

MINUTES
BOARD OF COMMISSIONERS REZONING HEARING
JANUARY 17, 2005

President Rishel called to order a public hearing on Monday, January 17, 2005, at 6:30 P.M. to hear a request to rezone 69.9 acres for Industrial, R-22 Suburban Residential, and SC-Shopping Commercial to R-8 Urban Residential. The property is located at the north side of Moulstown Road extending westward from Gitts Run to lands of the legal landowner. The property lies in Penn Township and the proposed use of the property is senior housing (55 and over) with duplexes and multi-family dwellings. The public hearing was properly advertised in the Hanover Evening Sun and the property was posted as required by the PA Municipalities Planning Code.

Present were President Rishel and Commissioners Klunk, Felix, and Johnson. Commissioner Stauffer was absent with notice. Also present were Manager Garvick, Solicitor Tilley and Township Engineer Bortner.

Township Manager Garvick presented the staff review of the rezoning request. He stated that an application for rezoning was filed on September 2, 2004 by Regional Homes LLSC, 8 Green Springs Valley Road, Owings Mills, Maryland for parcel 44-ED-34, which is known as the old Devenor Airport. This request was for a rezoning of approximately 69.9 of acres of which 41.4 acres is currently zoned shopping commercial, 16 acres industrial, and 12.5 acres R-22 suburban residential. The property is located on north side of Moulstown Road extending westward from Gitts Run Road to a property line east of Moul Avenue. The legal owner is CD Investors, a PA limited liability partnership located at 211 Carlisle Street, Hanover. There is an agreement of sale pending between CD Investors and Regional Homes. The existing site is being utilized for agricultural purposes. The request is to rezone a majority of the property to R-8, urban residential, maintaining a portion of the SC to the west. The proposed use is senior housing (55 and over) with a combination of multi-family dwellings and duplexes. The current zoning does not allow for multi-family use. The Township's comprehensive plan, adopted on August 20, 2001, recommends the zones that are currently in effect and to which were previously referenced. Typical examples of allowed uses in the SC zone include personal and business services, commercial schools and recreation, convenience stores, eating establishments, parking lots, medical clinics, financial institutions and retail businesses. Typical examples of allowed uses in the Industrial Zone include: general manufacturing, warehousing, processing establishments, freight terminals and research laboratories. Typical examples of allowed uses in the R-22 suburban residential zone include: single family dwellings, group homes, home occupations, and houses of worship. In the R-8 zone, for which the request was submitted, typical allowed uses are single-family detached and semi-detached dwellings with multi-family dwellings allowed as a use by special exception. The York County Planning Commission reviewed the request and recommend against the rezoning because it is not consistent with the Township's Comprehensive plan. It is further county's opinion that the existing and adjacent residential zoning districts are all low density, the proposed rezoning is not an extension of an R-8 zone and the proposed western boundary of the "new" zone will not follow an identifiable physical feature, property line, etc. The Penn Township Planning Commission reviewed the request at its meetings on November 4, 2004 and December 2, 2004.

The planners recommended approval but expressed concern about assurances that the property would be utilized as a senior housing development as opposed to one of the other uses that could occur in the R-8 zone. The developer has submitted an agreement to the Township placing deed restrictions on the property to ensure the use and also allowing the Township to obtain injunctive relief should the developer fail to record said restrictions. The Township has received a letter of support from the Hickory Hills Homeowners Association as well as a letter of support from twelve adjacent property owners. Both letters recommend favorable action on the rezoning. This concluded the staff comments.

Keith Nonemaker, co-owner of the affected property and council for CD Investors presented the petitioners request. He stated that the total acreage of the entire property is 110.1 acres of which they would like 69.9 rezoned to R-8 Urban Residential. The remaining portion of the property will remain SC – Shopping Commercial. Present with Mr. Nonemaker were Jim Holly, Chuck Zaleski, Mickey Cornelius, Herb Bartell, Dr. Michael Clemens, Eric Levitt, and Paul Steinhart.

