

**FERGUSON TOWNSHIP PLANNING COMMISSION
MEETING MINUTES
MONDAY, SEPTEMBER 11, 2017
6:00 PM**

I. ATTENDANCE

The Planning Commission held its regular meeting of the month on Monday, September 11, 2017 at the Ferguson Township Municipal Building. In attendance were:

Commission:

Marc McMaster, Chairman, absent
Rob Crassweller, Vice Chair
Ralph Wheland
Lisa Strickland
Bill Keough
Eric Scott
Andrea Harman
Cristin Mitchell, alternate, absent

Staff:

Ray Stolinas, Director of Planning & Zoning
Lindsay Schoch, Community Planner
Jeff Ressler, Zoning Administrator

Others in attendance were: Marcella Bell, Recording Secretary; Dr. Todd Giddings, Sourcewater Protection Work Group; Steve Jackson, Ferguson Township Liaison to the SCBWA Board; and Shawn Annarelli, CDT Reporter-Buffalo Wild Wings

II. CALL TO ORDER

As Mr. McMaster was not in attendance, Mr. Crassweller called the September 11, 2017 Planning Commission meeting to order at 6:00 p.m.

III. CITIZEN INPUT

There was no citizen's input

IV. DRAFT SOURCEWATER PROTECTION OVERLAY DISTRICT ORDINANCE (W/ APPENDICES)

Mr. Stolinas stated that at the August 14, 2017 Planning Commission meeting, members directed staff to make revisions summarized during the meeting, request the Township Solicitor review the legality of regulating Zone I areas, and provide mapping that illustrates properties effected by the Zone I designation. Included in the Planning Commission packet is a revised Draft Ordinance that considers the comments made by the Commission highlighted in "yellow". Staff has also included the Source Water Overlay map with revisions consistent with the Draft Ordinance.

As a result of a request from the Planning Commission to meet with the Township Solicitor, staff has included a letter from Joe Green outlining his legal opinion on both Inverse Condemnation Consideration for areas within the Zone I Radius proposed within the Ordinance and on the Overlay Map. The letter also includes Attorney Green's legal opinion regarding the capacity of the Township to include "blasting" provisions within the Ordinance. Lastly, staff has provided for the Planning Commission's review and discussion Zone I Radius Maps for all well locations within the Township along with a spreadsheet that includes affected acreages outside of public water supplier property.

Mr. Stolinis referred to the projector and reviewed each of the well locations, the properties surrounding the Zone I radii, and the amount of property within the Zone I radii.

In response to a question from Mr. Wheland regarding residential areas in Zone I, Mr. Stolinis stated that the Township does not regulate single-family, duplex, multi-family, or any other residential uses in Zone I. He went on to explain that the chart within the proposed ordinance details the 51 regulated land uses.

Mr. Keough stated that the amount of private property acreage that is contained in the Zone I radii not controlled or owned by the State College Borough Water Authority (SCBWA) is 34.02 acres. Mr. Scott stated that his calculations came to 33.857 acres. Mr. Keough stated that the amount of acreage is significant compared to the acreage not controlled by the SCBWA. Mr. Scott stated that compared to the acreage of the entire Township, it is a relatively small number, and when you look at the regulated land uses, with the exception of a civic center, those uses are probably not going to be developed on those properties. Mr. Scott stated that he believes the ordinance is excellent the way it is. In response to a question from Mr. Scott regarding fees for the facilities profile sheet, Mr. Stolinis stated that the Township has not demined whether or not there will be a fee and he can pose that question to the Board of Supervisors for consideration. Mr. Scott stated that he does not believe the Township should charge a fee for the facilities profile sheet.

Mr. Wheland explained that farmers are already heavily regulated and governed by the Environmental Protection Agency (EPA), the Department of Environmental Protection (DEP), and the Pennsylvania Department of Agriculture. He went on to say that if farmers use anything more potent than what can be bought at a Lowe's or Home Depot, the farmers have to have a license to apply the chemicals. The safety data sheet has to be updated every three years to the aforementioned agencies, as well as the license to apply the chemicals. Mr. Wheland wondered what the Township would do with the information from the facilities profile sheet. Mr. Scott explained that the facilities profile sheet is essentially a safety data sheet and would provide the Township with information should a chemical leak and show up in the water supply. Mr. Scott wondered if the Township could pull the information from DEP, EPA, and the Department of Agriculture as needed. Mr. Scott stated that the Centre Region sits on top of its water supply instead of having water reservoirs, so if in the future the zoning out in the western end of the Township changes, the water supply will be protected by this ordinance.

