

**FERGUSON TOWNSHIP PLANNING COMMISSION  
REGULAR MEETING MINUTES  
MONDAY, APRIL 11, 2022  
6:00 PM**

**ATTENDANCE**

The Planning Commission held its first meeting of the month on Monday, April 11, 2022, as a hybrid meeting. In attendance:

**Commission:**

Jeremie Thompson – Chair  
Jerry Binney – Vice Chair  
Rob Crassweller - Secretary  
Bill Keough  
Shannon Holliday  
Lisa Rittenhouse - Alternate  
Lewis Steinberg - Alternate  
Dr. Ellen Taricani  
Ralph Wheland  
Qian Zhang - Alternate

**Staff:**

Jenna Wargo - Planning & Zoning Director  
Kristina Bassett - Community Planner  
Jeff Ressler - Zoning Administrator

Others in attendance: Wes Glebe, Ferguson Township Resident; Debra Smart, Centre Animal Veterinary Hospital; Todd Smith, ELA Group; Jim Assasindia, developer, Ferguson Township Resident; Mark Torretti, PennTerra; Sean Houts, Nittany Valley Dental Associates; Jenna Senior, Nittany Valley Dental Associates; Ron Bellush, Nittany Dental Associates; Irene Miller, Ferguson Township Resident; Jim Maund, Ferguson Township Resident; Richard Swanger, developer, Ferguson Township Resident, John Sepp, PennTerra

**I. CALL TO ORDER**

Mr. Binney noted that the Planning Commission meeting had been advertised in accordance with the PA Sunshine Act and called the meeting to order.

Ms. Wargo took roll call, and the Planning Commission had a quorum.

**II. CITIZEN INPUT**

Mr. Wes Glebe, Ferguson Township Resident reported that he has been trying to get no parking signs placed on the corner of North Butz Street and College Avenue but stated that it has been challenging. Mr. Glebe stated that Mr. Modricker told him that a traffic study must be done. Mr. Modricker reported that he and the past manager, David Pribulka met with Mr. Glebe a few months ago. Mr. Modricker stated that he heard his concerns, brought it to the Board, Board directed staff to complete a traffic study, it was reviewed with the Township Engineer, and it is on the work list.

**III. APPROVAL OF MINUTES**

Mr. Crassweller noted that Farmstead is one word and not two that was included in the minutes of March 28<sup>th</sup>.

Dr. Taricani moved that the Planning Commission **approve** the March 28, 2022, Regular Meeting Minutes with the Farmstead correction. Mr. Crassweller seconded the motion. The motion passed unanimously.

#### IV. OLD BUSINESS

None.

Mr. Thompson stated that there was a request to move and asked for a motion.

Mr. Binney moved that the Planning Commission **switch** the order of the agenda to have Farmstead Lane first, then the Flag Lot. Mr. Crassweller seconded the motion. The motion passed unanimously.

#### V. NEW BUSINESS

##### A. Application for Consideration of a Modification/Waiver-Farmstead View

Included in the agenda is an Application for a Modification/Waiver submitted by Farmstead Developer, LLC from Chapter 22-515.D.2 – Tree Preservation and Protection. A tree preservation, remediation plan and a tree protection plan have been prepared and submitted as part of the subdivision review process. The plans show the preservation and protection of 17.3% of the existing tree canopy and remediation for the remaining 2.7%. The remediation proposes the installation of seven new trees in the proposed residential lots. When planted, these trees will meet the required 20% of coverage.

Tree Commission has reviewed the Farmstead Subdivision Plan and has recommended the Red Pine be preserved to meet the 20% existing tree canopy requirement.

Mr. Mark Torretti, PennTerra, reported that they want to save a black walnut tree on the site. Mr. Torretti reviewed the trees on the residential site and noted that the black walnut tree is feasible to save. Mr. Torretti stated in order to save the Red Pine a 100-foot of 3 feet retaining wall would need to be installed. Mr. Torretti reported it would cost approximately \$15,000 to build the wall and proposed installing seven new trees.

Dr. Taricani ask about access to each lot. Mr. Torretti answered that there are driveways off Farmstead Lane for each lot.

Mr. Keough asked what it means to preserve the red pine. Ms. Wargo reported that it meets all the requirements for preservation and the tree could never be cut down. Mr. Keough asked who would own and care for the tree. Ms. Wargo answered that it would be the property owner's responsibility. Mr. Keough asked if there were more than one option with regard to the stormwater plan that is proposed for the subdivision. Mr. Modricker stated that if the applicant wanted to save the red pine it could be without the interference with the stormwater management; however, there are cost associated with saving the tree. Mr. Modricker noted that the Tree Commission is recommending preserving the red pine, but the applicant does not want to. Mr. Keough discussed his difficulties weighing the options. Mr. Torretti discussed lots 1&2 and noted that the retaining wall would be up against lot 1 and the driveway on lot 2 can't be reconfigured.

