

FERGUSON TOWNSHIP BOARD OF SUPERVISORS

Special Meeting
Monday, December 19, 2011
7:00 pm

I. ATTENDANCE

The Board of Supervisors held a special meeting on Monday, December 19, 2011 at the Ferguson Township Municipal Building.

In attendance were:

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

Staff: Mark Kunkle, Township Manager
Dave Modricker, Director of Public Works
Trisha Lang, Director of Planning & Zoning
Ron Seybert, Township Engineer

Others in attendance included: Tim Henderson, Steve Bair, Mike Glass, Brett Morets

II. CALL TO ORDER

Mr. Pytel, Chairman, called the December 19, 2011 meeting to order at 7:00 pm.

III. CITIZEN'S INPUT

No citizen input.

IV. PUBLIC HEARINGS – ORDINANCES

1. A PUBLIC HEARING ON AN ORDINANCE OF THE TOWNSHIP OF FERGUSON, CENTRE COUNTY, PENNSYLVANIA, AMENDING THE CODE OF ORDINANCES, APPENDIX H, STREETS AND SIDEWALKS, BY ACCEPTING AS A PUBLIC STREET A SECTION OF FOXPOINTE DRIVE.

Mr. Mark Kunkle stated that the Township approved the plan for the Happy Valley Vineyard and Winery a few months ago. Part of the plan included the extension of Foxpointe Drive as a public street. Over the course of the last 18 months, the owner of Happy Valley Vineyard has worked with S & A Homes, Inc. and a contractor to complete the extension of Foxpointe Drive. It currently ends in a cul-de-sac at the property line and a portion of it, is actually an easement and not a fee dedicated portion of the street. When Foxpointe Drive is extended further into the adjacent property, a portion of the drive that's in the easement will become fee dedicated.

Mr. Keough made the motion to adopt the ordinance accepting a portion of Foxpointe Drive as a public street; Mr. Heinsohn seconded the motion. Ordinance number 963 was passed by roll call vote: Mr. Heinsohn – YES; Mr. Keough – YES; Mr. Killian – YES; Mr. Pytel – YES.

V. PUBLIC HEARINGS – RESOLUTIONS

VI. COMMUNICATIONS TO THE BOARD

VII. ACTION ITEMS

1. CONSIDER APPROVAL OF THE TURNBERRY TRADITIONAL TOWN DEVELOPMENT (TTD) MASTER PLAN AND ASSOCIATED TERMS AND CONDITIONS

Mr. Kunkle stated that the developer has submitted a revised phasing plan and it modifies phase one of the master plan, to incorporate a section of street M out to Circleville Road. Additionally, the Board wanted to talk about the Traffic Impact Study; Ron Seybert, Township Engineer lead the Board in a discussion of the Traffic Impact Study.

Mr. Seybert walked the Board through the section of draft terms and conditions regarding transportation. On page nine of the draft terms and conditions, the condition discusses the elimination of a cul-de-sac in the North Village III. There is a tract of land that has an obscure title to it, and the developer believes they will be able to obtain a clear title to that piece of land. They are looking at eliminating the cul-de-sac by extending the road through to Circleville Road and having it as a loop road versus a cul de sac.

Looking at options to provide access to the tract; some of those include access from Blue Course Drive, Circleville Road or the scenario that is depicted in the master plan, which is access from both of those roads. All three of these scenarios were evaluated and after analyzing the different scenarios and talking to CATA and emergency service providers, it was determined that the access scenario that included access from both Blue Course Drive and Circleville Road was a more desirable plan for the development. This scenario still will include an access to Pine Hall Development and Old Gatesburg Road.

Mr. Seybert reviewed the results of the Traffic Impact Study:

- Main access with Blue Course Drive is defined as Street M, Phase 1 will include the construction of this entire street. In order to justify the installation of a traffic signal at Blue Course Drive and Street M, the development must meet certain traffic signal warrants. Improvements include a traffic signal and street M with a two lane approach; one lane to turn right in and one lane to turn right out. There is an improvement on Blue Course Drive for northbound left turn lane that is 475 feet in length and a right bound turn lane that is 450 feet in length. These lanes are longer than usual, due to the fact that they include the extra length to allow people to slow down. The other thing to look at and keep in mind is to allow coordination for traffic signals along Blue Course Drive. This will all be constructed within the first phase.

