant driveway with regards to slopes).

6. Section 514 – Curbs.

- a. Section 514.A – Curbs shall be installed along both sides of all streets and shall be plain concrete curbs. The applicant should review this requirement with the Borough Planning Commission during the sketch plan stage.

7. Section 515 – Sidewalks and Trails.

- a. Section 515.A – Sidewalks shall be provided on both sides of all existing streets where required by the Borough. The applicant should review this requirement with the Borough Planning Commission during the sketch plan stage.

8. Section 519 – Sewage Disposal.

- a. The applicant is proposing to connect the two dwellings to the Borough public sewer system via grinder pumps and low pressure sewer laterals. Further evaluation of this sewer connection is required. The applicant must evaluate the ability to install two private laterals to the sewer main as the current connection at this location is very convoluted. A sewer main extension may be warranted.
- b. Per Section 519.G.5, the maximum length of a lateral is 150-feet. The proposed lateral lengths exceed this distance.
- c. If permitted to run two parallel private laterals in Monument Avenue, the applicant will be required to enter into a written agreement with the Borough to detail the operation and maintenance of the grinder pump / forcemain laterals.
- d. Sewer Planning for the subdivision is required to be approved by PA DEP.
- e. The location of the septic area for the existing dwelling must be noted on the plan.

9. Section 520 – Water Supply.

- a. The applicant is proposing to connect the two dwelling to public water supply. It appears that tree removal will be necessary for the lateral installation.
- b. The applicant should contact Aqua to determine if a lateral is permitted to be installed for the proposed length and through an easement.
- c. Section 520.H – Documentation must be provided to ensure the minimum water supply requirements per Section 520.H have been met.

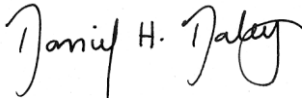
10. Section 525 – Landscaping, Screening and Street Trees. A landscape plan must be prepared and submitted for review and approval. The applicant must follow Section 525.D of the ordinance related to the vegetation disturbance and replacement.

October 1, 2021
Ms. Tiffany Loomis, Interim Borough Manager
Malvern Borough
Re: Renehan – 551 Sugartown Road
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11. Additional review comments related to the application will be provided following the submission of supplementary information. This review is limited due to the extent of the sketch plan detail.

If you should have any questions or require any additional information, please do not hesitate to contact me.

Very truly yours,
EDWARD B. WALSH & ASSOCIATES, INC.
Malvern Borough Engineers

A handwritten signature in black ink that reads "Daniel H. Daley". The signature is written in a cursive, flowing style.

Daniel H. Daley, P.E.

cc: Bill Wilfong, Malvern Borough
JMR Engineering, LLC.
Renehan Building Group, LLC.