

FERGUSON TOWNSHIP BOARD OF SUPERVISORS

Regular Meeting
Monday, October 3, 2011
7:00 pm

I. ATTENDANCE

The Board of Supervisors held its first regular meeting of the month on Monday, October 3, 2011 at the Ferguson Township Municipal Building. In attendance were:

Board: George Pytel, Chairman
Steve Miller, Vice Chairman
Bill Keough
Robert Heinsohn
Richard Killian

Staff: Mark Kunkle, Township Manger
Diane Conrad, Chief of Police
Trisha Lang, Director of Planning & Zoning
David Modricker, Director of Public Works

Others in attendance included: Maggie Nicholson, Recording Secretary; Todd Smith, ELA; Matt Harlow, ELA; Rod Stahl; Gary Mitchell, George Henning; Dan Sieminski; Pam Steckler; Bill Hechinger, Rich Kalin; Keith Coryia; and Mark Bodenshatz.

II. CALL TO ORDER

Mr. Pytel, Chairman, called the October 3, 2011 regular Meeting to order at 7:00 pm.

III. PUBLIC HEARINGS

1. CONTINUATION OF CONDITIONAL USE HEARING FOR THE PENNSYLVANIA STATE UNIVERSITY PROPERTY LOCATED AT 1445 WEST COLLEGE AVENUE

Mark Kunkle reviewed the status of the conditional use request. On August 1st, 2011 the Board of Supervisors opened the conditional use hearing based on a request by the Pennsylvania State University to use property at 1445 West College Avenue for retail space and golf course equipment maintenance and storage, which is not a stated permitted use within the Terraced Streetscape District and therefore the use could only be permitted by conditional use approval. The hearing was continued until September 19th and at the request of the University was again continued until October 3rd. Township staff and the University have met on three separate occasions to discuss and work towards a set of conditions that would allow for the uses desired by the University, but within certain limitations. A memorandum has been drafted setting forth conditions to be attached to any approval of a conditional use for the property at 1445 West College Avenue. The Board has several options available to it. Those include continuation of the public hearing for additional consideration or closing the public hearing at which time a 45 day time period begins in which to render a decision.

The memorandum drafted by the staff includes 9 recommended conditions for the site. Mr. Rod Stahl from Stahl Sheaffer Engineering representing the University said half of the building will be used for retail space and the other half for golf course and equipment maintenance. There will be a gravel path between the building and the PSU golf course. A proposed 7000 square feet addition to the front of the building would house more retail space and extend the front of the building out to the street. Existing parking area in the front will be converted to plantings and green space. Construction of a 12 foot sidewalk will be put in to merge with the streetscape design. (Additional

time is requested to facilitate time to prepare plans for the 12 foot sidewalk—within construction period, but a minimum of 90 days).

Mr. Kunkle said this is the first project being developed in the Terraced Streetscape District and therefore the street corridor is not totally designed at this time. A firm is being hired that has experience in streetscape design to assist as properties are developed in the area.

Mr. Kunkle then reviewed the list of 9 recommended conditions in the memorandum as follows:

1. Township agrees to allow the retail use of 7,800 square feet on the ground floor of the existing structure and to grant conditional use to allow the maintenance and storage of golf course equipment in an area not to exceed 10,000 square feet within the existing structure for an initial period of 10 years from the date of conditional use approval. The golf course equipment storage use shall not continue beyond the ten year period if the retail portion of the existing building has not been occupied for at least 5 continuous years of that 10 year time period.
2. University, successors and assigns shall be required to complete construction of an addition of approximately 7000 square feet to the front of the building along West College Avenue to bring the front of the building to the front property line by 2022. The design of this addition shall be consistent with the design standards of the Terraced Streetscape Zoning District as specified in Part 5A of Chapter 22 of the Township Code of Ordinances. The timing of this requirement is also contingent upon the development of a Township approved streetscape design which allows on street parking in the corridor and the creation of a parking strategy to address any shortfall associated with the retail use proposed to occupy the addition
 - a. The ten-year timeline above shall commence immediately and shall not be delayed pending the Township's completion of the streetscape design.
3. Township shall permit the retail use in 1 above and the golf course equipment maintenance and storage use to occur with a minimum of 30 on-site parking spaces; six short of the required 1space/500 square feet.
4. University shall construct a 12 foot wide sidewalk with landscaping within 60 days [or, within the same construction season (?)] of the Township providing the University with approved streetscape design details.
5. University shall reduce the access to the property from West College Avenue to one access driveway at the time that 12 foot wide sidewalk and landscaping is constructed.
6. University shall remove parking spaces and impervious area in front of building on western property line at the time that 12 foot wide sidewalk and landscaping is constructed.
 - a. This space may be used in accordance with the Terraced Streetscape District Regulations or may be utilized for additional landscaping that enhances the workability of this portion of the corridor.