Mr. Nonemaker stated that the property known as the Devener Airport was purchased by CD Investors in September 1988 and at that time was still being used as an airport. When the property was purchased it was zoned residential and is still undeveloped land. In the early 1990's Eisenhower Drive was constructed and developed and when the Township updated it's comprehensive plan in the 90's, the land was rezoned to Commercial, Residential R-15 and Residential R-40. In the last comprehensive plan update in 2001 it was changed to its current zoning. Mr. Nonemaker stated that it was a concession on part of the property owners to have any part of the land re-zoned Industrial. The owners feel there currently is enough industrial land available within the Township. Mr. Nonemaker stated that the property owners have never initiated or requested any change in the sixteen years they have owned the property. There has been interest from several prospective buyers for portions of the land over the last several years but the owners wanted to develop it under one plan or maybe two plans. The landowners have refused offers to sell off individual pieces of land. The proposed plan would have 362 living units for citizens 55 years of age and older with the cost starting at about \$180,000. The Federal government in 1997 allowed housing discrimination based on the age of a resident. There are certain criteria established by the government that allows eighty percent of a housing development to be occupied by people or families where at least one person is over age 55. The law applies to residents of the units, and not merely the owners. Stricter regulations can be imposed and that is what is in the proposed agreement with the Township. Mr. Nonemaker quoted several surveys that have been published with regards to the housing decisions being made by baby boomers. It was noted that about fifty-nine percent of them plan on relocating for retirement purposes. This percentage is up from 31% in 1999. These individuals are looking for residences that have little or no maintenance and also provide security. About forty-three percent of those able to retire will continue to work in some profession. The Township will receive tax revenue from all the units but will not be responsible for the maintenance of the streets. In addition the property is in the Clean and Green program, which reduces the amount of taxes currently being paid by the property owners. There will be no children allowed permanent residence in the development so they will not place a burden on the school district.

Mr. Nonemaker stated that there is a for-sale sign on the property but with the current

zoning they have not received any interest in the industrial portion of the parcel. The amount of traffic that would be generated by this type of development is far less than what would be generated by an industrial use. The proposed plan has an area of open space for recreation and the inclusion of one of the stormwater management ponds. This is the area where there is currently on file a proposed land development plan for several homes. There are two residential areas that surround this tract of land. Mr. Nonemaker stated that there is no farmland being eliminated for the construction of this project and the R-8 would provide a better buffer for the other residential areas than the Industrial zone. There is a healthcare facility across the street from the proposed project.

Mr. Holly, project architect, presented a plan showing a typical industrial facility that could be built on the property. This type of facility would require two hundred thirty-one parking spaces in addition to one hundred sixteen loading docks. The proposed plan would have two entrances onto Moulstown Road and one entrance into the Shopping Commercial area. There will be two stormwater management ponds, which will correct the current problems with stormwater runoff, and there will be open spaces, tree plantings, and an open square area for residents to gather. There will be 180 three-story units with ten homes per unit. The parking will be in the basement of the homes. The rest of the units will be duplex units. There will have to be a complete traffic study done for Moulstown Road.

Eric Levitt and Paul Steinhart, owners of Regional Homes LLC, stated they have owned the company since 1986. They presented handouts and pictures showing the types of developments they have done in the past. They have primarily built in the Maryland area. They have done several projects in York County but none in Hanover. The homes will have all the living space on the first floor for the residents with additional space on the second floor for guest rooms or offices.

Chuck Zaleski, attorney for Regional Homes, stated that the Agreement has been given to the Township for their review and signatures for the deed restrictions.

Mickey Cornelius, traffic engineer, stated that a comparison was done for the trip generations for the current zoning and uses and the proposed zoning and uses but not for the needed improvements that would have to be made if the development is constructed. There is a projection of about eight to ten times more traffic that could be generated from the current zoning than if changed to the proposed use and zoning.

