

## FERGUSON TOWNSHIP BOARD OF SUPERVISORS

Regular Meeting  
Monday, April 5, 2021  
7:00 PM

### ATTENDANCE

The Board of Supervisors held its first regular meeting of the month on Monday, April 5, 2021, via Zoom in a webinar format. In attendance were:

**Board:** Laura Dininni, Chair  
Lisa Strickland, Vice Chair  
Steve Miller  
Prasenjit Mitra  
Patty Stephens

**Staff:** Dave Pribulka, Township Manager  
Dave Modricker, Director of Public Works  
Jenna Wargo, Director, Planning and Zoning  
Lance King, Township Arborist

Others in attendance included: Rhonda Demchak, Recording Secretary; Mr. Kevin Mullen, Ferguson and Patton Township owner; Mr. Wes Glebe, Ferguson Township Resident; Mr. John Spsychalski, CATA Chairman; Ms. Louwana Oliva, Executive Director and CEO of CATA; Mr. David Stone, Nittany Valley Environmental Coalition; Mr. Bill Keough, Ferguson Township Resident and Planning Commission member; Mr. John Sepp, Penn Terra Engineering; Mr. David Helfrich, Aspen Heights; Doug Hill, Senior Engineer, Wooster and Associates; Danielle Bleier, Develop Manager, Aspen Heights Partners; Mr. David Helfrich, President, East Division, Aspen Heights Partners

### I. CALL TO ORDER

Ms. Dininni called the Monday, April 5, 2021, regular meeting to order at 7:00 p.m.

Mr. Pribulka noted that the Board of Supervisors meeting had been advertised in accordance to the PA Sunshine Act as a virtual meeting via Zoom in a webinar format. There was also an audio conference bridge that was accessible by dialing the Ferguson Township's main line at 814-238-4651 and then dialing extension 3799. Persons attending the webinar as members of the public and wanted to participate were asked to enter their name, municipality, and topic by utilizing the Q&A bubble at the bottom of the screen. Mr. Pribulka noted that attendees will not be permitted to speak unless addressed by the Chair. Mr. Pribulka will share more information on how attendees can interact with the Board at the appropriate time of the meeting. C-NET is recording as well. Mr. Pribulka took Roll Call and there was a quorum.

Ms. Dininni added that there have been two executive meetings since the last regular Board meeting. On March 23<sup>rd</sup>, they met regarding personnel and legal matters and on April 5<sup>th</sup> they met to discuss personnel matters.

### II. THE PLEDGE OF ALLEGIANCE

### III. CITIZENS INPUT

Mr. Kevin Mullen, Ferguson and Patton Township owner, expressed frustration with UAJA Wastewater for over charging him the last 5 years.

### IV. APPROVAL OF MINUTES

Mr. Miller moved that the Board of Supervisors **approve** the Regular meeting Minutes of March 15, 2021. Ms. Strickland seconded the motion. The motion passed unanimously.

### V. SPECIAL REPORTS

a) COVID-19 (Coronavirus) Response Report

Mr. Pribulka noted that local or regional updates can be found on the Centre Region Ready [Facebook page](#) or the [COG website page](#). Also, information can be found on the [Township website](#) and [State College Borough website](#).

The Governor's office announced on April 5, 2021 that the Commonwealth has moved to Phase 1B of the vaccine distribution plan. Phase 1B eligible Pennsylvanians include:

- People in congregate settings not otherwise specified as long-term care facilities, and persons receiving home and community-based services
- U.S. Postal Service workers
- Manufacturing workers
- Clergy and other essential support for houses of worship
- Public transit workers
- Education workers

More information can be found at the [Pennsylvania Department of Health](#).

Governor Wolf's office announced that on April 4, 2021, restaurants may resume bar service; alcohol service will be allowed without the purchase of food; the curfew for removing alcoholic drinks from tables will be lifted; and indoor dining capacity will be raised to 75 percent for those restaurants pending self-certified at each establishment. Also, the Governor announced revised maximum occupancy limits for indoor events to allow for 25% of maximum occupancy and outdoor events to allow for 50% of maximum occupancy. Requirements such as mask-wearing, and social distancing, including 6 feet between diners, also still apply. More information can be found on the Governor's [website](#).

Mr. Pribulka was able to cross reference the new regulations against the Township's ordinance and noted that the ordinance does not need modified.

Regionally, Eric Barron, President, PSU, and other local leadership held a press conference on March 26, 2021 urging caution to residents and students because of the alarming uptick in COVID-19 cases. The University's wastewater monitoring system has identified variances of COVID-19.