7. University shall install landscaping within the existing parking area that is, at a minimum, equal to 5% of the area of the thirty-space parking lot.
8. University shall post surety for items 4, 5, 6, and 7 at the time that the Township finalizes the streetscape design.
9. The terms established as part of this conditional use hearing shall be placed in an Agreement which shall be recorded at the Centre County Recorder of Deeds. Legal costs incurred in developing this agreement shall be borne by the University.

Dan Sieminski, Associate Vice President at Penn State University, said it is important to keep the parking spaces in front of the building as an incentive to retail use of the building. The preference is to retain those parking spaces as long as they can. Ms. Lang said there has been much discussion in the past about providing sufficient free parking within the TSS district. The concern about the current parking is that it is in front of the building and the area would be more walkable with parking in a different area, possibly including on street parking. Mr. Sieminski said there are 3 phases to the parking issue; parking in front, parking on the side of the building and the sidewalk to be installed. Mr. Keough questioned the timeline on constructing these different areas. Mr. Sieminski said requirements on the property development depend on other things happening and it may take the Township time to figure out the street design.

Mr. Keough asked if the gravel road in the plans is currently there. Mr. Stahl said no, it will be built. Mr. Keough asked how many employees will work in the building. Mr. Bodenshatz said it varies, but there will be at least 1-3 employees at all times and maybe some interns and others. Mr. Keough said that maybe it should be part of the conditions that no more than two spots would be utilized by staff. Mr. Bodenschatz said they would need more spaces than that for the staff. He would like to have 8 out of 30 spaces for staff, leaving 22 for the retail establishment tenant.

Mr. Killian asked if all maintenance function would go on inside the building rather than outdoors. Mr. Bodenshatz said yes most repair would be done in the building and some equipment will be stored and moved outside. Mr. Killian said Condition #1 implies there may be an extension beyond the 10 years. Ms. Lang said yes, but they would not be allowed to continue after 10 years if they do not have a tenant.

Mr. Heinsohn said if the University owns land next door then they could build additional parking there. Mr. Heinsohn also said he has no objection to the commercial space for golf retail. He is concerned that the original argument for the conditional use was that the University needed a facility to repair and maintain golf equipment, but the university has plenty of money to build equipment storage sheds to replace the old ones. Now that the TSS ordinance has been passed, the maintenance facility is not an allowed use in the area and he thinks it should not be permitted.

Mr. Keough said it was his impression that the University was looking at this facility for storage and maintenance as an interim solution. Mr. Sieminski said that is still the plan and the maintenance facility would be allowed for only 10 years as a conditional use. Mr. Keough said he reads condition #1 as saying the University could get an extension if the retail space is occupied for 5 of

the 10 years. Mr. Keough said he would like to have a limitation on the maintenance use time period put into the list of conditions. Mr. Sieminski said that is reasonable to him.

Mr. Miller asked if the current terms are acceptable to the University. Mr. Sieminski said the sidewalk completion date and parking spaces are the sticking points now. The parking needs to be worked out as it is needed in order to get a tenant into the space. Ms. Lang said she thinks the agreement just needs some additional clarification of terms in order to come to an agreement.

Mr. Pytel said regarding condition #1, an extension after 10 years should be granted only as a decision by the Board of Supervisors at that time. Item #4 and #5 would require the landscape and sidewalk within a reasonable time as stated, but should also include wording indicating that the streetscape design would have on street parking or some other parking solution.

Mr. Keough asked if we have to continue this hearing again, or if we could vote on this at the next meeting. Mr. Pytel said we will listen to public comments next.

Bill Heckinger, 127 Hoy Street, asked Mr. Sieminski if the time frame is matching with other properties the University owns in the streetscape district. Mr. Sieminski said he is not prepared to discuss the other University owned properties at this time, but only the Kissell property.

Mr. Killian asked if the TSS design includes on street parking as a design element. Ms. Lang said the details of the design have not been finalized, and that on street parking is anticipated as part of the parking solution.

Mr. Miller made a motion to close the public hearing on the property at 1445 West College Avenue. Mr. Heinsohn seconded the motion. The motion passed unanimously.

Pam Steckler, 127 Hoy Street, asked what will the addition be, how high and how big. Ms. Lang said they need to build out to the front and will be in line with the streetscape guidelines.

The public hearing is now closed and staff has 45 days to finalize the agreement and bring it before the Board.