Herb Bartell, Hickory Hills Home Owners Association, presented a letter of support to the Board and announced that two previous letters had been sent indicating the support from the Board of Directors of the Association for this project. There are thirteen properties that adjoin the tract proposed for development in the Hickory Hills subdivision and twelve of them support the rezoning.

Dr. Michael Clemens, Thornhill subdivision, stated that his land is adjacent to the property and he supports this type of development.

This concluded the presentation by the petitioners.

During the public officials comment Solicitor Tilley stated the Agreement he reviewed had restrictions greater than those imposed by the Federal Government for the percentage of over-55 aged citizens that are required to reside in the development. The Board wanted to know if the developers would need any additional variances or special exceptions other than those already applied for. The developers indicated that they would need one more variance for the height of the buildings. The only variable on the age requirement is that any handicapped person of any age can live in the development. There will be deed restrictions attached to the property if the Agreement between the developer, property owner and Township is approved.

Anna Mae Shaffer, whose property adjoins the proposed development, wanted an explanation of where her property is in relationship to the development. Ms. Shaffer's property borders the land where the green space is proposed.

The Board will take all the information that was provided under advisement and will make a decision at a future date.

Commissioner Rishel adjourned the public hearing at 7:22 P.M.

Respectfully submitted,

Kristina J. Rodgers
Township Secretary

**MINUTES
BOARD OF COMMISSIONERS' PUBLIC MEETING
JANUARY 17, 2005**

CALL TO ORDER - ROLL CALL - DECLARATION OF QUORUM:

The Penn Township Board of Commissioners met in a regular session on Monday, January 17, 2005 at the Penn Township Municipal Building. President Rishel called the meeting to order at 7:30 P.M., following a public hearing, with a roll call of members. Present were Commissioners Rishel, Klunk, Johnson and Felix. Commissioner Stauffer was absent with notice. Also present were Solicitor Tilley, Manager Garvick, Police Chief Gilbert, and Engineer Bortner.

PLEDGE OF ALLEGIANCE TO THE FLAG FOLLOWED BY A PERIOD OF SILENT MEDITATION:

All in attendance stood for the Pledge of Allegiance to the flag, which was followed by a period of silent meditation.

ANNOUNCEMENTS:

President Rishel announced that following the public meeting this evening, the Board of Commissioners would convene in an executive session with the Solicitor for the purpose of discussing legal and/or personnel issues.

PERSONS TO BE HEARD/CITIZENS COMMENTS:

Dennis Bidwa, Little People Day Care, questioned if the emergency municipal services tax was going to be approved for the \$52. He is concerned because of his fifty-five employees last year, forty of them made less than the \$12,000. They will have to wait an entire year for a their refund and it puts an undue hardship on those individuals. The Board informed Mr. Bidwa that the Pennsylvania State legislature is looking at ways to collect the tax across the entire year but there is nothing that can be done this year.

APPROVAL OF THE MINUTES FROM THE PREVIOUS MEETING:

Commissioner Klunk noted that the December 29, 2004 minutes should be corrected to read that Commissioner Klunk had nothing to report under Health and Sanitation. The Board of Commissioners minutes from December 20, 2004 and the public hearing for December 29, 2004 were approved as submitted. The minutes from the December 29, 2004 were approved as corrected.

TOWNSHIP REPORTS - STANDING COMMITTEES:

Finance Committee - Commissioner Klunk

Commissioners Klunk/Johnson moved to approve Township warrants in the amount of \$436,654.03. Commissioner Klunk abstained for all warrants for vendor #60. Motion carried.

Commissioners Klunk/Felix moved to approve Ordinance No. 625 amending Chapter 121, Occupation Privilege Tax, Article IX, of the Penn Township Code of Ordinances, Ordinance No. 246, to adopt the Emergency and Municipal Services tax, and to conform to the requirements of Act 222 of 2004. Motion carried on a 3-1 roll call vote with Commissioner Johnson casting the dissenting vote.

