

FERGUSON TOWNSHIP PLANNING COMMISSION

Regular Meeting
Monday, February 23, 2015
6:00 pm

I. ATTENDANCE

The Planning Commission held its organizational and first regular meeting of the month on Monday, February 23, 2015 at the Ferguson Township Municipal Building. In attendance were:

Commission:	Marc McMaster, Chairman	Staff:	Maria Tranguch, Director of Planning & Zoning
	Rob Crassweller, Vice Chair		Jeff Ressler, Zoning Administrator
	Ralph Wheland		
	Scott Harkcom		
	Kurt Homan		
	Lisa Strickland		

Others in attendance included: Heather Bird, Recording Secretary; Eric Vorwald; Jon Williams, Jason Doombos, Tom Zilla, John Sepp, Roxie Nestlerode, Jean Hoffman, Dan Sieminski, Richard Keyser, Mike Twomley, Laura Dininni-Cusumano

II. CALL TO ORDER

Mr. McMaster called the Monday, February 23, 2015 Ferguson Township Planning Commission meeting to order at 7:00 pm.

III. THE COTTAGES AT STATE COLLEGE BY TOLL BROTHERS

Ms. Tranguch began the discussion by reviewing her memorandum dated February 19, 2015. The Cottages at State College by Toll Brothers is a proposed Tentative Planned Residential Development (PRD) located on three parcels proposed to total 32.13 acres. Two parcels are currently zoned R-4 and under the PRD ordinance can be rezoned to PRD upon the approval of a final Planned Residential Development Plan. The parcel on which the stormwater facilities are proposed is zoned RA (Rural Agricultural) and as such may not be rezoned directly to PRD. Currently the land is in agricultural use, however two of the subject parcels were brought into the growth boundary and rezoned R-4 a number of years ago, indicating that the Township was planning for development on these parcels. The project is located within a Zone 2 wellhead protection area for both of the proximal SCBWA wellfields, which are the Thomas and Harter wellfields, and as such raises concern for potential groundwater resource impacts as a groundwater recharge area. There are also various areas of possible karst geology on site. There is a significant drainage way that runs through this site which is protected by the Township's Riparian Buffer Overlay Zoning District and its Floodplain Conservation zoning provisions. The applicant submitted a Letter of Map Revision to FEMA to amend the floodplain delineation to what is shown on the plan and most recently they have been instructed by FEMA to revise and resubmit the data. The PRD plan proposes a development similar to The Retreat in College Township. It consists of 268 cottage-style units, with an average household occupancy of 4.08 persons per dwelling unit. The applicant proposes to park the development at a rate of .95 spaces per bed. Lots three and four of the development are proposed to be accessed via an extension of Blue Course Drive, which would also provide access and utilities to the proposed Whitehall Road Regional Park. The access road, shared use path, and utilities are proposed to cross the floodplain. There are various types of open space and amenities proposed for the community including more flexible recreational outdoor space as well as a community clubhouse, pool, spa, training facilities, and media lounges. With respect to the riparian buffer area, the applicant has proposed to vegetate the area with recharge-beneficial plantings in exchange for encroaching into this area. The Current State of Negotiations meaning the Terms and Conditions, Ms. Tranguch synopsis at the time the memorandum was written, these Terms and Conditions are currently still changing. Included in the agenda packet are three documents, the latest submission of the Tentative PRD Plan, the remaining review comments, and the proposed Terms and Conditions for the Tentative PRD Plan. As a Planned Residential Development, the Developer and the Township may negotiate for certain items not specifically prohibited in the PRD Ordinance. The Terms and Conditions is a representation of the negotiations to this point. The larger unresolved issues are: Fee in Lieu, Township originally requested \$1,300,000 (an amount that calculates the fee in lieu of parkland based upon 4.08 person per household instead of the typical average of 2.54 persons per household); Traffic, Developer shall bear the cost of improvements identified in the final approved Transportation Impact Study as necessary to mitigate all development impacts at all study intersections. A light at Blue Course Drive

