

Comments Regarding House Bill No. 782

Chester Country Citizens Advocating Responsible Development a.k.a Save Lionville Station Farm

www.saveLSF.com, saveLSFarm@gmail.com

September 6, 2023

My name is David Fertell. I live in Chester County, PA. My neighbors and I have been steeped in a battle to drive back the development of mega warehouses in our community. I'm here today to discuss our story and how Bill No. 782 will support us and those around the Commonwealth that are engaged in the same struggle. Our story begins with a two million square foot warehouse development that was approved by our Township during Covid. The vast majority of residents didn't know about its approval until the same developer dropped a sketch plan for a second, equally monstrous complex to be built very near the first. None of us fighting this are experts and we've had to come up to speed fast in the last six months in order to push back against this onslaught. Those involved in the fight refer to the proposed development in a variety of ways: mega warehouses, monstrosities, trucking terminals, distribution centers. In private, these names are pre-pended with expletives. The term "Intermodal Terminal" in Bill No. 782 has not entered our vernacular and no adjective or picture seems to capture their enormity. They are too big to fit into a single frame of a camera. In our effort to raise awareness, my neighbor, Matt Hanes, created this graphic [\(Reference Fig. 1¹\)](#). The scale is such that you can lay the entire Empire State Building on its side within the building and still have room for a few more traditional sized warehouses. But these aren't sky scrapers. They are land devastators and open-space decimators that leave communities scarred. Scarred with additional air pollution; scarred with additional traffic; scarred with additional impervious surfaces and their resultant flooding and heat-island effects. They are the antithesis of all things green. The Paris Agreement. The Kyoto Protocol. Earth Day. These monsters laugh in the face of such things. And just like scars, both mental and physical, once the damage is done, the effects live on in perpetuity. Open space doesn't reopen. Traffic doesn't abate. Silent VOCs that wind their way unfiltered into our water supply don't self-mitigate. And none of these damaging effects stop at a township's border. These effects are far reaching and by any definition have "Regional Significance".

The developer is not the only antagonist working against us as a community.

The second antagonist in our story is our school district: The Downingtown Area School District. They acquired about 230 acres of beautiful farm land in order to build another campus. They then decided they didn't need the land and looked to sell it. This is a public asset held by the school district yet the community has no say over its disposition. Downingtown Area School District sold the land with the knowledge it would become a mega-warehouse site. The community has pleaded for Downingtown Area School District to extricate themselves from the sale, as is their right. Instead, the school district is focused on a huge financial windfall to compensate for an irresponsible and lax tax strategy. This financial windfall comes at a great price to our township as well as our larger region which has even less of a voice than we do about this matter. Here is that price being explained in the very simplest of terms to a school board unwilling to change their views. [\(Reference Dr. Seuss Video²\)](#).

¹ Aerial Site Plans_Display Image_FINAL_50_scale_2.jpg

² <https://youtu.be/otNwE2AUIE8>

Another antagonist in this story is, unwittingly, us. It is our selfish and spoiled consumption habits that have put us in this position. How could any of us believe that buying a set of batteries online, packaged somewhere magical, flown to our cities and trucked to our doorsteps in oversized boxes and plastic filler, all at the same price as stopping into the store on the way home from work, doesn't carry with it additional costs and unintended consequences? The resolution to our problem could quickly be solved by an immediate shift in consumer behavior. But we've learned from efforts like the war on drugs, the war on obesity and the war on plastic, changing consumer behavior is a slow and sometimes futile exercise. So, like those other challenges, we are left with the option of trying to stop bad things at the source. In the case of mega-warehouses or truck terminals, Bill No. 782 helps even the playing field.

Which leads me to the final antagonist in this story: the status quo. "Of standing" rules that emphasize proximity and not regional impact, ordinances that seemingly have no teeth, officials responsible for the health and safety of our communities yet have no jurisdictional authorities, ordinance language and concepts that are outpaced by real world developments, and nebulous constitutional language that hasn't found its way into actual rules of the road.

I am not a tree hugger nor have I ever been anti-development. I am pro common sense. Being thrust into this battle against these community-killing warehouses, I've been flabbergasted about the lack of common sense working against us:

1. Engineering studies that are provided by the developer. This makes no sense. This is tantamount to letting the fox guard the henhouse. Any engineering conclusion is based on assumptions. The assumptions made by the developer will err on the side of development. The Township should hire the engineers that do these studies and the cost should remain borne by the developer. Let's err on the side of the community. The same notion extends to the "impact studies" called for in Bill No. 782. In addition, the impact studies should be quantitative, detailing the projected costs to the community. The Bill calls for understanding the financial impact regarding emergency services, sewer and water but leaves other costs as qualitative, not quantitative. The bill speaks to the "effect" on natural resources. The "effect" on housing and property values. The "effect" on transportation infrastructure. The word "effect" in 607-A should be changed to "financial impact" and a deep understanding should be extended beyond what is presently outlined in the Bill to also include water, air and light pollution, the cost of flooding and energy consumption due to increased surface heating, costs of sitting in traffic, of accidents, of road damage and of crime. There are people that study such things. We have spoken to them and some even work for our counties.
2. Neighboring townships have no voice and no recourse. Air pollution does not stop at a township's border. Roads, and thus traffic, do not stop at a township's border. Flooding doesn't stop at a township's border. This makes no sense and I'm pleased to see Bill No. 782 address this. In fact, the flooding you just saw in the Dr. Seuss video was all flooding in a neighboring township, downhill and downstream from our new mega-warehouses. These residents are livid. Our Township has been accommodating in letting non-residents add to public comment during Township meetings. The Township bylaws do not require this and these accommodations are left to the discretion of the Township Supervisors.
3. County Commissioners and state and US representatives have no jurisdiction. They feel for us but they have no authority. I was told by our County Commissioners we were at step one of our fight. "When you get to step 10," they said, "and want to preserve the land, that's where we can

help.” Our community doesn’t need a shoulder on which to cry and we don’t need someone standing at the finish line. We need help along the way. Bill No. 782 is one step in that direction.

4. Old communication standards. One of the purposes outlined in the Bill is to encourage well-communicated procedures around these regional developments. In the first mega-warehouse development that I mentioned, conditional use approvals were granted in September of 2020 during the very height of the pandemic when we were told to stay home and public meetings were not open to local residents. We did an ad-hoc poll of concerned and engaged citizens and 94% of respondents had no idea about this two million square foot building development until our grass-roots efforts started raising awareness about the second development two-plus years later. To my knowledge, only one business that borders the property was proactively notified. Notice of these developments was done by putting a few post-it sized notices on busy roads that nobody sees. Certainly, nobody is stopping in the middle of traffic to get out and read these things. Notice was also put in the Daily Local newspaper, reaching a mere 20% of Chester County’s population³ that may have happened upon the advertisement while focused on the pressing news of a global pandemic. This makes no sense. Between social media and mobile devices and inexpensive local cable TV and robocalling, there are plenty of avenues to notify the community when a development of regional significance has been proposed.
5. Lack of accountability. Another purpose outlined in the Bill is to develop “reasonable accountability measures”. There was a study done by the Guardian and Consumer Reports in Red Hook, a neighborhood in Brooklyn, New York⁴. After three Amazon mega-warehouses were built in their neighborhood, members of the community installed traffic, air-quality and sound sensors to gather data throughout the neighborhood. Though several months of data showed a neighborhood under severe environmental stress, their measurements did not show precisely how much the new facilities had affected Red Hook, since the sensors were installed after the mega-warehouses were opened. The community had no baseline data against which to compare these harmful effects. As part of Bill No. 782, I believe it would be prudent to require a developer to be responsible for baseline measurements like those described in Red Hook as well as all other target variables called out in the Bill. In the event that there’s a shortfall in the mitigation efforts proposed in response to a developer’s impact analysis, the developer can, and should, be responsible for ongoing remediation.
6. An inability to adapt to a rapidly changing world. Our plight of mega warehouse sprawl, I believe, would fall in the category of an “Intermodal terminal.” The Bill classifies as significant, a land development generating 3,000 or more average daily trips or 1,500 vehicles per day. This is far too generous an allocation. In February, Pocono Township’s Board of Commissioners voted to amend its zoning ordinance to include precise definitions of truck terminals (mega warehouses) versus static, traditional warehouses. In the new ordinance, the Commissioners limited the number of trips that trucks would be allowed to make to 50 trips per day. I would suggest closing

³ 2020 Census, <https://www.dailylocal.com/2008/08/14/newspapers-struggle-to-retain-readership/>

⁴ https://www.theguardian.com/us-news/2023/may/16/amazon-warehouse-traffic-noise-brooklyn-red-hook?CMP=Share_iOSApp_Other

this large gap and differentiating between tractor-trailers and other vehicles as the former, when loaded, have the same impact on an interstate highway as 9,600 passenger vehicles⁵.

Article 27 of the PA constitution says that the people have a right to clean air, pure water, and to the preservation ... of the environment. Bill No. 782 invokes this. The decimation of open space without REGIONAL stakeholders having a voice is counter-intuitive. There is an underwater plaque in Crystal River Florida familiar to local divers. It reads in part, "Life must become more than the needs and wants of humans. Extinction is forever and for all." These, like Article 27, are just words. They are amorphous and until they find their way into actual ordinances and laws and jurisdictional authorities, they will remain merely nice platitudes. Bill No. 782 is a step in the direction of realizing Article 27. The "character" of our communities referenced in the preamble of the Bill as well as the will of the people must ultimately prevail. I leave you with this 90 second video from my neighbor, Steve VanValin, that puts a finer point on this very notion. [\(Reference Chester County Character video⁶\)](#).

⁵ <https://www.gao.gov/products/109954>

⁶ <https://youtu.be/zReSQORla50>