There have been 13,575 confirmed cases county-wide, which is over 1,300 from Mr. Pribulka's report on March 15, 2021. There have been 65,428 negative cases in the State College. There have been 213 deaths attributed to the virus in Centre County. There have been 888,747 reported cases in Pennsylvania and an additional 156,653 probable cases. There have been 25,200 deaths.

Mr. Pribulka noted that information is emerging from the American Rescue Plan funding. The Township has not identified the uses of the funding but once the guidelines become available, they will begin to develop a strategy. The Township was allocated \$1.92 million.

Mr. Pribulka thanked the residences and business owners in Ferguson Township for their patience and understanding as the Township recovers.

b) Centre Area Transportation Authority Report

Mr. John Spychalski, CATA Chairman thanked Ms. Louwana Oliva, Executive Director and CEO of CATA for her resilience through the pandemic. Ms. Oliva noted that CATA has been adjusting throughout the pandemic and reported that though service was cut back, they kept routes open where ridership was needed. Ridership is only at 15% of what it used to be before the pandemic. The pandemic has taken a toll on CATA's finances because they rely on 40% of the ridership fares

and will have to make service adjustments. Ms. Oliva stated that federal funding has kept them open.

Mr. Spychalski stated that Penn State will be a factor in making adjustments in the fall due to the possibility of online classes and employees working from home. Mr. Spychalski noted that all Sunday services have been discontinued, but possibly reinstating HM, N, R, V and the W routes in the fall. A decision will be made to close full-service during Labor Day weekend and the week between Christmas and New Year's. There will be a reinstatement of the express routes to 40-minute frequency. The community routes will continue to be on hold.

Ms. Oliva stated that there will be a virtual community meeting on April 20, 2021 at 6:00 p.m. to discuss the proposed changes.

Ms. Stephens asked what is being used to disinfect the busses. Ms. Oliva state that they use CDC approved disinfectants and electrostatic cleaners.

c) Private Streets and Alleys Presentation

Mr. Pribulka presented PowerPoint slides. Private streets in the Township are described as shared driveways with no dedicated right of way and has access to two or more dwellings often on the same parcel such as condos. The most common that cause disputes are private roads and alleys because there are no maintenance agreements. They are not assigned to any specific tax parcel or property; there are no agreement for maintenance, repair or access, and all adjoining properties assumed to have right to access. There are private roads and alleys in the Township that do have maintenance agreements such as approved subdivision plans since the mid-90's that include a private street and agreements assigned responsibility to all parties for maintenance improvements, and access. Mr. Pribulka gave an example of a shared driveway that included Teaberry Ridge. The most common example is a private road with no maintenance agreement such as Reed Alley in Pine Grove Mills. Breezewood Drive in the Township is a private road that does have a maintenance agreement.

Mr. Pribulka stated that they do see disputes arise from property owners that abut private streets. Mr. Modricker noted that paper streets can be a private alley plotted in a subdivision plan, but it doesn't exist physically. Mr. Modricker stated that sometimes there are disputes between property owners that might occupy a paper street.

Mr. Pribulka reviewed possible policy considerations.

- Township assumes responsibility for all private streets and alleyways.
  - Develop street standards for alleyways in the Subdivision and Land Development Ordinance
  - Survey "available" right-of-way, identify encroachments that exist and how they will be overcome, prepare cost estimates
  - Acquire deeds of dedication for all private streets and alleyways (excludes shared driveways) and plan for capital improvements based on existing conditions and priorities.
- Pros
  - Likely to have the most support from residents along private streets and alleyways
  - "Easiest" option – fee – simple dedication, clear ownership
- Cons
  - Cost – Will require legal representation and deed preparation ; on-going operational and maintenance expenses; equipment costs

Other possible policy considerations include the following:

- Township brokers maintenance agreements with property owners

- Develop street standards for private streets and alleyways as policy to guide development of maintenance agreements
  - Work individually with each property owner to draft and execute agreements
- Pros
  - Least costly to the Township in the long-term
  - Resolves issues for all current and subsequent property owners
- Cons
  - Large initial effort to broker agreements for each private street and alleyway
  - Reliance on the willingness of property owners to enter into agreement in good faith
  - Additional enforcement opportunities assigned to the Township

Mr. Pribulka reviewed another theory for consideration

- Hybrid approach
  - Develop street standards for private streets and alleyways as an internal guidance
  - Broker private street agreements with each property owner and the Township endorses the agreements as a party of interest
  - Survey “available” right-of-way, identify encroachments that exist and how they will be overcome, prepare cost estimate
  - Township budgets for repaving and improvements for private streets and alleyways based on condition assessments
  - Once improvements are made, on-going maintenance and repairs are assigned by agreement to each property owner
- Pros
  - Ensures all private streets and alleyways are improved to a common standard
  - Likely to incentivize residents to participate voluntarily in the agreements
- Cons
  - Costly – Avoids long-term maintenance responsibility but requires investment in brokering agreements and improving streets

Mr. Pribulka stated that another alternative is to do nothing as another alternative. Ferguson Township’s approach to private streets and alleys are similar to other municipalities in the Centre Region – College Township, Patton Township, and Halfmoon Township. Staff continues to adjudicate disputes as they present themselves to the degree the Township is able. Other matters are commonly civil in nature and referred to the appropriate jurisdiction.