- The next intersection of Street M, is with Circleville Road as a single lane approach; with a right lane in and right lane out – a normal intersection with a stop sign. There is a potential for a right turn lane on Circleville Road to turn onto Street M. It is designed in the first phase and the right turn in right-of-way is reserved; if it's determined that it is needed, the developer will construct it in that phase or a subsequent phase.
- The next intersection is Circleville Road, Valley Vista Drive, and Science Park Road, with the developer and the Township sharing improvements at this location. Not all traffic using these streets are starting or ending within the development. The connector roadway will be drawing traffic that is already on the street network through the development. As a result, the traffic study is predicting more people coming through Valley Vista making the left turn on Circleville Road. This improvement will be looking at the installation of a left turn arrow and also a right turn lane coming opposite of the left turn arrow onto Circleville Road. Staff is suggesting a 50/50 cost sharing for those improvements. As of now, the study for that will be done by the developer within the first phase. The Township will then initiate the design and construction of those improvements with a reimbursement of 50 percent of those costs by the developer when they submit their Phase II plan.
- Two other intersections that were studied were West College Avenue and Blue Course Drive, as well as Westerly Parkway and Blue Course Drive. The study of these intersections showed some degradation, as a result from the additional traffic from this development, although it's a small component of it. With these intersections being at the southern end of their study area, Mr. Seybert feels more confident looking at a larger study (that is currently in process with the Township) to see what actual improvements need to be done at these intersections in the future. So what we have agreed to with the developer and concept is to say at a future phase, somewhere beyond phase two, there will be discussions between the Township and developer about a cost share of some improvements at those intersections to improve capacity and operations. As for the scope of those improvements, we won't know until we have completed our township wide study.

Ms. Trisha Lang went over some issues that were a concern from the Board and citizens:

- *"Item 8: Acreage that is associated with future phases of the development shall at all times remain in compliance with the Centre County Conservation District regulations as well as the Township's grass and weed regulations. When no construction is occurring within the site, no portion of the property shall be used to stockpile rock, fill, or other construction material, or to store construction equipment, nor shall hazardous conditions such as un-stabilized slopes or open pits be permitted on the site."*

This item, which is under land use, was added to address the concern about the remainder of the property during the phases of the development. Some concerns in this development and that have also been brought up in past developments in where future phases are very far in the future and in that time frame, the remainder of the property and its condition has been in condition. What this item does is require that when there is no construction going on, the areas that are not within the areas of construction need to be consistent with our grass and weed ordinance and also talks about storing up the site in a safe manner, so piles of rocks and etc. aren't left open, or anything that would be a hazard.

- *"Floodplain*

Item 1. Per the approval action of the Township's Zoning Hearing Board on November 15, 2011, approval of the project's proposed encroachment within the floodplain is conditioned upon the following:

- *The location and design of all floodplain crossings must be approved by the Township.*
- *The number and location of proposed crossings shall be consistent with the results of the Traffic Impact Study (TIS) and the approved General Master Plan.*
- *All permits required by the Pennsylvania Department of Environmental Protection must be obtained prior to construction.*
- *All proposed crossings shall be designed to permit the safe conveyance of the 100 year flood event and so that the cumulative effect of all the crossings does not cause a rise in the elevation of the 100 year floodplain of more than one (1') foot at any point.*
- *The developer must submit a Letter of Map Revision (LOMR) to FEMA to establish the floodplain elevation within the existing Zone A area of the site."*

The above issue regarding flood plain crossings was subject of the Zoning Hearing Board in November. In past meetings, this section has been blank and waiting for the decision of the Zoning Hearing Board. Now that the Township has that information, it has been included with the conditions of approval. Those conditions are essentially, that the Township must approve where the crossings are, that the number of crossings is limited and that they have to deal with a cumulative impact of those crossings and the 100 year floodplain.

- *"...General Master Plan however, the General Master Plan, must be accompanied by the following:*
 - *A description of the structure of the proposed Association(s) that will be established and the timing of the creation of each in relation to the phasing plan, site construction and/or occupancy of the phase. Additionally, include provisions, which identify responsibility for improvements prior to their acceptance by an operational and functioning HOA.*

- *An affidavit setting forth the obligation to: create the corporation, record the declaration of protective covenants prior to conveyance of the first lot, include in the deed of each purchaser or renter a requirement that they join the association and be obligated to contribute towards the maintenance of the common area improvements through the association.*

...Upon review and approval of these documents by the Township, they shall be recorded by the developer and the recording information referenced on all future plans and the deeds for each property/lot conveyed. Additionally, at the discretion of the Board of Supervisors, a yearly meeting with the officers of the HOA shall be held to ensure the proper management of the Association."

The above deals with the Homeowner's Association requirements; earlier the Township indicated that the developer needed to identify the structure of the HOA, anticipating that there will be multiple tiers, some sort of overall board and sub-boards to regulate the different neighborhoods within the project. The preliminary document identifies how the HOA would be structured and what the different associations would be responsible for, and how the divisions would be made within the property. There's a host of legal documents that go with the Homeowner's Association and the creation of the HOA, those will come as the first specific implementation plan comes in. Under these terms that we have included, it is at the discretion of the Board to hold a yearly meeting with the officers of these various associations.

Mr. Keough wanted to know if there was any thought of wording that would have these independent HOA interacting with each other?