Mr. Wheland stated that he finds it absurd to require a homeowner to maintain the tree on their property if it were approved to be saved. Mr. Wheland stated he would vote against saving.

Mr. Crassweller stated that planting anything under a black walnut tree will be difficult and agreed with Mr. Wheland.

Ms. Rittenhouse asked if the development will be with an HOA. Mr. Torretti stated that there will be an association eventually. Ms. Rittenhouse stated that it is unfortunate to have a homeowner responsible for a specific tree and doesn't agree. Mr. Steinberg reported that the Township has an ordinance and is obligated to follow. Mr. Steinberg asked if the retaining wall would be necessary if it wasn't a Flag Lot. Mr. Torretti stated to make the development feasible they had to make it 6 lots.

Mr. Richard Swanger, developer, noted that the tree is ugly and messy. Mr. Swanger stated that it affects the building area of lot 2. Mr. Swanger expressed his frustration with saving the tree.

Mr. Jim Assasindia, developer, stated they are not opposed to saving the tree, but it is not cost efficient.

Ms. Zhang asked to see the tree. A photo of the tree was presented via a slide.

Ms. Holliday asked why they want to keep the tree. Mr. Thompson stated that keeping the tree helps meet the requirements of the Tree Ordinance, but right now they can't meet the requirement. Mr. Modricker stated that the arborist and the Tree Commission evaluated the trees on site, and it is their opinion to save the tree. Mr. Thompson noted that if the tree would be designated as a Heritage Tree the Township would be responsible.

Mr. Keough stated that the bottom line is not the tree but meeting the ordinance requirements. Mr. Keough asked if the other trees were kept would the 20% be met. Mr. Torretti reported that it would not be met. Mr. Keough stated that there are a lot of driveways lined with trees in the Township and asked could the driveway be moved to allow the tree in question stay. Mr. Torretti stated that the Tree Ordinance will not allow.

Mr. Wheland moved that the Planning Commission make a recommendation to the Board of Supervisors to **approve** the application for modification/waiver from §22-515.D.2. Mr. Crassweller seconded the motion.

Mr. Glebe asked if there is any punitive aspect if it was cut down. Mr. Thompson stated that the enforcement would come from the Township. Ms. Wargo stated that if it were cut down the ordinance states that it would need to be replaced in-kind. Also, the first offence is \$500, second offence is \$750, and the third offence is \$1,000. Jenna reviewed part of the tree ordinance.

Mr. Jim Maund, Ferguson Township Resident, was in attendance in support of denying the application. Mr. Maund reported that the tree is likely 75 years old and could live to be 250 years old. It is 50-60 foot tall with a 28-inch trunk and it is in good health. Mr. Maund stated that the tree is beautiful and is priceless. It is green year around. Mr. Maund stated that the trees they want to plant will take years to develop and some are poisonous. Mr. Maund noted that a landscape architect has volunteered to work on the project for free, but the developers didn't follow-up. Mr. Maund appealed to the Planning Commission that this is a once in a lifetime opportunity for the community to save a unique tree.

Ms. Zhang asked if there is a compromise. Mr. Keough suggested to recommend granting of the modification with a condition that the red pine be preserved. Mr. Keough reported that since a submission of a development plan hasn't been seen, this would put the emphasis on the developer to get more creative than the current option. Mr. Torretti stated that the red pine is over 20% and wouldn't need a modification. Also, the Township staff wanted to get to these plans before the land development plan.

Dr. Taricani asked if the tree could be part of the park. Mr. Torretti stated that they would lose a lot if that were to be done.

ROLL CALL: THOMPSON: NO; BINNEY: YES; CRASSWELLER: YES;  
WHELAND: YES; KEOUGH: YES; HOLLIDAY: YES; TARICANI: NO;  
RITTENHOUSE: YES; ZHANG: YES; STEINBERG: YES

Mr. Wheland and Mr. Steinberg brought to the Chair's attention that alternates are only to vote when there are Board members absent.

Mr. Thompson noted that the motion passed 5-2 with Mr. Thompson and Dr. Taricani opposing.

#### **B. Application for Conditional Use – Flag Lot**

Ms. Bassett reported that included in the agenda is an Application for a Conditional Use, submitted on December 17, 2021, by Penn Terra Engineering Inc. on behalf of their client, Farmstead Developer, LLC, for a proposed flag lot to be created for Lot 1 (103 Farmstead Lane—0.632 acres or 27,530 square feet) as depicted in Exhibit #2.

Flag lots are a conditional use in R1 zoning districts. A conditional use is a permitted use that is subject to additional zoning requirements that applicants must meet as part of the conditional use process and a necessary step in the process for subdividing a flag lot.