Mr. Pribulka gave his recommendation and noted that this is a problem that staff encounters, but not a significant problem that in the Manager’s opinion, justifies the cost of acquiring private roads. Problems may be significant for residents, especially when access is impeded, or civil disputes arise. Mr. Pribulka stated that if the Board wishes to proceed, brokering private streets agreements is the preferred staff option.

Ms. Dininni shared that she receives complaints regarding private streets and alleyways and gave a few examples. A complaint she received was the level of service of plowing on a road that the Township does not plow, and the homeowner expressed concern with the service from the private road plowing contractor. Ms. Dininni also received a complaint regarding trash removal from a private road. Ms. Dininni noted that in Pine Grove Mills it can be confusing which are private streets and which are not.

Ms. Strickland stated she too receives the same issues as Ms. Dininni and thanked the Manager for the presentation. The Planning Commission will be looking into the private streets and alleyways as part of their workplan.

Public Comment

Mr. Bill Keough, Ferguson Township Resident and Planning Commission member, thanked Mr. Pribulka and Mr. Modricker for the presentation. Mr. Keough stated that he would suggest putting initial effort into developing a strategy to come to a workable solution.

## VI. PROCLAMATIONS

- a) 2021 Arbor Day Proclamation
- b) 2021 Watershed Cleanup Day Proclamation
- c) 2021 Bike Month Proclamation

Ms. Dininni reviewed the proclamations that were included in the agenda.

Ms. Stephens moved that the Board of Supervisors **adopt** the proclamations. Mr. Miller seconded the motion. The motion passed unanimously.

## VII. UNFINISHED BUSINESS

### 1. Public Hearing – Tree Preservation and Protection Ordinance

Ms. Wargo noted that the Public Works and Planning & Zoning Department has drafted an amendment to Chapter 22, Subdivision and Land Development to establish a new part, Tree Preservation and Protection. The intent of this chapter is to encourage the protection of trees through sound land use and tree management practices. This chapter will preserve, protect and maintain existing trees in Ferguson Township, as well as, increase the overall tree canopy and understory with native species. It will aid in improving tree and ecosystem health on both public and private lands. The Board authorized staff and the Ferguson Township Tree Commission to draft a Tree Preservation Ordinance. The draft ordinance has been received and reviewed by all local, regional and county reviewers. The updated amendment, as advertised, is included with agenda packet.

Ms. Strickland moved that the Board of Supervisors **adopt** the ordinance amending Chapter 22, Subdivision and Land Development; Part 5, Design and Improvements Standards by establishing Section 515, Tree Preservation and Protection and amending Part 202, Definitions. Mr. Mitra seconded the motion.

Public Hearing

Mr. David Stone, Nittany Valley Environmental Coalition, noted that the timing is awkward for NVEC because they are in final discussions with the Pine Hall lawsuit and expressed concerns with the language. Mr. Stone recommended to postpone the adoption of the ordinance until NVEC has completed the settlement agreements.

Mr. Wes Glebe, Ferguson Township Resident, asked if the quality of soil to plant trees was specified within the ordinance. Ms. Wargo noted that there is nothing included with regards to the quality of soil to be used to plant trees. Mr. Lance King, Township Arborist, noted that he is not aware of specifications because the ordinance focuses on existing trees.

ROLL CALL: Ms. Dininni – Yes: Mr. Miller – Yes: Mr. Mitra – Yes: Ms. Stephens – Yes: Ms. Strickland – Yes

The motion passed unanimously.

## 2. Public Hearing – Ordinance Accepting Deeds of Dedication of Public Right-of-Way

Mr. Modricker introduced the ordinance that included (1) additional right-of-way along Whitehall Road has been offered for dedication to the Township as part of the approved subdivision plan for Harner Farms and is ready for acceptance; (2) As part of an approved subdivision plan along Circleville Road, additional land was dedicated to the Township and is ready for acceptance; (3) A section of Blue Course Drive from Whitehall Road to the entrance to the future Whitehall Road Regional Park was constructed by the developer of The Cottages at State College Planned Residential Development and is now in a condition to be accepted by the Township. Items (4), (5), (6) establish the necessary motor vehicle regulations.