and Bristol Avenue is the largest expense and the specific area where agreement does not yet exist and Blue Course Drive Design, The roadway profile through the intersecting Whitehall Road that meets design standards for Collector Roads (2% maximum grade break at the crown of Whitehall Road). The Planning and Zoning Considerations: The intent of the PRD ordinance is also included in your agenda packet. The Planning Commission and the Board of Supervisors will need to determine whether the degree to which the Tentative PRD Plan aligns with these intents and whether the benefit to the Township of that alignment is worth the waivers that the Developer is receiving. These waivers can be found in the Terms and Conditions. Negotiable items from Chapter 27 of the Township Code of Ordinances would normally need to go to the Zoning Hearing Board for a variance hearing, where they would be judged on a set of five criteria which demonstrate a unique hardship specific to the property, however in the PRD ordinance the Board may grant a waiver to these without the involvement of the Zoning Hearing Board unless the PRD ordinance specifically prohibits something in the proposal. The most significant waivers that are being requested are: Chapter 27-1202 Family Definition, no more than three unrelated individuals per dwelling unit which are not multi-family housing. The Department believes that this would be the *first time* that the Township would grant a waiver to this provision of the Zoning Ordinance Chapter 27-301 Rural Agricultural District: Stormwater facilities do not meet the intent or use regulations of the Rural Agricultural District; 27-801 Floodplain Conservation, it is unknown whether or not the requested work within the floodplain will negatively impact water resources until review of the crossing design is complete; Chapter 22-502 Design for Streets, the profile of the Blue Course Drive, as depicted, does not meet the maximum grade break change requirement of 2%. This has proven to be an issue in other places in the Township, especially in emergency situations. PennTerra will resubmit the design for review by the Township Engineer. Next area deals with inconsistency with the Regional Growth Boundary, Comprehensive Plan, and Agricultural Security Area. These inconsistencies revolve around the proposal to place stormwater facilities for the PRD on a 5.5 acre parcel (proposed to be subdivided) of Rural Agricultural land outside of the Regional Growth Boundary but supporting land inside of the Regional Growth Boundary. The PA Department of Environmental Protection strongly discourages the Regional Growth Boundary/Sewer Service Area from splitting parcels, as is proposed with the Subdivision and Lot Consolidation Plan associated with the Tentative PRD. The CRPA has recommended that, if the Township proceeds with the Tentative Plan, that it be brought into the Regional Growth Boundary and Sewer Service Area. Placing the stormwater facilities here also does not comply with the Future Land Use Map of the 2013 Comprehensive Plan, which designates this land as agriculture. The plan also does not comply with land use goals seven and eight in the Comprehensive Plan dealing with Agricultural Land. Along the same lines, the proposed 5.5 acre parcel is located in an Agricultural Security Area, which further demonstrates that all land use planning indicates the municipalities and the region intend to keep this parcel in agricultural use. In summary, the Planning and Zoning Department believes that the Tentative Planned Residential Development does not meet the intent of the PRD ordinance to a degree that would warrant waivers to all ordinance sections currently being requested. In addition, any plan that meets the intent of the PRD ordinance but compromises larger land use planning initiatives such as the Regional Growth Boundary, Comprehensive Plan, and Agricultural Security Area clearly does not meet the local or regional intent of land use planning thus should be cautiously reviewed. Ms. Tranguch recommended disapproval of the Cottages at State College Tentative Planned Residential Plan by Toll Brothers due to the inconsistencies with best efforts to effectively plan and zone within the Township.

Mr. John Sepp, PennTerra Engineering responded to the technical items Ms. Tranguch reviewed. The first issue is the detention basin located in the RA zone. The applicants' attorney submitted a letter stating that clearly detention basins are permitted in the Ag Zone and on their own lot. Mr. Sepp stated that Ms. Tranguch said this does not meet zoning currently. Mr. Sepp stated it will meet the basin requirements when the section of land from the neighboring large lot is subdivided and finalized. This has been the plan for the detention basin since the first plan was submitted. Ms. Tranguch responded that with regard to stormwater being located in the RA Zoning it is legal but the question is if it is sound land use planning, in her opinion it is not. Mr. Sepp reiterated that it is a legal action to due although it is Ms. Tranguch's opinion that it is not acceptable.

