

## FACTUAL CORRECTIONS – RESPONSE TO SPS PUBLISHED COMMUNICATIONS

Shawnee Stage 1, LLC

January 10, 2022

1. *“In 2008 a development was proposed...”*

Facts: The Shawnee Valley Planned Residential Development was conceived and approved in 1988 and remains valid ever since. Woodland Village, Oakdale, and portions of Northslope are the first stages of the plan that are already built. The plan was amended through public hearings in 2005 and 2007. The 2007 plan is still the plan which is currently approved by all governmental agencies.

2. *“An amendment to the (SPS) settlement is being put forward by the new developer which would violate much of the terms of the negotiated settlement.”*

Facts: The developer met with SPS on June 10, 2021 to follow procedure. SPS never responded to the developer with any questions or any reply. We proposed to amend the SPS settlement and submitted a written draft to SPS. It proposes to make only two changes to the SPS Settlement Agreement.

1) To maintain the governmentally approved connecting road from Shawnee Valley Drive to Hollow Road across Sun Mountain Dam

2) To modify the SPS Settlement buffers at Knob Lane to build three homes on existing cleared lots.

We included the proposed amendment in our PRD application to the township. The proposed 2021 amended PRD plan and the proposed SPS amendment maintains and protects ALL other provisions of the SPS Settlement.

3. *“PRD means ‘Planned Residential Development’. This is an older version of development planning which was in place prior to more current ordinances”*

Facts: PRD’s are in the current “Pennsylvania Municipalities Planning Code, Article VII – Planned Residential Development” as an option for current or future land development in Pennsylvania. This is the same Pennsylvania code which governs traditional zoning (Article VI) in the rest of the township. PRD is not an older ordinance.

4. *“A PRD is grandfathered in so any newer protections in ordinances now on the books in the township do not apply”*

Facts: The PRD ordinance is more comprehensive than standard traditional zoning. The PRD also remains governed by all the same State and Federal regulations as traditional zoning. This includes, but is not limited to, wildlife protection (for this PRD, bog turtle habitat protection and enhancement and bat pupping seasonal protections), wetland protection, wetland mitigation, transportation and traffic analysis, stormwater management, water quality, historical and archeological protection, utility requirements, emergency services, building codes.

5. *“SPS along with several resident filed a lawsuit a few weeks after that approval which prevailed in the courts.” Also, “Due to the successful case presented by SPS et al...”*

Facts: What case did SPS “prevail” in? The developer is not aware of any SPS lawsuit “which prevailed in the courts”. SPS and various related appellants filed multiple lawsuits. The first lawsuit (that we know of) was dismissed by the courts. The second lawsuit was ruled to require posting of \$11.478M bond when it was determined the suit was “frivolous” under Pennsylvania law (Monroe County Case No. 833 CIVIL 2008).

6. *“They have presented a proposed third amendment to the PRD which would unilaterally remove many of the protections for the environment and the community which are in place in the settlement agreement.”*

Facts: See item 2. above again. SPS has misunderstood the proposed Third Amendment, which maintains conditional buffers and makes them unconditional. See item 7 below.

The SPS settlement agreement does not “protect the environment” more than all the extensive environmental protections and improvements (such as wetland mitigation and bog turtle habitat enhancement) that we must follow under State and Federal regulations.

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7. *“Buffers: ... ..The new proposal encroaches on the 120’ building setback on the west side of Shawnee Lake”*

Facts: We understand how this is misunderstood. To help, we revised the 2021 PRD amendment drawing (dated January 5, 2022) to delete four building pads, making compliance clearer. See note 6 on the new drawing.

The original drawing, as submitted, shows the 120’ buffer required for compliance. The area is labeled as “AREA TO BE REDESIGNED”. “Redesign” meant that we planned to remove or reposition the buildings to comply, AS REQUIRED. We do not know the exact redesign, so we planned to do it during revised final engineering.

