

# Opposition to Kuser Road subdivision grows

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HAMILTON -- Resident opposition to the construction of a 52-home subdivision off Kuser Road is getting taken to the next level.

In 2006, the township council passed an ordinance allowing residents to appeal use variances granted by the zoning board, giving them a way to air their opposition to new development in the heavily built-up township.

For the first time, a resident is taking advantage of that process. On Jan. 12, Catalina Fleming of Bearbranch Road filed an appeal with the township, asking council to take a fresh look at the use variance the zoning board granted Sharbell Development Corp. on Jan. 11, when the development was approved in a 5-2 vote.

Over the course of three increasingly heated zoning board meetings, Robbinsville-based Sharbell presented plans to build 52 three- and four-bedroom houses on 37.5 acres acquired from the Italian American Sportsman's Club last year.

The L-shaped development would lie across from the Kuser Road entrance to Veterans Park and would border the Italian American club's remaining land, the new Stone Terrace banquet hall and Interstate 195.

Residents, including Fleming, packed council chambers throughout the zoning process, expressing concerns that wetlands bordering the proposed development would send water into existing neighborhoods once the new homes were built.

Of particular concern to some was the history of the land. For years, members of the Italian American club used portions of the Sharbell tract for skeet shooting, and engineers for Sharbell unearthed traces of lead in the soil during environmental testing.

Despite assurances from the developer that the site would be thoroughly cleaned up before any construction would begin, residents were worried that lead might find its way into nearby yards or local water sources.

Eleven of Sharbell's proposed homes lie near designated wetlands. As a result, they will be built on smaller lots. According to Fleming's appeal, Hamilton zoning standards for that zoning district require minimum lot sizes of 10,000 square feet and backyards of at least 30 feet. Because of wetlands that would be behind several of the proposed houses, those residences would not meet the minimum required by Hamilton ordinance.

In a followup, Fleming delved more deeply into the lead contamination issue, faulting Sharbell's engineers for not collecting more information on the history of the site, such as how long it was used as a shooting site.

"Due to the serious nature of this matter -- lead contamination at a proposed residential development that includes a park, I believe that the potential hazards to future homeowners and neighboring residents, particularly children, as well as the environment, are both real and imminent," the second part of Fleming's appeal reads.

Experts testifying for Sharbell repeatedly sought to calm fears over lead contamination during the zoning process, vowing that all testing and cleanup efforts would be done in strict compliance with state regulations. The zoning board attached a separate condition to their approval requiring further on-site testing.

The appeal will now be brought before council, though a date for a hearing has yet to be set. According to the ordinance, council can review only transcripts from the previous zoning board meetings; no new testimony can be entered into the record.

Council can decide to uphold, reverse or amend the zoning board's decision. Any decision council makes can be appealed to the state Superior Court either by the residents or the developer.

Tom Troy, Sharbell's senior vice president, said the company has seen Fleming's appeal but is waiting for the hearing to discuss it.

"They're entitled to their rights under the law, and we've obviously made our position known and will continue to do so," Troy said.

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