Mr. Mitra moved that the Board of Supervisors **adopt** the ordinance accepting deeds of dedication of public right-of-way as described therein and establishing additional motor vehicle regulations for the same. Ms. Stephens seconded the motion.

### Public Hearing

Mr. Wes Glebe, Ferguson Township Resident, noted that The Cottages, Toll Brothers, and The Yards all reference the same project and asked why The Cottages was being used. Mr. Pribulka noted that Toll Brothers is the name of the developer, The Yards was a name change that took place after the approval of the plan, and The Cottages will be referenced on all documents now.

Mr. Miller asked if there are any other public facilities in The Yards and does it fall under private streets. Mr. Modricker noted that it is the only public street within the development.

ROLL CALL: Mr. Miller – Yes: Mr. Mitra – Yes: Ms. Stephens – Yes: Ms. Strickland – Yes: Ms. Dininni – Yes

The motion passed unanimously.

## 3. Public Hearing – Stormwater Fee Non-Profit Organization Exemption Resolution

Mr. Pribulka introduced the ordinance that the Board authorized at their March 1, 2021 meeting to advertise a public hearing on a resolution establishing a non-profit exemption policy for the Stormwater Management Utility Fee. Under the policy organization, §501(c)(3); §501(c)(13); or §501(c)(19) of the Internal Revenue Code would be exempt. During the discussion on March 1<sup>st</sup>, a motion carried removing 501(d) organizations from the list of eligible applicants for the exemption.

Ms. Strickland moved that the Board of Supervisors **adopt** the resolution establishing an exemption policy from the Stormwater Management Utility Fee for eligible non-profit organizations as described in Exhibit “A”. Mr. Mitra seconded the motion.

### Public Hearing

Mr. Bill Keough, Ferguson Township Resident, asked if there is a definition of what would constitute annual revenue. Mr. Pribulka stated that it is a policy provision that would be interpreted as part of the administration of the resolution.

Mr. Wes Glebe, Ferguson Township Resident, noted that he was on the Stormwater Committee Phase II and was not aware of the exemptions and asked for an explanation. Ms. Dininni noted that these are a subset of non-profits and this resolution is hardship policy.

ROLL CALL: Mr. Mitra – Yes: Ms. Stephens – Yes: Ms. Strickland – Yes: Ms. Dininni – Yes: Mr. Miller – Yes

The motion passed unanimously.

#### 4. Kocher Well Field Improvements – Final Land Development Plan

Ms. Wargo presented the plan and noted that the Final Land Development Plan was submitted by Gwin, Dobson & Foreman Engineering, Inc. on behalf of their client, State College Borough Water Authority. The parcel is 47.7 acres and is zoned Rural Agricultural (RA). The Land Development Plan proposes water pumping improvements via two proposed structures to the Kocher well fields on Tax parcel 24-006-055E, located at 3961 W. Whitehall Road. The construction consists of two (2) buildings that measure 9 feet 4 inches by 12 feet 4 inches relative to Existing Well No. 71 and 9 feet 4 inches by 11 feet 4 inches relative to Existing Well No. 78. There is an existing floodplain that traverses the parcel, and no construction is planned in the floodplain. On June 23, 2020, a variance was approved by the Zoning Hearing Board to utilize FEMA Mapping for Floodplain Boundary determination instead of independent Hydrologic and Hydraulic (H&H) study as required by §27-701. This is the final review of the land development plan. The Preliminary Plan was conditionally approved on October 5, 2020.

Mr. Miller moved that the Board of Supervisors **approve** the Kocher Well Field Water Pumping Improvements Final Land Development Plan, dated February 17, 2021, subject to the outstanding conditions described in the Community Planner memorandum dated March 26, 2021. Ms. Strickland seconded the motion. The motion passed unanimously.

### VIII. NEW BUSINESS

#### 1. Consent Agenda

- a. Contract 2018-PWGG-HVAC, Pay App #5: \$339,380.36
- b. Contract 2018-PWGG-Plumbing, Pay App #7: \$121,918.25
- c. Contract 2020-C4-Suburban Park, Pay App #9: \$700.80
- d. Contract 2021-C6- Curb & Ramp Upgrades, Pay App #1 Final: \$38,248.05
- e. Board Member Request – Report on Mental Health Taskforce
- f. Board Member Request – Terraced Streetscape District Amendment
- g. Treasurer's Report – January 2021 for Acceptance
- h. Voucher Report – January 2021
- i. Voucher Report – February 2021

Mr. Miller moved that the Board of Supervisors **approve** the Consent Agenda and the Treasurer's Report. Ms. Stephens seconded the motion. The motion passed unanimously.