Ms. Lang responded with yes, there will be, though the legal wording has not been finalized yet. But the residents of a single development will need to have that interaction, since they will be using shared resources and amenities and responsibilities. There will be superior board that will oversee the sub-boards.

Mike Glass, representing the developer, believes that in the first paragraph, it discusses on how the Homeowner's Association will have five different associations that will be working together. Each association will elect or appoint a representative to a five member board (the superior board). The five member board would be an advisory board for the whole neighborhood and will take in account of the common interests that each different associations will have. That five member board would be the board that meets with the Township, when either the Township or developer asks.

Citizen Comment:

- Tim Henderson, a Greenleaf Manor resident, inquired on if the Board of Supervisors have authority to approve a plan that does not meet the zoning requirements without a variance from the zoning Board?

Mr. Pytel responded with that it all depends on what you are talking about. This is a special zoning district, if a property owner desired to develop their property not in compliance with the approved master plan then the, township would have to have a public hearing before any change can occur on that site.

Henderson stated that he was inquiring about this particular master plan, the Turnberry TTD itself. He stated that within the TTD ordinance, the requirements specify the permitted percentage of different types of housing. For instance the single family semi-detached must be between 10 and 40 percent, while this one is at 9.2%, which is below the requirements. It also requires that the single family attached be between 15 and 35 percent. But it's 41.3 percent, which is over by 56 units, more than the zoning requires. The multi-family units have to be between 5 and 30, while this plan comes in 33.67%, about 33 units over what the zoning requires. That's a total of 89 units more than zoning requirements; do you have the authority to approve the plan that ends up putting 89 units that are disallowed under your zoning? And do you have the legal authority too approve this plan, if in fact it doesn't meet the zoning ordinances?

Ms. Lang stated that it's all specified in the terms and conditions. There is a provision in the zoning ordinance, which allows flexibility from the regulations. The township addressed each of those discrepancies within the terms and conditions. Determining why and if the Board finds them consistent with the regulations and what the township wants the developer to do to address any concerns about that level of any inconsistencies. For instance, in the items related to the numbers of units, which is on page three, under land use item number 4, specifically speaks to the changes of the 10 and 35 percent. The terms and conditions address each of these issues that Mr. Henderson brought up regarding these consistencies.

Mr. Henderson stated the TDD itself has flexibility and he believes that the flexibility in the ordinance should be in that range within the TTD ordinance. There's already a significant amount of flexibility, not sure that going over 89 units outside of that is the intent of keeping with the Zoning Board.

Ms. Lang responded that the township's decision was based on the specifics of the site. When a set of regulations is written, they are written without specifics of a site. Though the township had an idea of which properties that were going to be in the TTD district, no one had completed a development design for either of those properties. The concerns with developing individually are unique, so in some cases, the flexibility that was provided in the ordinance is simply not enough.

- Steve Bair, Fire Director for the Centre Region COG would like to alleviate some concerns regarding fire protection. The development team and

Township have spent a good amount of time, particularly about density and street widths. One and two family dwellings normally wouldn't need to have a sprinkler system. Developers have agreed to protect those houses with sprinklers, if they do that, Steve Bair would accept this plan as is, because of the connectivity and the sprinkler coverage, it is his personal and professional opinion that over the long term, this project would be less of a burden than a traditional housing development with regard to fire protection; he feels pretty good with the fire protection plan if it remains as is including sprinklering of one and two family units.

- Brent Morets, who lives on Tanager Drive in the Greenleaf Manor neighborhood, wanted to clarify some things with the Board, specifics to the fence. He stated that he appreciates what Mr. Glass and the development team have done in recognizing some of their concerns. Mr. Morets wanted to make sure that what is being approved today in the terms and conditions, that there is nothing to prohibit a fence going in between the two developments, especially with the phasing plan going forward.

Mr. Pytel responded with that the Board can't prohibit him or any Greenleaf resident or the developer to erect a fence on their property. Putting up a fence is allowable within the Township; it just has to meet the zoning requirements.

Mr. Killian made the motion to approve the Turnberry TTD Master Plan with Terms and Conditions; Mr. Miller seconded the motion. Motion was passed with Mr. Pytel, Mr. Miller, Mr. Killian and Mr. Keough voting yes and Mr. Heinsohn voting no.

VIII. CALENDAR ITEMS – JANUARY

IX. MINUTES

X. ADJOURNMENT

With no further business to come before the Board of Supervisors, Mr. Killian made a motion to adjourn the meeting and Mr. Heinsohn seconded it. Mr. George Pytel adjourned the December 19, 2011, 2011 Special Meeting at 8:40 p.m.

RESPECTFULLY SUBMITTED,

Mark Kunkle, Township Manager
For the Board of Supervisors

Date approved by the Board: 01/16/2012