8. *“The developers propose to put model homes on 3 of these lots in contravention of the agreed on settlement”*

Facts: We have not proposed “model homes”, which implies parking areas and an “office” function. We propose three houses to occupy or offer for sale. We will show the homes to prospective buyers, like any Smithfield Township homeowner.

These three lots are already subdivided (in the 1930’s, just like all of the other homes on Knob Lane). The land has been cleared of ALL trees for decades. The lots are not “buffering” anything.

9. *“Building height restrictions: for stage 1b and stage 4 which are removed from their proposal”*

Facts: Height restrictions are not even referenced in our application. They are unchanged.

10. *“The developers plan to put a road over the Sun Mountain Lake dam in violation of the (SPS) agreement”*

Facts: In March 2021, we asked to meet with SPS, but they could not meet until June. We proposed an amendment to the SPS settlement agreement for important reasons. See item 2 above.

Since SPS did not provide any reply over the following three months of waiting, we submitted our plan to Smithfield Township in September. We

assumed that SPS could discuss the issue. SPS has never replied to the developer.

Note: The Sun Mountain Dam road crossing is APPROVED by ALL local, State and Federal authorities. PennDOT will not allow us to move the road to another location. Only the SPS Settlement contests this governmentally APPROVED and REQUIRED road.

11. *“Blasting protections: ... ..This is out of the developers’ proposal.”*

Facts: The SPS Settlement applies. The proposed 2021 PRD amendment does mention or propose any change to blasting provisions in the SPS settlement.

12. *“Settlement modification: ... ..The developers have not followed any of this (negotiation) process as required and they removed this requirement (court filing) from the amendment they have presented.”*

Facts: We tried to follow the procedure. That does not work when the other party is not responding. SPS has never given any response to the developer. Also, the procedure only applies to proposed deviations from the SPS Agreement.

We agree with SPS on following the court filing process and reinserting the paragraph. It was not in the First Amendment, which SPS signed, so we followed that precedent. The language was back in the Second Amendment, and we will add it to the Third Amendment. Both Amendments were filed.

13. *“Monitoring of the PRD: ... ..The new proposal removes this requirement.”*

Facts: The proposal does not comment on the requirement. We do not know why this is being said. Please show us where the developer says this.

For further information, contact:

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Hi folks and Happy New Year to all! Here is the promised background info on the Shawnee Valley PRD.

The short of it is, in 2008 a development was proposed that would have impacted the community greatly. In response, SPS became the plaintiff in a law suit against both the township and developer. The township, developer, and SPS worked hard and negotiated a settlement that we all could live with, which resulted in the donation of 500+ acres to the Delaware Water Gap National Recreation Area (DWGNRA). Currently, an amendment to the settlement is being put forward by the new developer which would violate much of the terms of the negotiated settlement. We want to be sure the community is aware of the township meeting to hold a **public hearing on this proposal Tuesday January 11th at 5 pm at the Smithfield Township Municipal Building located at 1155 Red Fox Road, East Stroudsburg**. You can also attend this meeting via Zoom or phone by following the info on the Township website: <https://smithfieldtownship.com>

For information in greater detail, please read below..

### **What is a PRD?**

PRD means 'Planned Residential Development'. This is an older version of development planning which was in place prior to more current ordinances. A

PRD is grandfathered in so any newer protections in ordinances now on the books in the township do not apply.

### **Where is the Shawnee Valley PRD (SVPRD) located?**

The Shawnee Valley PRD was initially slated to develop both ridges that run along Shawnee Valley including land on the the west side of Shawnee and Sun Mountain Lakes from Mt Nebo Road continuing down around the lakes and going across Hollow Road and over the ridge to both sides of Mosiers Knob Road to the east. It stretched north between Hollow and Mosiers Knob Road from just south of the Shawnee Ski area and down to land around the south end of Shawnee Lake. The PRD was to be developed in several stages.