#### 2. Resolution – DCED Grant Application for Construction of Park Hills Drainageway

Mr. Pribulka presented the resolution that was included in the agenda. Staff has identified funding sources to offset construction costs associated with the Park Hills Drainageway improvements. Capital Improvement Program budget in the amount of \$1,500,000. The Township intends to pursue a grant from the Pennsylvania Department of Community and Economic Development for a \$250,000 grant which requires a 15 percent local cash match of the total project cost. If approved, grant funding would not exceed the amount of \$250,000. A [presentation](#) was given on March 3, 2021.

Ms. Strickland moved that the Board of Supervisors **adopt** the resolution authorizing the Township Manager to submit a DCED Greenways, Trails, and Recreation Program Grant application for the construction of the Park Hills Drainageway. Ms. Stephens seconded the motion.

ROLL CALL: Ms. Stephens – Yes: Ms. Strickland – Yes: Ms. Dininni – Yes: Mr. Miller – Yes: Mr. Mitra – Yes

### 3. Request for Modifications/Waivers

#### a) West College Student Housing Preliminary Land Development Plan

Ms. Wargo presented the plan. Penn Terra Engineering has submitted an Application for Consideration of a Modification/Waiver on behalf of their client, Aspen Heights Partners LLC/York Acquisitions. The specific section of the Subdivision and Land Development Ordinance request is Section 22.504.2.A.2 – Lot Frontage 1 and Access. This section of the ordinance requires a Private Street Agreement to be signed by all property owners who access the private street. Calder Way is an alley that was created as part of the original subdivision plan and exists for the use and enjoyment of those lots created during the subdivision. The alley is in common ownership by all of the lots that created the alley and requiring all properties adjacent to Calder Way (Buckhout Street to Corl Street) to sign a Private Street Agreement presents an unreasonable hardship on the applicant since the applicant will be maintaining the alley in its entirety (from Buckhout Street to Butz Street). The applicant has included as Note 18 on the attached plan sheet their maintenance responsibilities for that section of Calder Way. Staff and Planning Commission have reviewed the application and recommend approval with the condition that the applicant submit a Private Street Agreement, with the Township as a party, that will include pre-construction, post-construction, maintenance and indemnity for the length of Calder Way between Buckhout Street and Butz Street.

Mr. John Sepp, Penn Terra Engineering stated that the agreement will state that the owners of the Aspen project will be solely responsible for the upgrading of the alley, maintenance, and keeping the alley open to access for all of the users. There is no written agreement with any of the owners at this time. The developers will be plowing and maintaining the alley and will be asking the property owners across the alley to participate in the upgrade and maintenance of the alley. A property owner attended a recent Planning Commission meeting and confirmed they would prefer to have the agreement as it is being proposed.

Ms. Dininni asked for clarification with the other two property owners and why they are not included on the agreement. Mr. Sepp stated that the modification could be amended. Ms. Dininni stated that she is comfortable amending the motion but had concerns with not amending. Mr. Miller noted that potentially a property owner could hold up a project if made to sign an agreement. Ms. Strickland suggested amending the modification to include signatures for the portion adjacent to the share of the alley that is being noted in the modification. Mr. Pribulka explained the modification process described in the MPC. Mr. Pribulka noted that the motion that is being recommended was from the Planning Commission and did communicate with the applicant the concerns the Board has. Ms. Dininni inquired if the developer reached out to all adjacent property owners. Mr. Sepp stated that they have but didn't received a formal response from the two property owners. Mr. David Helfrich, Aspen Heights, stated they spoke to their solicitor, the Ferguson Township solicitor, and staff, and they recommended the modification that is being presented. Mr. Helfrich concurred with Mr. Miller regarding a property owner not wanting to sign on and could potentially hold up the project. Mr. Helfrich stated that they are agreeing to maintain the alley and it will benefit the property owners and the Township. Ms. Dininni felt the modification should have some component of hardship. Mr. Miller noted that the current modification being proposed protects the property owners and does not see a problem with the other property owners signing the agreement. Ms. Stephens concurred with Mr. Miller that it protects everyone and gives them access. Mr. Mitra asked what would happen if one of the property owners do not sign the agreement. Mr. Pribulka stated that the Township would be acting on behalf of the adjoining property owners if there were a dispute. Ms. Strickland expressed concerns with setting a precedent and noted that it makes sense to limit to the property owners adjoining the property in question.



## Public Comment

Mr. Bill Keough, Ferguson Township Resident, noted that in the agreement doesn't clarify any property ownership. The Planning Commission discussed the importance of having the Township be a party to the section of the alleyway because the Township will hold the agreement in perpetuity.

Mr. Wes Glebe, Ferguson Township Resident, noted that he lives besides an alley and asked what his rights are, and stated that his rights are limited. Mr. Glebe inquired about how much research has been done with regards to the agreement.