Commissioners Klunk/Johnson moved to approve Ordinance No. 626 amending Ordinance No. 548, the Pension Fund for Non-Uniformed Township Employees. Motion carried on 4-0 roll call vote.

Commissioners Klunk/Felix moved to approve Ordinance No. 627 amending the compensation to be paid to the Treasurer of Penn Township for services performed in the collection of Township taxes as well as duties as Treasurer. Motion carried on a 4-0 roll call vote.

Public Works Committee - Commissioner Klunk

There were no additions or changes to the Engineer's Report.

Planning & Recreation Committee – Commissioner Felix

There were no additions or changes to the Zoning Officers report.

There were no subdivision and land development plans submitted for formal filing.

Commissioners Felix/Johnson moved to approve the following subdivision and land development plan:

P03-19 Baxter Investment/Goehrig & Laird Subdivision
Motion carried.

There was a motion made to deny the P04-20 South Western School District plan but it was withdrawn.

Commissioners Felix/Johnson moved to approve the following extension requests that will expire on April 18, 2005:

P03-03 Bowman Tract Apartments
P03-15 Pine Brook Development
P03-23 John & Martha Halter
P03-29 Bon Ton Builders

P04-01 – Ginger Tree
P04-04 – Dave Humbert & Jack Cook
P04-18 – Pigeon Hill Park
P04-21 – Isaacs Restaurant
P04-23 – Mary E. Oaster
Motion carried.

Commissioners Dubbs/Johnson moved to approve the following extension request that will expire on February 21, 2005:

P03-21 – Columbia Cottage
Motion carried.

Commissioners Dubbs/Johnson moved to approve the following extension request that will expire on March 21, 2005:

P04-20 – South Western School District
P04-22 – Hickory Falls Family Entertainment Center
Motion carried.

Commissioners Felix/Johnson moved to approve a request dated December 7, 2004 from New Horizons Partnership, LLC for a waiver of a land development plan to install a parking area and a new walkway. Motion carried.

Commissioners Felix/Johnson moved to approve a request from Frederick and Joy Fowler and Carl and Ruth Hankey for a waiver of the grass strip required for sidewalk at 900 and 902 Baer Avenue. Motion carried.

Personnel Committee - Commissioner Felix

Commissioners Felix/Johnson moved to accept Randy L. Angel into the Penn Township Firefighters Pension Plan effective January 10, 2005. Motion carried.

Commissioners Felix/Johnson moved to reappoint Timothy Dunn to the Penn Township Zoning Hearing Board, said term to expire January, 2010. Motion carried.

Commissioners Felix/Johnson moved for the reappointment of Albert Sterner to a one-year term on the Penn Township Vacancy Board. Motion carried.

Commissioner Felix announced that the Township is accepting applications for a vacancy on the Zoning Hearing Board.

Health & Sanitation – Commissioner Johnson

Commissioner Johnson had nothing to report.

Public Safety Committee - Commissioner Johnson

Commissioners Johnson/Klunk moved to award the bid for three (3) police cruisers to Warnock Automotive, East Hanover, New Jersey for a price of \$18,711 per vehicle including trade-in. Motion carried.

MANAGERS REPORT: There were no additions/corrections to his report.

OLD BUSINESS: None.

NEW BUSINESS:

Commissioner Klunk stated that at the next Public Works meeting there will be a plan for review on the proposed improvements to Grandview and Black Rock Road intersection. The meeting is February 1, 2005 at 7:00 p.m.

PERSONS TO BE HEARD/CITIZENS COMMENTS: None

QUESTIONS FROM THE PRESS FOR THE COMMISSIONERS:

Questions from the press were received and answered.

ADJOURNMENT:

There being no further business to come before the Board, Commissioners Klunk/Felix moved for adjournment at approximately 7:47 P.M. Motion carried.

Respectively submitted,

Kristina J. Rodgers
Township Secretary