The conditional use provisions require the Board of Supervisors to hold a public hearing on the application within 60 days of receiving the application and decide if the request is in accordance with the standards and criteria provided in §27-732 of the Township's Zoning Ordinance.

Included in the agenda is the Township's series of facts for the conditional use hearing. Staff has reviewed the conditional use proposal for compliance with §27-732 and is recommending approval.

Mr. Crassweller moved that the Planning Commission make a recommendation to the Board of Supervisors to **approve** the Application for a Conditional Use of the creation a Flag Lot in the Farmstead Subdivision Plan. Mr. Binney seconded the motion. The motion passed unanimously.

#### **C. Centre Animal Veterinarian Hospital – Preliminary Land Development Plan**

Ms. Bassett reported that Tussey Tracks, LLC, owner of Centre Animal Veterinary Hospital, located at 1518 West College Avenue is proposing a 620 square foot addition to their existing 5,551 square foot building. The owner recently acquired the parcel to the east and consolidated the two lots to create a 0.937 acre lot. This

allows the parking lot to be expanded and reconfigured for better flow. This plan is in the Terraced Streetscape (TS) Zoning District.

At the April 5, 2022, Board of Supervisors regular meeting, the Board granted the modification/waiver request from §22-5A09—Streetscape Design Standards.

Mr. Todd Smith, ELA Group, presented an overview of the plan. The plan is included in the agenda packet.

Mr. Glebe asked how the stormwater will work on the property. Mr. Smith stated there are two sub surface systems to adequately handle the stormwater.

Mr. Keough moved that the Planning Commission recommend to the Board of Supervisors **approval** of the Tussey Tracks – Centre Animal Hospital Preliminary Land Development Plan pending outstanding staff comments. Mr. Wheland seconded the motion. The motion passed unanimously.

**D. Application for Consideration of a Modification/Waiver—Nittany Dental**

Ms. Bassett stated that included in the agenda is an Application for a Modification/Waiver submitted by Nittany Dental Associates from Chapter 22-301—General. The applicant recently acquired the vacant office space formerly used by First National Bank, located at 2591 Park Center Boulevard (TP—24-465-001-0000). The applicant is proposing to convert the three existing covered drive-thru lanes (1,243 square feet) into an enclosed space and enlarging that space by an additional 360 square feet. The final square footage would increase from 5,124 square feet to 6,727 square feet. This is a 31% increase in building square footage. The applicant would need 6 additional parking spaces for the addition equaling 27 total parking spaces and the existing parking on site includes 44 spaces.

The applicant is requesting to have their plan processed as a Minor Alteration Plan. Chapter §22-306.2.B outlines the criteria for a plan to be considered as a Minor Alteration Plan. Included in the agenda is Chapter §22-306.2 and the applicant's justification for their request.

Staff has reviewed the Application for Consideration of a Modification/Waiver for the proposed Nittany Dental Office and is recommending the plan to be reviewed as a Minor Land Development Plan. Criteria for a Minor Land Development (§22.306.3—as amended by Ord. 1067, 3/15/22) is included in the Planning Commission's agenda.

Dr. Taricani stated that it makes a good addition to the bank building.

Mr. Keough asked for clarification with the request. Ms. Wargo reported that the application was submitted as a minor alteration plan but after staff reviewed the application it doesn't meet the minor alteration plan. Ms. Wargo stated that it is closer to meeting the criteria of the minor land development plan. The applicant would still need a modification/waiver for it to go through as a minor land development plan because it only permits 1000 sq. ft. addition, but they are proposing a 1200 sq. ft. addition. Mr. Keough asked if this needs to go to the Board of Supervisors. Ms. Wargo answered that it does.

Mr. John Sepp, PennTerra, reviewed the plan and noted that Ron Bellush was in attendance. Mr. Bellush stated that they have been in the Township since 2006. Mr. Sepp noted that the applicant would like to move forward, but it will take months

to process a minor land development plan and asked if work could start on the inside.

Mr. Binney asked for clarification on how the plan got to the Planning Commission. Ms. Wargo stated that when they meet with applicants, they review and do an analysis. Ms. Wargo reported that the applicant originally wanted to go through the minor alteration process. Ms. Wargo noted that the plan was approved back in 2004 and stormwater has significantly changed so there are concerns. Mr. Binney expressed frustration on why the Planning Commission is playing arbitrator between the staff and the developer.

Mr. Crassweller asked if staff told the applicant during the review meeting that it didn't meet the criteria and now the applicant is attempting to receive a modification/waiver to go through as a minor alteration plan. Mr. Sepp stated that in his opinion it is a minor project, and a modification would be reasonable.

Mr. Sean Houts, Nittany Valley Dental, asked for clarification on the 30% when they are only adding 360 sq. ft. Mr. Ressler noted that the area under the canopy wasn't interior building space and staff is looking at that as the expansion. Ms. Wargo stated that the Township has not considered pavilions, canopies, etc., as impervious areas. Mr. Houts expressed concerns with possible delays.