Mr. Harkcom stated that in the code ordinance he noted that in the RA Zoning district there is nowhere that states that it is an allowable use of the lot. Mr. Sepp stated the he is correct that it is not listed but it is also not in RR and R1B but areas in the Township under these zonings have detention basins under their own lot. Ms. Tranguch stated as the plan stands now, without the lot consolidation, the basin would be a standalone basin on a 197 acre lot and this would not be an allowed use. This could be setting precedence. Mr. Sepp stated that the lot consolidation and basin construction is not going to occur until the plan is approved.

Mr. Jon Williams, Williams and Williams, asked Ms. Tranguch if the subdivision plan is recorded at the same time as the final PRD, would that remove the legal issue? Could this item be placed a condition for final approval. Ms. Tranguch responded that that would remove the legal issue.

Mr. Williams reminded that Commission that this plan is below the density allowed for a plan within that zoning district. He asked the Commission to look at the overall plan and not each individual issue separately.

Mr. Homan questioned the detention basin and the impacts of sinkholes. Mr. Williams stated they worked with the Township engineer to address the issues with the stormwater. They plan is to split the water retention into two ponds. The one that holds the water for a longer time will be lined and the other pond will not be lined. Mr. Sepp stated the detention pond will be lined and the recharge pond, kept to a maximum of 18" of water, will not be lined. He is comfortable stating that staff is in agreement with the concept for the ponds.

Mr. Homan asked about the additional responsibilities for the development of sinkholes. Mr. Sepp stated that any sinkholes on the site would be mitigated. There will be a stormwater management agreement between the Township and the Owner. Mr. Harkcom asked how the current sinkholes be remediated. Mr. Sepp stated the one sinkhole is not located on their parcel of land. A sinkhole may come up during construction, if so a geologist would come in and they would repair it one of two ways. Ms. Tranguch stated that she understood Mr. Homan was referring to sinkholes located off the site? Ms. Tranguch stated that the Terms and Conditions will include remediation of sinkholes up to 200 feet off site that were caused by failure of the stormwater facilities.

Mr. Homan asked what meetings were held with the Township and the Centre Region regarding this plan. Mr. Sepp stated there were quite a few meetings with staff and Board regarding this plan. Mr. Dan Sieminski, Penn State, approached and stated the concept for the development of this project has been discussed for a very long time and a development on this site has been a long time coming. Mr. Sepp stated all of the meetings held on this project were directed through the Township.

Mr. Crassweller asked about the examples of the detention basins in other zoning districts. He stated the Township would like to keep Ag Land. Does this plan have to go before COG to expand the growth boundary, Ms. Tranguch stated that recently a change passed that Ferguson could do that unilaterally because of the size. Mr. Sepp stated that legally the project can install this basin within the Ag Land and it would not have to be included in the growth boundary. The question is does the Commission think this is good use of the Ag Land. Mr. Crassweller asked how much of water comes from wellfield 2. Ms. Tranguch stated from wellfield 2 and 3 provide about 2/3 of the State College Areas water.

Mr. Crassweller stated throughout the Terms and Conditions the developer and owner are listed for items separately. Mr. Williams responded to this and stated that is just semantics. All of the conditions included will remain with the and not the name on the agreement.

Mr. Crassweller asked how long the detention ponds will retain water. Mr. Sepp stated less than 36 hours for the recharge pond and approximately 72 hours for the detention pond.

Mr. Harkcom asked Mr. Ressler about the selling of agricultural land less than 50 acres. Mr. Ressler stated that the 5 acres would be allowed because both the remaining parcel would remain above the 50 acre requirement. Mr. Sepp again reminded the Commission that this has been the plan since the beginning phases.

Ms. Strickland asked if there would be any security around the basins. Mr. Sepp stated no fencing is planned at this time. Mr. Williams stated that fencing could be installed if that is what was agreed upon. Ms. Strickland is concerned with no fencing with this being located so close to a Regional Park. She also stated that in multiple memorandums it was recommended for smaller basins to be installed throughout the community and recommended against a single drainage point. How does this plan address all of the concerns recommended? Mr. Sepp stated that there will be swales surrounding the property and another basin located on the property. Mr. Williams stated there will also be soil infiltration in the open spaces. Mr. Sepp said an item is included in the Terms and Conditions is that these basins

cannot be used as sediment basins during the construction phase. Ms. Tranguch stated that the Township Engineer recommended that the basins be broken up even more and the compromise was the current plan.