IV. PUBLIC HEARINGS – RESOLUTIONS

1. A RESOLUTION OF THE BOARD OF SUPERVISORS OF FERGUSON TOWNSHIP, CENTRE COUNTY, PENNSYLVANIA AUTHORIZING THE CHAIRMAN AND SECRETARY TO EXECUTE THE WHITEHALL ROAD REGIONAL PARKLANDS LEASE AGREEMENT BETWEEN FERGUSON TOWNSHIP, THE CENTRE REGION COUNCIL OF GOVERNMENTS AND THE CENTRE REGIONAL RECREATION AUTHORITY.

The Board has been provided with a copy of the resolution, along with the Whitehall Road Regional Parklands lease agreement, which was approved by the Centre Region COG on Monday, September 26th. This lease agreement provides for the development of the Whitehall Road Regional Park by the Centre Regional Recreation Authority. The term of the lease is for 50 years beginning January 1, 2012 and extending through December 31, 2061. The agreement provides for the Authority to secure, maintain, and keep in full force and affect a public liability insurance

policy for property damage and injury and naming both the COG and the Township as additional insured. It also places responsibility on the Authority to hold the COG and the Township harmless from any such claims, which arise from the use and operation of the facilities and finally it provides for a cross indemnification for defense of any claims. The lease may not be assigned to any successor organizations without the approval of the COG and the Township. In addition the Authority may not sublease the property without written approval of both the COG and the Township.

Mr. Miller made a motion to authorize execution of the lease agreement. Mr. Heinsohn seconded the motion. This is Resolution 2011-18. Mr. Kunkle took a Roll call vote:
Mr. Heinsohn – YES, Mr. Keough --YES; Mr. Killian –YES, Mr. Pytel – YES, Mr. Miller –YES. The resolution passed unanimously.

V. ACTION ITEMS

1. 2012 SCHLOW CENTRE REGION LIBRARY BUDGET CONTRIBUTION

The Board of Supervisors has discussed the Township's 2012 Schlow Centre Region Library Contribution. In a context that the Township is not a party to the library's Joint Articles of Agreement and therefore not bound by the COG Funding Formula established for municipal contributions to the library. Since the Township's withdrawal from the Joint Articles of Agreement on January 1, 2003, it has continually provided significant financial support. In the past, this financial support has been determined by the Board of Supervisors with a recommendation from the Library Board of Directors. In most years, the Township has provided financial support in an amount that was established based upon the Township's residents usage of library services. More recently, this funding formula has been questioned since it did not include usage by Penn State students living on campus. This issue with the funding formula and the fact that Ferguson Township is not a party to the Joint Articles of Agreement for Schlow Centre Region Library has led the Board determining its financial support directly with the Library Board of Directors. It has been suggested that this be accomplished through a contract between the Township and the Schlow Centre Region Library and that the contract be for a term of three years, beginning January 1, 2012 and ending December 31, 2014. Representatives from the Schlow Centre Region Library have been invited to present its 2012 budget and funding request to the Board of Supervisors, so that the Board may provide direction to staff on the amount of Township support that would be included in the Township's 2012 proposed budget

Mr. Richard Kalin, Treasurer and Chair of the Finance committee Schlow Centre Region Library Board, attended the meeting to speak about the Library budget for 2012. Highlights of the Budget were shared. The library is very efficient with using their employees, but need more staff hours. Book Fest has been a very successful event and costs about \$5000 which is mostly funded by private sources. The Library must be open at least 65 hours per week in order to receive state funding and must spend 12% of funding on Library materials which they do. Projections for next year indicate that income from investments is down due to low interest rates, but private contributions have been increasing. Aid from the state is anticipated to be flat in the coming year. Mr. Kalin then reviewed the budget line items and increases expected. New fundraising ideas are being implemented and a strategic plan is in the works.

Mr. Pytel said the Board of Supervisors wants to develop a 3 year plan of what Ferguson Township's allocation to the Library will be. Mr. Miller said the Ferguson Board of Supervisors proposes a 2% increase over last year's budget and will increase it to 3% if the other municipalities will also agree to the 3% raise. Mr. Pytel said Ferguson Township should authorize the 3% raise to the Library and challenge the other municipalities to do the same.

Mr. Pytel asked how or why the Library has become a part of COG. George Henning from the Library Board explained that the Library Board found it easy to adopt the COG personnel policy and over time their employees used COG policy to stay up to date with personnel policy. COG has a policy of what salary increase will be and the Library is using those same standards, but is not required to do so.

Mr. Miller made a motion that for the 2012 budget we increase our contribution to the Library by 2% to \$325,059. Mr. Killian seconded the motion. The motion passed unanimously.

Mr. Miller made a motion to increase the Library contribution for the 2012 budget by 3% to \$328,245 contingent on the other 5 municipalities also increasing to a 3% contribution. Mr. Killian seconded the motion. The motion passed 4 to 1 with Mr. Pytel dissenting.

