

WARWICK TOWNSHIP BOARD OF SUPERVISORS MINUTES

April 18, 2012

Vice-Chairman Michael Vigunas convened the April 18, 2012 meeting of the Board of Supervisors at 7:00 p.m. Present were Supervisors Michael Vigunas, C. David Kramer, Herbert Flosdorf, and Anthony Chivinski. W. Logan Myers was absent. In attendance were Township Manager Daniel Zimmerman, Code & Zoning Officer Thomas Zorbaugh, Roadmaster Dean Saylor, Township Engineer Charles Hess, John Mateyak, Dan Cicala, Rick Jackson, Brent Good, Curt Evans, Gerald Pfautz, and Rich Ruoff. Laura Knowles with Lancaster Newspapers and Gary Klinger of the Lititz Record Express represented the press.

GUEST RECOGNITION: Gerald Pfautz, 83 North Heck Road, explained that he was present at the Board of Supervisors meeting held on February 15, 2012. He stated that he had asked a question and instead of a response from the Township Code and Zoning Officer, he was advised to speak with Senator Brubaker. Pfautz added that he spoke with Senator Brubaker and the Senator indicated that he has no response and is not aware of the issue, and he recommended that Pfautz contact the District Attorney. Pfautz stated that he contacted the District Attorney and he advised them that he was told at the meeting to shut his mouth since the issue does not affect his property. He stated that they advised him that it should be posted on the website that he was advised to shut his mouth. Pfautz noted that the Township Manager was not at the meeting, and the Code & Zoning Officer told him to shut his mouth and the Chairman did not say anything. He stated that the District Attorney advised him that the issue should be posted on the website. Kramer stated that he does not recall Pfautz specifically being told to shut his mouth. Pfautz stated that the Code & Zoning Officer told him to shut his mouth and talk to Senator Brubaker. The Code & Zoning Officer stated that he did not tell Pfautz to shut his mouth. Kramer stated that Township staff will review the recording to verify whether or not Pfautz was advised to shut his mouth, and if so, the Board will provide a formal apology. (Writer's note: upon review of the audio recording for the February 15, 2012 meeting, it was confirmed that the Code & Zoning Officer did not advise Pfautz to shut his mouth-BK).

PUBLIC HEARING TO CONSIDER A CONDITIONAL USE APPLICATION RECEIVED FROM LITITZ LAND TRUST LLC/C/O DANIEL V. CICALA (APPLICANT). THE APPLICANT IS SEEKING APPROVAL UNDER SECTION 340-15-D(1) FOR THE R-3 RESIDENTIAL ZONE AND SECTION 340-108.1 HOUSING FOR OLDER PERSONS DEVELOPMENT. THE PROPOSED PROJECT IS LOCATED ON A 8.27 ACRE TRACT ON THE NORTH FACING SLOPE OF KISSEL HILL AND ON THE WEST SIDE OF LITITZ PIKE.

The Chairman announced the procedures to be followed for this evening's hearing. The Township Manager confirmed the posting and advertisement for this case.

John Mateyak, Attorney representing Woodridge Swim Club, Daniel Cicala (property owner), Richard Jackson and Brent Good, representing ELA Group were sworn in.

Jackson outlined the proposal for the benefit of those present. He explained that the Conditional Use application is for a 72-apartment development. He stated that the tract has an irregular shape and added that a portion of the tract is located within Lititz Borough (approximately 1.43 acres). The tract contains approximately 7.85 net acres, with approximately 6.42 acres is in Warwick Township. Of the land in Warwick Township, approximately 4.68 acres is requested to be zoned R-

3 Residential, and the remaining approximate 1.74 acres is requested to be zoned Local Commercial. Jackson stated that this site is included in the 2006 Update to the Lititz-Warwick Joint Strategic Comprehensive Plan and is designated as Planning Opportunity Site 6. As such, the site was the subject of several planning discussions. He added that the market has changed since the property was purchased, and the current proposal is for a mix of "age-restricted" units and "market-rate" units. He noted that the Board of Supervisors recommended that the commercial area along SR 501 be expanded back to Highlands Drive.

Jackson stated that the plan has been designed in accordance with the requested rezoning in order to ensure that density and land area calculations are in accordance with the Zoning Ordinance. He clarified that in order to provide an "age-restricted" development, the tract requires a minimum of 5 acres. He stated that this calculation includes the land in Lititz Borough and the land comprising Highlands Drive since the roadway is not constructed. He added that the land in Lititz Borough will be designed as a regional stormwater detention basin. Jackson stated that the plan proposes the purchase of Transferrable Development Rights (TDRs) to achieve a density up to 14 dwelling units per acre as permitted for age-restricted developments in the R-3 Residential zone. He addressed the criteria under the Ordinance for age-restricted proposals. He explained that based on the calculation of the density requirements of the Ordinance, the plan proposes 28 market-rate units and 44 age-restricted units. Jackson explained that the proposal also meets the parking requirements of the Ordinance. He stated that 147 total parking spaces would be required for the development and of this figure, 77 parking spaces would be provided for the age-restricted units, and 70 parking spaces will be provided for the market-rate units. He noted that 70 structured parking spaces will be provided in the form of basement level garages in both buildings (36 spaces in Building 1 and 34 spaces in Building 2), and via an attached carport.