Mr. Sepp discussed the traffic crown issue on Whitehall Road. PennDot has no criteria for the breaking grade at an intersection. At a green light on a signalized intersection you could reach approximately 35mph through the intersection. The comment regarding this issue came from an incident at the intersection of Old Gatesburg Road and Science Park Road where at 32 mph an ambulance was seen bump through the intersection. What is at this intersection is a mild increase and then up 2% and down 2%. The plan proposes a breaking crown at 4%. He anticipates this issue to be resolved with the Township Engineer this week. Ms. Tranguch stated that even though there is no state or federal regulations, the Township subdivision and land development regulations recommend a maximum of 2%. Mr. Sepp stated this does not relate to an intersection.

Mr. McMaster asked why they switched to the Cottage style plans. Mr. Williams stated the cottage product is better run and an overall better product. Mr. McMaster asked if they will be leasing by bedroom or by unit. Mr. Williams stated the leases will be by bedroom. Mr. McMaster stated there are 46 items left unresolved, how many of these are still being negotiated in the Terms and Conditions. Mr. Williams said they have been working through them and it is down to a short list. Mr. Kunkle stated the remaining issues are language issues. Mr. McMaster asked about the plan being approved without the remaining items listed out. Mr. Williams stated the plan will not change after approval. Mr. Sepp stated this is the tentative plan a final plan will still need to be submitted and approved.

Ms. Strickland asked who the owner of the project is, Toll Brothers and Land Mark. Mr. Williams stated they are in a partnership.

Mr. Homan asked how The Retreat was done in College Township. Mr. Williams stated it was through a PRD also.

Ms. Strickland asked about the sewer being tied into Stonebridge versus the State College Borough. Mr. Sepp stated there will be no environmental impact. The pumps will be sized accordingly for gravity. This will keep the sewer within the University Area Joint Authority system.

Mr. Crassweller what happens if FEMA flood doesn't go through. Mr. Williams stated no construction will occur until that is approved.

Ms. Laura Dininni-Cusumano, resident, stated she represents a large number of residents who wish to preserve the agricultural lands. She stated what residents want is what preserves the character of their neighborhoods. Having clean drinking water is a very important factor in this.

Mr. Wheland stated he was against the rezoning of the land that occurred years ago so he is torn on the decision for this project.

Ms. Strickland revisited Ms. Tranguch's memorandum and the overall benefits of this project. She would like the Commission to disassociate the potential park from this project. Mr. Sepp stated if this project is not approved another submission will come along that fits into the R4 zoning and will be able to construct.

Mr. Harkcom stated he is concerned with the development of this project being located so close to the wellfields.

Mr. Homan stated as some try not to relate this to the Regional Park they must also not relate this to agricultural land. This land has been rezoned.

Mr. Crassweller made a motion to RECOMMEND APPROVAL to the Board of Supervisors for The Cottages at State College Planned Residential Development. Mr. Homan seconded the motion. The motion was tied by a vote of 3-3. Mr. McMaster, Mr. Homan and Mr. Wheland voted for the project and Mr. Crassweller, Mr. Harkcom and Ms. Strickland voted against.

IV. APPROVAL OF MINUTES – JANUARY 12, 2015

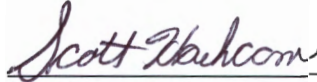
Mr. Homan made a motion to APPROVE the Planning Commission Regular Meeting Minutes from January 12, 2015.
Mr. Wheland seconded the motion. The motion passed unanimously with Mr. Crassweller abstaining.

V. ADJOURNMENT

Mr. Harkcom made a motion to adjourn the meeting.

With no further business, the February 23, 2015 organizational and regular Planning Commission meeting was adjourned at 7:25 p.m.

RESPECTFULLY SUBMITTED,

A handwritten signature in dark ink, appearing to read "Scott Harkcom", is written over a horizontal line.

Scott Harkcom, Secretary
For the Planning Commission