Mr. David Helfrich, Aspen Heights, noted that the agreement benefits the Township and the residents.

Mr. John Sepp, PennTerra Engineering, stated that the agreement would not restrict anyone's rights to access the alley and the Township solicitor would review and approve any agreement to ensure the Township wouldn't be in jeopardy.

Ms. Dininni asked about the language in the agreement around the standards, what is the benefit to the Township, and how would it be applied in this situation.

Mr. Pribulka showed an aerial map of the properties in question and answered several previous questions. The agreement will not give the applicant any exclusive rights or additional privileges. Regarding the standard question, Mr. Pribulka stated that the reason the standards are included is because typically agreements are usually the opposite of wanting to provide a service.

Ms. Stephens asked if the State College Borough is involved due to the small section that is in the Borough. Mr. Pribulka noted that under the ordinance the State College Borough tax parcel will be incorporated.

Mr. Miller moved that the Board of Supervisors **grant** the modification to §22- 504.2.A.2— Standards for Traffic Capacity and Access with the condition that the applicant submit a Private Street Agreement, with the Township as a party, that will include pre-construction, post-construction, maintenance and indemnity for the length of Calder Way between Buckhout Street and Butz Street. Ms. Stephens seconded the motion. The motion passed 3-2 with Ms. Dininni and Ms. Strickland opposing.

## b) Wright Property – Waiver of Land Development Plan

Ms. Wargo introduced the waiver and noted that property owners, Daniel and Kelly Wright, have submitted an Application for Consideration of a Modification/Waiver from §22-104.1.B.(1)— Establishment of Controls; Applicability for their 44-acre property at 1000 North Nixon Road. There is currently one dwelling on the parcel and the applicants are proposing to construct a new dwelling on the property. During construction of the new dwelling, the owners will live in the existing dwelling and demolish the existing structure within 6 months of receiving a Certificate of Occupancy for the new dwelling. In accordance with the PA Municipalities Planning Code (MPC) and the Township's Subdivision and Land Development Ordinance (SALDO), the addition of the second dwelling requires the applicant to submit a land development plan and go through the land development plan process. The applicants have requested a waiver from having to complete a land development plan with the condition that the existing dwelling will be demolished within 6 months of receiving a Certificate of Occupancy for the new dwelling and that the applicant will comply with all other State Regulations. Staff and Planning Commission have reviewed the request and have no additional conditions to include with the application.

Mr. Miller moved that the Board of Supervisors **grant** the modification to §22- 104.1.B.(1)—Establishment of Controls; Applicability with the condition that the existing dwelling be demolished within 6 months of receiving Certificate of Occupancy for the new dwelling and that the applicant will comply with all other State Regulations. Mr. Mitra seconded the motion. The motion passed unanimously.

c) Wasson/Ash Avenue Subdivision Plan

Ms. Wargo presented the plan and noted that on behalf of their client, PennTerra Engineering, Inc., has requested a modification/waiver from Section 22-306.1.—Minor Subdivision and Minor Alteration for the Wasson – Ash Avenue Replot/Subdivision Plan. The section has a process outlined for a Minor Subdivision and the definition of a minor subdivision was omitted during the Township's Comprehensive Update to Chapter 22—Subdivision and Land Development Ordinance (SALDO). The plan submitted is replotting lot lines and no new lots are being created. Staff and Planning Commission have reviewed the application and are recommending approval. Ms. Wargo shared images of the plan.

Mr. Miller moved that hat the Board of Supervisors **grant** the modification to §22- 306.1.—Minor Subdivision and Minor Alteration Plan. Mr. Mitra seconded the motion. The motion passed unanimously.

d) Wasson/Ash Avenue Sidewalks

Ms. Wargo presented the plan and noted that on behalf of their client, PennTerra Engineering, Inc., on behalf of their client, has requested a modification/waiver from Section 22-512—Sidewalks for the Wasson –Ashe Avenue Replot/Subdivision Plan. The plan is proposing to replot three (3) existing lots in an established, built-out neighborhood. There are no existing sidewalks on either side of the street. The potential for connection to future sidewalks is extremely unlikely and no new land development is proposed. Staff and Planning Commission have reviewed the application and are recommending approval.

Ms. Strickland moved that the Board of Supervisors grant the modification to §22- 512—Sidewalks. Mr. Miller seconded the motion. The motion passed unanimously.