Mr. Keough expressed concern for competitors requesting right to know information regarding the facilities profile sheet. Ms. Harman stated that the information that's given to EPA, DEP, and the Department of Agriculture is already available for the public to view and she doesn't believe a competitor could extrapolate that information to use against a farmer. She believes that if there's an issue with the water here, the information should be housed here. It was of her opinion that this ordinance is the price the community pays to take care of the water quality and have the information to manage it. She also stated that if the Township were to request the information from the aforementioned agencies, it may take too long to receive the information back. Ms. Harman stated that the

ordinance is a matter of preserving the quality of water for the entire community and that sacrifices are sometimes necessary for the greater good.

The discussion then centered on the Zone I 400-foot radii and the belief that Zone I would deny landowners potential use of their own property. Mr. Wheland and Mr. Keough expressed concerns about the effect that the restrictions might have on farmers and property owners in the Zone I Wellhead Protection areas. Mr. Keough primarily focused on what he believes is overreach and “legislative creep” regarding the proposed ordinance. Mr. Keough stated that it didn’t matter if the affected property owners planned on using their land for one of the 51 regulated land uses—the issue is about property rights. He believes that the SCBWA is encroaching on other people’s private properties. It was of Mr. Keough’s opinion that the SCBWA should purchase the land within the Zone I radii or the ordinance should be amended to change the definition of Zone I to be as follows, “Up to 400 feet in diameter, or a distance away from the well that is owned or controlled by the SCBWA.” Mr. Stolinis stated that the Township has not formally approached the SCBWA regarding the purchase of the Zone I radii. Mr. Keough stated that he does not know the full extent of the consequences or the impact on the community regarding the proposed ordinance

Mr. Crassweller stated that the facility profile sheets will be shared with the Alpha Fire Company and the water authorities for record-keeping. Mr. Wheland explained that if the Township charges a fee for this, it wouldn’t see many facility profile sheets returned.

Ms. Strickland provided a number of comments to staff. She referred to number 12, retail establishments, on the regulated land uses chart and asked staff to explain the meaning behind the exception. Mr. Ressler explained that use number 12 comes from the permitted use chart in the Village Zoning District. Ms. Strickland suggested that those uses be separated in the proposed ordinance and the ordinance language under number 12 should stop at all retail sales and remove the exceptions. Ms. Strickland referred to numbers 22 and 24 on the regulated land uses chart. She wondered if those uses are not permitted in Zones I or II, would it violate the Pennsylvania Municipalities Planning Code (MPC) requirement that a municipality has to allow for all uses, unless there is an intergovernmental agreement to share uses across municipal boundaries. Mr. Ressler stated that it may very well be the case and staff will look into it. Ms. Strickland then referred to number 27 under the regulated land uses chart, Researching, Engineering, or Testing Laboratories, and stated that even though Agricultural Research was previously exempted from the ordinance, number 27 could fall under Agricultural Research. After a brief discussion, there was consensus from the Planning Commission that Agricultural Research should be included under the regulated land uses chart.

There was a discussion about the design professional clause in Section 11, number 2. Mr. Ressler clarified that a qualified design professional would only be required to review the soils, geologic, and other data if a land development plan for regulated land uses was submitted. A subdivision application would not trigger a land development; therefore, a design professional review is not required.

Dr. Giddings discussed the geology of the wellheads and the need for a large and growing protection area given the Kasrt topography of the Township and Centre Region. He stated that the Sourcewater Protection Work Group previously considered more restrictive ordinance language; however, they came up with the current language as a middle position.

A motion was made by Mr. Keough and seconded by Mr. Wheland to amend the Source Water Protection Overlay District Ordinance to define Zone 1 radii as up to 400 feet in diameter, or a distance away from the well that is owned or controlled by the SCBWA. The motion failed 4-2.

A motion was made by Ms. Strickland and seconded by Ms. Harman to recommend that the Board of Supervisors consider compensation for the landowners with property that falls into in the 400-foot areas of the Zone 1 radii. The motion carried 4-2.

V. PLANNING DIRECTOR'S REPORT

Mr. Stolas reviewed his report. On August 28, 2017, the Planning & Zoning Director, Community Planner and Township Manager conducted a conference call with representatives of Waters Retail Group to discuss property located on West Aaron Drive under the name Temple Family Partnership, tax parcel 18-014-004-0000 containing approximately 15.45 acres. The property fronts along West Aaron Drive and zoned R-3 in Ferguson Township and North Atherton Street in Patton Township, zoned Commercial.