Mr. Steinberg stated there is a difference between a building and a structure. A building is a structure that would include a roof and for the use as shelter or enclosure of person or property. Mr. Steinberg stated that in his opinion it is not a building, but rather a structure.

Mr. Keough asked if interior work could be afforded to offer some relief during the procedural process. Mr. Ressler reported that they will look into their renovations.

Mr. Thompson asked if the Planning Commission were to go forward with the interior renovations what would be the unintended consequences. Mr. Ressler stated that they will investigate the option of interior renovations. Mr. Keough encouraged staff to explore other options to keep the business in Ferguson Township. Mr. Crassweller concurred with Mr. Keough.

Ms. Wargo stated that the even with a minor alteration plan the applicant will still need to amend their land development plan that was originally on the property.

Ms. Jenna Senior, Nittany Valley Dental, stated that it would be very helpful to get started with the interior plan. The drive-thru area of the plan will be for the employees.

Mr. Keough suggested tabling for two weeks to allow staff and the applicant to review what was discussed. Ms. Wargo stated that the applicant would not be interested in tabling. Mr. Ressler will explore the options. Ms. Wargo is not opposed of allowing an interior zoning permit.

Mr. Sepp and the associates agreed that starting the interior work would be extremely helpful. Mr. Ressler will look at the options and get back to the applicant.

Mr. Steinberg suggested to accept staff recommendations and to deny the request since they will have the opportunity to go through the appropriate procedure to do the interior renovations. The Planning Commission concurred with Mr. Steinberg's suggestion.

Mr. Wheland moved that the Planning Commission recommend to the Board of Supervisors **denial** of the Application for Consideration for a Modification/Waiver for Nittany Dental Offices from §22.301—General. Mr. Crassweller seconded the motion.

Mr. Steinberg suggested that the applicant withdrawal the request, so it doesn't go the Board of Supervisors. Ms. Wargo stated that the addition is the problem. Mr. Sepp suggested that the motion be to deny the request for the minor alteration plan and to approve a minor land development plan.

Mr. Wheland modified his original motion to **deny** the request for the minor alteration plan and to approve a minor land development plan. Mr. Crassweller seconded the motion. The motion passed unanimously.

## **VI. COMMUNICATIONS TO THE COMMISSION**

Mr. Thompson received a communication from John Matthews in support of the tree on Farmstead Lane.

## **VII. OFFICIAL REPORTS AND CORRESPONDENCES**

### **A. Board of Supervisors**

Ms. Wargo reported that the Board met on April 5<sup>th</sup>, reviewed the wireless communication facility ordinance amendment, and opted to separate the two amendments. The Board approved the modification/waiver for the Centre Animal Veterinarian Hospital. Approved the Orchard Square Land Development Plan and reviewed the parking analysis for MP Machinery.

### **B. CRPC Meeting**

Dr. Taricani reported that they met with the Land Use Community Infrastructure and reviewed using a similar format that Lancaster uses to review their infrastructures. Dr. Taricani noted there was a long discussion on solar panels and open spaces in the region. Mr. Keough stated that open spaces are not necessarily open but rather for agricultural uses. Dr. Taricani noted she will continue to address whenever the topic comes up.

### **C. Land Development Plans**

Ms. Bassett reviewed the following:

- a. Farmstead View Subdivision – Staff's 4th review
- b. CVIM – 2026 Sandy Dr – Awaiting Response to second review
- c. Peace Center and Cemetery – Awaiting Response to first review
- d. Orchard Square Final LDP – Awaiting Signatures (BOS Approved 4/5)
- e. Centre Animal Hospital – PC Review 4/11
- f. Fusion Japanese Steakhouse – Awaiting Response to first review
- g. Imbt Subdivision - Awaiting Response to first review
- h. West College Avenue Vertical Mixed-Use Development – Awaiting Response to first review.

Mr. Keough asked for the status of the Bobby Rahal application. Ms. Bassett reported that they have not submitted a land development plan and the lot is for sale. Mr. Ressler reported they filed an appeal, and it will be going to court.

Mr. Steinberg stated that agricultural land is not open space by definition in the Township's ordinance and legally as well.

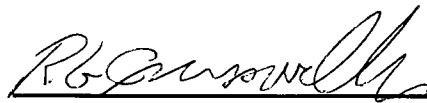
**D. Staff Updates**

There were none.

**VIII. Adjournment**

Dr. Taricani made a motion to **adjourn** the April 11, 2022, Planning Commission meeting at 9:05 p.m. The motion passed unanimously.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Rob Crassweller", is written over a horizontal line.

Rob Crassweller, Secretary  
For the Planning Commission