4. West College Student Housing Preliminary Land Development Plan

Ms. Wargo presented the plan and noted that Penn Terra Engineering, Inc., submitted a Land Development Plan and Lot Consolidation Plan on behalf of their client, Aspen Heights Partners LLC/York Acquisitions. The parcels are located at the intersection of West College Ave and Buckhout Street. Once consolidated the parcel will be 1.136 acres. Four parcels are located in the Terraced Streetscape District (TSD) in Ferguson Township and Parcel 36-010-006 is located partially in the Borough of State College's Planned Commercial District (CP-2). The land development plan proposes a 6-story multi-family residential apartment building with commercial/retail space on the first floor. The applicant is utilizing height incentives found in §27- 304.3.B.(2) and has provided additional parking in the parking structure to share for use by others. The applicant is eligible for an additional 20 feet to be added to the permitted maximum height (55 feet). The building will consist of three levels of parking and 5 floors of multi-family residential apartments. There are 96 residential units (268 beds) and a total of 8,696 square feet of nonresidential spaces. The plan calls for 159 parking spaces, 151 of which will be located in the parking structure. A variance was granted by the Ferguson Township Zoning Hearing Board on February 25, 2020, to allow parking on first floor of the building. There are 14 short-term bicycle parking spaces proposed on site. Planning Commission reviewed this Preliminary Land Development Plan at their February 8, 2021 Regular Meeting and recommended approval to the Board of Supervisors. Provided below in the agenda is a Dropbox

link to access the land development plan. Provided with the agenda packet is a memorandum from Kristina Aneckstein, Community Planner, dated April 1, 2021, summarizing Planning Commission's comments on the plan. Staff has also included all outstanding staff review comments, as well as comments provided by the Borough of State College's advisory review bodies. Staff reached out to Walt Schneider, Centre Region Code Administration Director, about §22-5C01.1.C.(1)(a) for compliance with PA Uniform Construction Code. The Code is silent on drive aisle widths for parking structures and only includes standards for accessibility and height.

Ms. Strickland asked if the sinkhole was resolved. Mr. Sepp noted it was resolved by working with CMT Laboratories in identifying them. Ms. Strickland inquired about the number of extra public parking spaces and where they are located. Ms. Wargo stated that there are two extra spaces. Mr. Sepp noted that one option that is being considered is to work with the other adjacent property owner for them to use the spaces and stated that they will most likely be within the garage. Ms. Dininni asked for clarification since the adjacent property owner is related to the landowner. Mr. Sepp indicated that it is a possibility. Ms. Strickland asked how that would meet the terms of the incentive. Ms. Wargo noted that the incentive states that additional parking to share by use of others and stated that the Township Zoning Officer interprets others as someone not directly involved with the land development. Once the lot consolidation is complete, the current owner that is on the plans will no longer be associated, so that can be a potential option. Mr. Helfrich, Aspen Heights, stated there will be signage that reads public parking and not for non-resident use. Ms. Wargo noted that commercial tenants, patrons, and residents will have parking spaces.

Ms. Strickland inquired about the building height. Ms. Wargo stated that it is approximately 75 feet. Mr. Sepp indicated it is just under 75 feet. There are an additional six parking spaces that are not within the building, and Ms. Strickland asked where they were located. Mr. Sepp answered that they are behind the building along the alley. With regards to bike parking, Ms. Strickland inquired about the short-term bike parking and asked if there is any residential bike storage. Ms. Wargo stated that there is no requirement within the ordinance and it only includes short-term bike parking. Mr. Helfrich stated that there isn't anything included but will look into adding.

Ms. Strickland inquired about the contamination and digging of the foundation to ensure it would not be disturbed. Mr. Sepp stated that they will not be going to the depth of where the contamination is located. Ms. Dininni expressed concerns in the event the soil was to be disturbed and a potential of gas fumes. Mr. Sepp stated that DEP has strict requirements for removal and disposal of any containment soils. In the event anything would arise in the future, Mr. Sepp stated that DEP and the Township would be notified immediately. Mr. Helfrich stated that they will follow the regulations and directions from the state, consultants, and the Township.

Ms. Strickland inquired about the timeline of construction and Mr. Helfrich stated that construction will start in mid to late June and will last 18 months. In the event there would be a delay in construction, Aspen Heights will make every effort to accommodate the students by booking hotels and offering per diems.

Ms. Dininni asked if Aspen Heights will be participating in the CATA bus program to provide passes for residents. Danielle Bleier, Develop Manager, Aspen Heights, stated they are working with CATA to join the program to provide passes.

Ms. Strickland expressed concerns with the CATA bus stop. Mr. Sepp noted that CATA is looking into relocating east of the Buckhout intersection. Ms. Strickland and Ms. Dininni both expressed concerns with pedestrian safety.

Ms. Dininni inquired about the voluntary participation with upgrading the intersection when it is needed. Mr. Pribulka stated that the Township's Engineers opinion is that it is unlikely that the intersection will ever meet PennDot's signal warrant.