Jackson provided the proposed apartment layout for the benefit of the Board. He noted that the architectural design will match the character of the area. He added that the development will provide pedestrian and bicycle access to the commercial areas along SR 501, which includes the bus stop near Weis Markets, as well as to trail connections.

Jackson stated that due to the slope of the property, a retaining wall would be required near the Woodridge Swim Club; he noted that the retaining wall would also be used for planting and would provide an additional screen.

Jackson stated that the Planning Commission reviewed the proposal at their March 28, 2012 meeting. Kramer inquired how the proposed 45' height is measured for the building, based on requirements of the Ordinance. Jackson explained that the building height is measured from the first occupied floor, which does not include the garage level.

Vigunas inquired how the Applicant would ensure that the apartment occupancy levels are in accordance with the mix of the age-restricted and market-rate units discussed this evening. The Code and Zoning Officer stated that the ratio becomes part of the approval of the development, and any alteration to ratio of units is deemed a zoning violation. Vigunas inquired how the apartments would be marketed. The property owner (Cicala) stated that the apartments would be marketed as age-restricted, and if needed, one building would designated for age-restricted units and the other would be designated for market-rate. He added that he would like both buildings to be occupied by over-55 individuals. Flosdorf stated that the Applicant should provide disclosure of the possibility of non-age-restricted units during marketing. Cicala stated that the first building would be age-restricted, and would be marketed as such. He explained that they would like the

second building to be age-restricted as well; however, if the market does not support age-restricted units, then the second unit could possibly be marketed as market-rate. Flosdorf expressed the opinion that this possibility should be disclosed to individuals who rent within the first building. He added that it seems that a Waiver of the density requirement would be needed since the proposal provides 14 dwelling units per acre, which would be permitted only if the entire site would be developed and marketed as age-restricted. Mateyak concurred with Flosdorf and added that based on the potential for market-rate units, the density calculation should be closer to 11 units per acre. Vigunas suggested that the proposal be submitted as a 72-unit age restricted development, and if the Applicant is unable to market the units, then a Waiver of the density requirement should be requested. Flosdorf inquired why a Waiver of the density requirement has not been requested. Cicala stated that the previous proposal had a larger R-3 zoned area, and the Board recommended that the commercial zoning line be expanded between SR 501 and Highlands Drive; therefore, the residential density was reduced.

Mateyak inquired how high is the proposed retaining wall adjoining Woodridge Swim Club. Cicala explained that wall height would vary between 3'-6', and would be approximately 2' from the property line. Mateyak inquired whether the Ordinance requires a larger setback. The Code and Zoning Officer explained that walls, hedges and fences can be placed on the property line. Mateyak requested clarification between a side and rear yard due to the odd configuration of the lot. Jackson indicated the respective setbacks, and added that landscaping would be provided between the Woodridge Swim Club and this site.

Mateyak requested that the Applicant provide a disclosure to its tenants that the site adjoins a swim club that holds swim meets with the associated noise of a swim club. He added that he is not necessarily opposed to the proposal, he is simply raising issues that could affect the swim club. Jackson stated that the proposed stormwater facilities would address the overland flow of water that affects the swim club since larger pipes would be installed.

Flosdorf requested clarification that the 1st building would be comprised of 36 age-restricted units, and the 2nd building would either have 36 age-restricted units, or up to 28 market-rate units, but not a mix of both. Cicala confirmed that there would be no mix of units and added that he would disclose to potential tenants of the 1st building that the possibility exists that the second building would not be age-restricted.

The Chairman inquired whether anyone else wishes to comment on the proposal. No one else indicated their desire to comment on the proposal. On a motion by Flosdorf, seconded by Kramer, the Board voted unanimously to close the public hearing.

APPROVAL OF MINUTES: On a motion by Kramer, seconded by Chivinski, the Board unanimously approved the minutes of the March 7, and March 21, 2012 meetings as submitted.

TREASURER'S REPORT: The Board reviewed the Treasurer's Report. On a motion by Chivinski, seconded by Kramer, the Board voted unanimously to approve the Treasurer's Report as submitted.

PAYMENT OF BILLS: The Board reviewed the list of bills submitted for payment. On a motion by Flosdorf, seconded by Kramer, the Board unanimously approved the payment of bills from the General Fund in the amount of \$157,737.16.

REQUEST TO CONSIDER LITITZ ROAD RACE: The Board reviewed the request. The Township Manager noted that there is no road closure as part of the request. On a motion by Flosdorf, seconded by Chivinski, the Board voted unanimously to authorize the Lititz Road Race scheduled for Saturday, April 28, 2012.

TOWNSHIP MANAGER'S REPORT: The Township Manager provided a status a report on the Northern Lancaster County Police Department. He explained that grant for equipment through the PA Municipal Assistance Program was submitted at the end of March.