- Stage 1a- has been completed, it is located along Shawnee Valley Drive from Mt Nebo Road connecting down to Hollow Road
- Stage 1b- still slated for development according to the settlement, located around the lakes between Hollow Road and Stage 1a
- Stages 2 & 3- are now preserved and over 500 acres were turned over to the National Recreation Area thanks to SPS and the terms of our settlement. These stages were located on the east side of Hollow Road up to Mosiers Knob Road and across it to the ridge overlooking the Delaware River

- Stage 4- still slated for development according to the settlement, located near the ski area between Hollow Road and Mosiers Knob Road and across it to the ridge overlooking the Delaware River

### **What is the history of the SVPRD?**

As many of you recall, SPS was first formed in 2005 in response to this PRD when it was resurrected from 20 years prior. Without getting too detailed or complicated here are the basics:

- The PRD was granted approval by the township in 1988
- In 2005, an amendment to the plan came before the township, which was given tentative approval
- Several residents filed a lawsuit challenging the township's approval. That case was dismissed by the Monroe County Court of Common Pleas.
- In January 2008, the township granted final approval to the amended plan
- SPS along with several residents filed a lawsuit a few weeks after that approval which prevailed in the courts ↙.
- Due to the successful case presented by SPS et al, the developers began negotiating the points of concern with SPS
- This resulted in a court-approved settlement near the end of 2009 and a second amendment to the PRD which was approved by the township

### **What does this mean for the community?**

Obviously, the nature and character of the township changed tremendously from 1988 to 2008, and it has continued to change since then. Now more than 10 years after the settlement, the very same two people who negotiated the settlement (for their then employer Wyndham) have purchased the land. They have presented a proposed third amendment to the PRD which would unilaterally remove many of the protections for the environment and the community which are in place in the settlement agreement.

These are the specific things at stake:

- **Buffers:** There are several types of buffers defined in our settlement. Type I & II ensure riparian buffers around the two lakes- 300' in an area of species & wetland habitat; 100' vegetative buffer with building setbacks of 120' in the area where the housing units would be. The new proposal encroaches on the 120' building setback on the west side of Shawnee Lake. Type III buffers between the two lakes, including all lots on Knob Lane, are to be vegetation only. The developers propose to put model homes on 3 of these lots in contravention of the agreed on settlement.
- **Building height restrictions:** for stage 1b and stage 4 which are removed from their proposal.
- **New road reductions:** Our settlement removed the previously planned Shawnee Church Road realignment at Mosiers Knob Road and prohibits a



road over Sun Mountain Lake dam. The developers plan to put a road over Sun Mountain Lake dam in violation of the agreement.

Stage IV protections: This is the part of the plan that is near the ski area. Because it sits on the ridge, SPS and the DWGNRA Park Service had concerns about how this stage of the development would impact the views from the officially designated Wild & Scenic Delaware River and from the Appalachian Trail. Our settlement agreement stipulates many protections including- lighting restrictions, landscaping restrictions, building height, building colors & design restrictions to help them blend in and protect the viewshed.

Blasting protections: Our settlement gives protection to residents by providing for pre-blasting testing of homes near the areas to be developed in case of damage incurred during site preparation. Also, it lists a pre-blasting notification procedure so residents will know when this activity will be occurring. This is out of the developers' proposal.

Settlement modification: Our settlement requires negotiation and agreement among the parties before any proposal would go to the Township for consideration. Also, once there is a new agreement that all parties have approved, it must go to the court for final approval in order to be in force. The developers have not followed any of this process as required and they remove this requirement from the amendment they have presented.

Monitoring of the PRD: Our settlement stipulates documents which are to be shared with SPS so we can monitor the PRD and ensure the developers & Township are following the terms of the settlement. The new proposal removes this requirement.

The Township will consider this matter at the special 1/11/22 meeting at 5 pm. We hope to see you there. If you have further questions, please inquire at [info@shawneepreservationsociety.com](mailto:info@shawneepreservationsociety.com). We thank you for your support!

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