On August 31, 2017, the Planning & Zoning Director and Township Manager met with Wes Glebe of 115 N. Butz Street to walk the front portion of the Penn State Blue Course as an uncertain alternative for the Cottages project.

On September 1, 2017, the Planning & Zoning Director and Zoning Administrator met with Angela & Ken Volz, owners of property at 871 North Allen Street, to determine the viability of adding a rental unit within and existing outbuilding on the property.

On September 5, 2017, the Planning & Zoning Director and Zoning Administrator met with Bill Keough and Ralph Wheland regarding a lot consolidation plan containing portions of parcels along Tadpole Road that include old road right-of-way and railroad property. Also on September 5, 2017, the Planning & Zoning Director attended an Executive Session of the Board of Supervisors to discuss Melody Fleck's property and the ACRE decision handed down by the Pennsylvania Attorney General's office.

On September 6, 2017, the Planning & Zoning Director, Zoning Administrator, and Community Planner conducted a conference call with Carolyn Yeagle of EPD to schedule staff meeting on September 22 and a Zoning/SALDO Steering Committee meeting on October 5. The Planning Commission shall receive a copy of the working draft on October 9.

On September 7, 2017, the Planning & Zoning Director and Community Planner attended an ICMA Webinar entitled "Effective Communication of Complex Issues to the Public". On September 7, 2017, the Planning & Zoning Director attended the Centre

County Farm Bureau 2017 Policy Development meeting at the Happy Valley Winery to hear a presentation by the Centre County Planning & Community Development Office along with Commissioner Mark Higgins on the development of a proposed Agricultural Incubator to add value to agricultural products within Centre County. Also on September 7, 2017, the Planning & Zoning Director and Community Planner attended the monthly CRPC meeting to review and discuss the Harner Farm Rezoning proposal, the SCBWA proposed zoning text amendment, and the revised draft Official Map.

VI. ACTIVE PLANS UPDATE

As Ms. Schoch was not in attendance to provide the Active Plans Update, Mr. Stolinias gave the report.

The update included the following active plans: Science Park Plaza Land Development Plan, West Cherry Lane Multi-Use Building Lot Consolidation and Land Development Plan, J.L. Cidery at J.L. Farms, CSC Northland Buffalo Wild Wings, and Whitehall Road Regional Park.

Mr. Stolinias also reviewed rezoning requests and text amendments, which included Harner Farm Rezoning Request, Traditional Town Development Text Amendment, Water Production Facilities Text Amendment, and the 2017 Official Map. Mr. Stolinias mentioned that staff reached out to Bohler Engineering regarding the Buffalo Wild Wings Land Development Plan, and the firm informed staff that they will be withdrawing the plan. An official letter is expected to come in the near future.

Mr. Stolinias briefly reviewed the CRPC comment letters that came from the September 7, 2017 CRPC meeting regarding the Harner Farms Rezoning Request, the Traditional Town Development Text Amendment, the Water Production Facilities Text Amendment, and the Official Map, which have been included in the Active Plans Update.

VII. CENTRE REGION PLANNING COMMISSION (CRPC) REPORT

Ms. Strickland stated that Mr. Stolinias covered most of the last CRPC meeting in the Active Plans Update. Ms. Strickland added that Jon Eich of the CRPC has brought up universal access (one step or zero step units) in developments several times at CRPC meetings.

In response to a question and concern from Mr. Keough, Ms. Strickland explained that even though the comment letter from CRPC regarding the Traditional Town Development Text Amendment references site plans for the Pine Hall Development, the Commission knew that it was only reviewing the text amendments. The Pine Hall Developers gave a presentation on the site plans in addition to the text amendments, so the Commission members provided comments for both.

VIII. SOURCEWATER PROTECTION WORK GROUP UPDATE

There was no update.

IX. ZONING/SALDO STEERING COMMITTEE UPDATE

Mr. Stolinias stated that the next Committee meeting is on October 5, 2017.

X. APPROVAL OF THE REGULAR MEETING MINUTES – AUGUST 14, 2017

A motion was made by Mr. Keough and seconded by Ms. Harman to approve the August 28, 2017 Planning Commission meeting minutes. The motion carried 6-0.

XI. ADJOURNMENT

There being no further business for the Planning Commission, Ms. Harman made a motion to adjourn the meeting at 7:49 p.m. The motion carried 6-0.

RESPECTFULLY SUBMITTED,



LISA STRICKLAND, SECRETARY
FOR THE PLANNING COMMISSION