The Township Manager provided a status a report on the Warwick Emergency Services Alliance. He explained that an Executive Summary will be sent out to the Board members for review. He noted that the recruitment campaign is underway.

The Township Manager provided a status a report on Highlands Drive. He explained that all of the affected property owners who will be requested to provide right-of-way or temporary construction easements have been contacted and noted that discussions continue.

The Township Manager provided a status a report on the regional Rails-to-Trails grant. He explained that the grant application to extend the trail to East Newport Road was submitted at the end of March.

The Township Manager provided a status a report on the 6th Street extension project. He explained that PennDOT has provided their comments, and the Township will need to acquire additional right-of-way from an adjoining property owner.

The Board unanimously approved the Township Manager's Report.

TAX COLLECTOR'S REPORT: The Board reviewed the March, 2012 Tax Collector's report. On a motion by Chivinski, seconded by Kramer, the Board unanimously approved the Tax Collector's March, 2012 report.

PUBLIC WORKS DEPARTMENT REPORT: The Roadmaster presented a report that outlines the activities of the Public Works Department during March, 2012. He explained that the Township recently hired an individual to monitor the Leaf and Woody Yard Waste Drop-off Site. He stated that the individual was at the site this past weekend and determined that a majority of individuals using the site live within Warwick Township. In addition, the residents indicated that they were glad the site is being monitored. The Board unanimously approved the Public Works Department Report.

NORTHERN LANCASTER COUNTY REGIONAL POLICE DEPARTMENT REPORT: The Police Chief presented a report that outlines the activities of the NLCRPD during March, 2012. The Board unanimously approved the Police Department Report.

ZONING OFFICER'S REPORT: The Code and Zoning Officer presented a report that outlines the Zoning/Building permits issued in March, 2012. The report also outlines the cases heard by the Zoning Hearing Board at their meeting held on March 14, 2012.

COMMUNICATIONS: The Board received the March, 2012 edition of the PSATS *NewsBulletin* publication.

The Board received a letter from the Lititz recCenter Executive Director expressing appreciation for the Township's 1st Quarter contribution.

The Board received a letter from the Lititz Public Library Director expressing appreciation for the Township's 1st Quarter contribution.

CONSIDER THE REQUEST FROM ADAM DAVIS FOR RELEASE OF LETTER-OF-CREDIT: The Board reviewed the request. The Township Engineer commented that based on their most recent observation of construction progress at the site, compared with the original Letter-of-Credit estimate amounts, they recommend the Township release the remaining \$12,400.00 from the Letter-of-Credit account. On a motion by Flosdorf, seconded by Kramer, the Board voted unanimously to release the remaining \$12,400.00 from the Letter-of-Credit for Adam Davis in its entirety.

CONSIDER RESOLUTION #04-18-12-01 CONCERNING THE SPEEDWELL FORGE DAM AND HAMMER CREEK: The Board reviewed the Resolution. Kramer noted that Lititz Borough and Penn Township intend to adopt similar Resolutions. The Resolution requests that the PA Fish Commission take no action to breach the dam until a complete environmental and fiscal analysis is completed to evaluate the impacts to the stream, wildlife and to adjacent properties. In addition, it requests the PA Department of Environmental Protection and Lancaster County Conservation District to provide verification that any action implemented by the Fish Commission comply with the 1972 Clean Water Act. On a motion by Flosdorf, seconded by Chivinski, the Board voted unanimously to adopt Resolution #04-18-12-01 as drafted.

CONSIDER CONTRACT FOR SALE BY AUCTION OF THE SALT SHED: The Township Manager explained that the Township received the auction contract indicating a fee of \$450.00 if the property is withdrawn and no sale is completed on auction day, and the Auctioneer's commission would be 3% based upon the sales price. On a motion by Flosdorf, seconded by Chivinski, the Board voted unanimously to execute the contract for sale by auction of the salt shed.

CONSIDER AFFIRMING TOTAL BURN BAN AS ESTABLISHED BY THE LANCASTER COUNTY COMMISSIONERS: The Township Manager explained that the Lancaster County Commissioners adopted a resolution banning open burning throughout the County due to dry conditions. The Board members affirmed the burning ban as adopted by the County Commissioners.

CONSIDER AUTHORIZING TOWNSHIP SOLICITOR TO ACCEPT SERVICE OF THE PETITION FOR JUDICIAL TAX SALE ON ORCHARD ROAD PROPERTY: The Township Manager explained that he discussed the issue with the affected property owner, and he indicated that he intends to pay the taxes on the property. On a motion by Flosdorf, seconded by Kramer, the Board voted unanimously to authorize the Township Solicitor to accept the Petitions for Judicial Tax Sale which are docketed in the Lancaster County Court of Common Pleas to numbers CI-12-01450, CI-12-01454, CL-12-01744, and CI-12-02128.

ADJOURNMENT: With no further business to come before the Board, the meeting was adjourned at 8:47 p.m.

Respectfully submitted,

Daniel L. Zimmerman
Township Manager