Ms. Strickland asked about signage on College Avenue with regards to no stopping. Mr. Sepp stated that the signs have been approved by the Public Works staff and will be approved during the final plan approval. Also, Ms. Strickland asked for rent comparison with other rental properties in the area. Mr. Helfrich stated they are two years out from occupancy and have not published the rates. Ms. Strickland noted at this time she would not approve the preliminary plan as it is due to traffic and pedestrian safety issues. Mr. Helfrich reiterated that they incorporated all of PennDot, the consultant, and staff recommendations into the plan.

Ms. Dininni asked about the rooftop terrace and the potential for amplification of noise such as music. Mr. Pribulka noted that the Township's noise ordinance is somewhat restrictive with amplified music. Mr. Helfrich stated there wouldn't be music playing on the terrace and would comply with the ordinance.

#### Public Comment

Mr. Bill Keough, Ferguson Township Resident, noted that the Planning Commission spent a lot of time reviewing and discussing vehicular and pedestrian traffic around the location. Mr. Keough commented that the location is not ideal for either vehicles or pedestrians and it will be a challenge. Mr. Keough thanked the developer for listening to the Planning Commission with regards to the loading area that was recommended to be incorporated into the plan.

Mr. Miller moved that the Board of Supervisors **approve** the West College Student Housing Preliminary Land Development Plan pending outstanding staff comments as noted in the Community Planner's memorandum dated April 1, 2021. Mr. Mitra seconded the motion. The motion passed 4-1 with Ms. Strickland opposing.

#### 5. Wasson/Ash Avenue Replot Preliminary/Final Subdivision Plan

Ms. Wargo presented the plan and noted that PennTerra Engineering, Inc., submitted the Wasson – Ash Avenue Replot Plan on behalf of their client. The Wasson – Ash Avenue Replot Plan is located at 1451 Ash Avenue, T.P. # 24- 002A,132-,0000. The purpose of this plan is to replot Tax Parcel 24-002A,132-,0000-, 24- 002A,134-,0000- and 24-002A,135-,0000-.

The parcel is located within the Single Family Residential (R1) zoning district. A request for a modification/waiver from Section 22-306.1. – Minor Subdivision and Minor Alteration Plan and Section 22-512 – Sidewalks was submitted on behalf of their client. Ms. Wargo noted that the Board reviewed earlier in the evening and was approved. Provided with the agenda packet is a memorandum from Kristina Aneckstein, Community Planner, dated March 26, 2021, that includes outstanding staff comments. Ms. Wargo stated that this will be the only review the Board will have with the plan.

Mr. Miller moved that the Board of Supervisors **approve** the Preliminary/Final Subdivision Plan for Wasson/Ash Avenue pending outstanding staff comments outlined in the Community Planner's memorandum dated March 26, 2021. Mr. Mitra seconded the motion. The motion passed unanimously.

## IX. STAFF AND COMMITTEE REPORTS

### 1. COG COMMITTEE REPORTS

- a. Executive Committee – Ms. Dininni noted that the report was included in the agenda packet.

- b. Joint PSE, TLU Committees and CRPC – Ms. Strickland noted that the report was included in the agenda packet and encouraged everyone to watch on CNET. The next meeting will be held on May 6, 2021.

## **2. OTHER COMMITTEE REPORTS**

- a. Spring Creek Watershed Commission – Mr. Mitra noted that there was a presentation on One Water Report by Paul Takac. The Board will be seeing this presentation in the future. The educational topic was from Dr. Richard Parizek on “The Living Filter Project”. There will be a Groundwater Symposium on May 5, 2021, by Penn State Extension.
- b. Solar PPA Working Group – The report was included in the packet.

## **3. STAFF REPORTS**

- a. Manager’s Report – Mr. Pribulka noted that the report is in the agenda along with a communication from the Centre County Central Booking Center. Ms. Dininni inquired about the funding that is being proposed in the letter from the Booking Center. Mr. Pribulka will obtain more information to share with the Board.
- b. Public Works Director - Mr. Pribulka noted that the report is in the agenda.
- c. Planning and Zoning Director - Mr. Pribulka noted that the report is in the agenda.

## **X. COMMUNICATIONS TO THE BOARD**

There were no communications.

## **XI. CALENDAR ITEMS – APRIL**

- a. Coffee and Conversation, Saturday, April 17, 2021, 8:00 a.m.
- b. Pine Grove Mills Small Area Plan Advisory Committee, Thursday, April 22, 4:00 p.m.

## **XII. ADJOURNMENT**

With no further business to come before the Board of Supervisors, Ms. Stephens motioned to adjourn the meeting. The meeting adjourned at 11:23 p.m.

Respectfully submitted,



David Pribulka, Township Manager  
For the Board of Supervisors

Date approved by the Board: 04-19-2021