2. RE-APPROVAL OF YOUNG SCHOLARS LAND DEVELOPMENT PLAN

On August 15 the Board of Supervisors approved the Young Scholars Land Development Plan. The plan included the addition of classrooms and labs to the second floor of the existing building. The applicant was provided 45 days to complete the outstanding conditions and to submit a revised plan meeting the conditions within that time frame. The applicants engineer missed the submission date. In the past, staff has asked the Board to reapprove similar plans if there had been no changes to the regulations that would be applicable to or affect a plan.

Ms. Lang said the applicant has been working with staff to address the deficiencies.

Mr. Miller made a motion to re-approve The Young Scholars Development Plan with the waiver of fees. Mr. Heinsohn seconded the motion. The motion passed unanimously.

3. VARIANCE FOR FLOODPLAIN REGULATIONS – Supplemental Item Turnberry Traditional Development

Mr. Kunkle said the consultant, ELA, is requesting a zoning variance to the plans submitted where trails and roadways would cross a floodplain. Also there is a request to place several structures outside the floodplain area but within the buffer area. The developer can't get access out of the development without crossing conservation easements (floodplains) and have indicated 3 places where the street would cross flood plains. Penn State University has agreed to the crossings through their easements. They need action by the hearing/zoning board to also accommodate the crossings.

ELA Consultants, Todd Smith and Matt Harlow, spoke about the development and variance needed. Mr. Todd Smith said they have been working on this plan since April 2011. The flood plain is located within the easement, which is mostly non-developed area, with only 2 vehicle

crossings and 5 paths for humans or bikes. The 2 vehicle crossings are at the narrowest section of the flood plain, to limit the impact. They are asking for the variance to disturb those areas, which will be replanted afterwards with the exception of the road or path built. Impact will be minimized throughout the construction process.

Mr. Harlow said there is still some analysis to be done with the connection to Circleville Road. The plans show more access than will be used, in order to cover all possible building areas.

Mr. Modricker, Ferguson Township, said the bike path crossing should be at grade in order to minimize impact and engineering practices should cover 100 year flood plain procedures. Mr. Smith said yes they would do these things. Mr. Modricker reminded them that the housing development should be built at higher elevation if near the 100 year flood plain.

Mr. Heinsohn said 900 homes with two major accesses to public roads are insufficient. Mr. Harlow said there are only two accesses on Blue Course Road, but there will be another on Pine Hall Drive.

Mr. Smith said the variance has been put together to be all encompassing of what might be needed in order to get it approved all at once. Mr. Miller asked Dave Modricker if he sees any reason to oppose the variance. Mr. Modricker said no.

Mr. Miller made a motion to remain neutral on the variance request for Turnberry Traditional Development. Mr. Killian seconded the motion. The motion passed unanimously.

4. CONSENT AGENDA

Mr. Killian made a motion to approve the Consent Agenda. Mr. Heinsohn seconded the motion. The motion passed unanimously.

VII. REPORTS

1. Manager – Mark Kunkle

The Zoning Hearing Board received annual training and an update from Attorney Jeff Stover on September 20th. With the exception of two core board members, all members attended the training and update.

Frequently the Township is requested to provide financial support to many worthwhile organizations, causes, projects and events. It is difficult to determine if funding should be provided and if funding is provided does it create an ongoing annual expense. A draft policy has been prepared for discussion by the Board. Mr. Heinsohn said it is good to have an application submitted and discussed. Mr. Killian said clear guidelines should be written indicating what qualifies an organization to submit a request. Mr. Keough said he has some questions about the application as prepared. Mr. Kunkle said he can work on the guidelines and the application as an ongoing project but without a definite deadline.

2. Public Works Director – Dave Modricker

Staff has received 33 of 59 appraisals for the Whitehall Road Widening project, of those 33 offers, 12 claimants have accepted the offers. They will attempt to get bids in this year and the award will not go out until next year.

3. COG Committee Reports

Transportation & Land Use

Ms. Lang said the bike friendly community application status is currently on time to make the application deadline. Update to the regional comprehensive plan is continuing.

VI. CALENDAR ITEMS –OCTOBER

Mr. Pytel reported that Mr. Kunkle was honored last Saturday for his hard work in helping establish the Tudek Park.

VII. MINUTES

1. September 19, 2011 BOS Regular Meeting Minutes

Mr. Killian made a motion to approve the September 19, 2011 BOS Regular Meeting Minutes. Mr. Heinsohn seconded the motion. The motion passed unanimously.

VIII. ADJOURNMENT

With no further business to come before the Board of Supervisors, Mr. Pytel adjourned the October 3, 2011 Regular Meeting at 9:53 pm.

RESPECTFULLY SUBMITTED,

Mark Kunkle, Township Manager
For the Board of Supervisors

Date approved by the Board: _____