

**BENNER TOWNSHIP PLANNING COMMISSION
REGULAR MEETING MINUTES
December 9, 2010**

CALL TO ORDER

The regularly scheduled meeting of the Benner Township Planning Commission was called to order at 7:00 p.m. by Nate Campbell, Chair, at the Benner Township Municipal Building.

ATTENDANCE

Members present: Rob Fugate, Dave Jackson, Jim Swartzell and Genny Robine. Also attending was Renee Swancer, Zoning Officer; Dan Sieminski, Penn State University; Jim Myers, Centre County Airport Authority; Allen Neely, attorney for Penn State University; Bryan Rodgers, University Park Airport Director; Andrew Schwartz, Environmental Planning and Design; John Elnitski, Supervisor; Randy Moyer, Supervisor; Mark Torretti, Penn Terra Engineering; Eric Porter, and Helen Alters.

MINUTES

The minutes from the November 4, 2010 regular meeting minutes were presented for approval. It was noted that a typo was in the minutes. Mr. Fugate should be noted as "absent." Ms. Swancer will make the changes. Mr. Swartzell moved the approval of the minutes. Mr. Jackson seconded the motion.

Vote: Mr. Swartzell - yes Mr. Fugate - yes Mrs. Robine - yes
 Mr. Jackson - yes Mr. Campbell - yes

PERSONS TO ADDRESS THE BOARD

Spring Creek Overlay Ordinance:

PUBLIC COMMENT

John Elnitski: Mr. Elnitski started by saying he appreciates the Commission's work. He would like the Commission to take its time in reviewing the comments carefully. He feels the Township should be more restrictive than less restrictive to make sure everything is done right. He feels a lot of the comments received by the Township can be easily handled by Environmental Planning and Design (EPD). He suggests the regional commercial zone, excluded from the overlay, should be further evaluated since it involves input from another municipality.

Dave Breon: Mr. Breon was not presented, however, his written response was noted as received by the Commission.

Randy Moyer: Mr. Moyer stated he does not like the ordinance. He thinks there are other ordinances in the Township that deal with this area. Mr. Moyer does not think the Township should adopt ordinances or policy that cannot be adopted straight across the board especially since the Township has no jurisdiction over the Game or Fish Commission. He doesn't like the Township making policy that is only enforced on private landowners; however, he is in favor of taking care of the canyon.

Dan Sieminski, Penn State University: Mr. Sieminski comments relates to the primary zone. Penn State owns land on the north side of Barns Lane that was included in the primary zone. This area was not included in the master plan so he believes it should be removed.

Mr. Campbell stated this area was included because it was part of the same forest already included within the master plan. Mr. Schwartz noted there are unique habitats in this forest that are the same as the master plan.

Mr. Neely believes the Township ordinances are overlapping and there is confusing and conflicts with the overlay for applicability and enforcement.

Mr. Swartzell asked the current timetable with this ordinance and what's the next step? It was explained the Township has 90 days after the last public hearing to decide what action it will take with the ordinance. Mr. Swartzell noted he serves on both the Airport Authority and the Benner Township Planning Commission. Mr. Swartzell expressed he was not present for all meetings held on the ordinance and he feels there are inconsistencies with the ordinance-- one being the regional commercial zones exclusion from the overlay ordinance. Mr. Swartzell thinks exclusion of the regional commercial zone provides legal challenges.

Bryan Rodgers: Mr. Rodgers referenced the Federal Aviation Administration's (FAA) letter. The forest canopy provision is contradictory to the wildlife hazard management required for the airports operational certificate. FAA's letter stated the airport is required to do strict environmental reviews. FAA's letter also states that no entity can change the land use designation of a federally obligated airport.

Jim Meyers, Centre County Airport Authority: Mr. Meyers asked why the regional commercial zone is excluded, but the airport was left in. He feels the ordinance is not friendly to commercial property. Mr. Meyers asked why the regional commercial zone is excluded when the area drains into the spring creek canyon area. Mr. Meyers thinks the reason the Township excluded it was because the Township wants to see the area develop. Mr. Campbell responded the regional commercial area is to be master planned with College Township. Mr. Campbell hopes other townships will join Benner Township in protecting Spring Creek.

Mr. Schwartz stated the secondary zone was developed because of the importance of protecting the upstream drainage areas. Mr. Schwartz stated the Planning Commission wanted to figure out how the Shiloh area was going to be used before putting it into the overlay.

Ms. Robine stated, when the overlay ordinance was originally started, landowner designation was not known. The intention was to protect as large of area as possible.

DISCUSSION WITH EPD

Mr. Schwartz handed out three exhibits (A,B,C) for the Commission to review based on all the comments received by the Township. Mr. Schwartz believes some the comments can be easily addressed since they are clarifications. Exhibit A is a super summary of all comments. Exhibit B is EPD's suggestive revisions, and Exhibit C contains areas requiring more discussion. Mr. Schwartz feels the suggestive revisions in Exhibit B are clarifications, an error, and minor adjustments that would not change the spirit of the ordinance. Copies of the Exhibits are attached to the minutes. Mr. Schwartz discussed each individual exhibit.

Mr. Schwartz discussed in Exhibit A the dark sky requirements. EPD pulled the airport authority's most recent lighting plan for the new parking lot. The average footcandle is 1.4. The maximum footcandle is 4. EPD is recommending the average be 2 footcandles and the maximum be 4 footcandles.

Mr. Schwartz discussed in Exhibit A the stormwater and runoff requirements. Department of Environmental Protection (DEP) adopted "best management practice standards". Now in Pennsylvania, DEP prohibits two-year storm events from being discharged into ponds. DEP now wants the water infiltrated.

Mr. Schwartz discussed the restoration zone should include warm season grasses to avoid conflicts with the airport's hazard zones.

Mr. Schwartz discussed the topic raised about overlapping conflicts among ordinance standards. The zones regulate bulk requirements (lot size, land use, setbacks). Base zoning includes the conservation, airport industrial, agriculture zones. The overlay zone is a zone which overlays the base zone by introducing different types of site improvement standards. Comments received suggest the spring creek overlay zone overlaps or conflicts with existing zoning requirements. Mr. Schwartz carefully reviewed the ordinance and he does not see any such conflicts. The spring creek overlay zone focuses on site improvement standards such as parking lot design, and lighting design.

Mr. Schwartz further discussed why the Shiloh road regional commercial zone properties were not included. Originally, these properties were included, but were removed because of the further discussions that need to occur with adjoining municipalities. Mr. Schwartz noted the Shiloh properties need to be addressed at some point, but until this area is further looked at it may be premature to put it into the overlay. But maybe now is the time, it is up to the municipality as to how it chooses to look at this area.

Mr. Schwartz then began discussion on Exhibit C. Exhibit C outlines items needing more discussion. The airport raised the concern the parking requirement will not work. Mr. Schwartz noted that if heat islands are addressed properly the number of parking stalls is not such an issue. EPD did not address the impervious coverage requirement, but the Planning Commission may want to go back and revisit this issue. EPD did not address the question of Penn State wanting to put in stormwater ponds instead of infiltrating the water. The current overlay ordinance embraces DEP's best management practices. To allow ponds instead of infiltration would need much more discussion. Mr. Schwartz explained water infiltrating the ground eventually provides the stream, through springs, as "cold water." When water is directed into a pond and released into the stream, it leaves as "warm water." Warm water changes the ecology of the stream.

Mr. Schwartz discussed "heat islands". A heat island is an area that absorbs a lot of sunlight and gets hot and creates thermal pollution. A parking lot is a heat island. The pollution occurs when the rainwater that falls on the parking lot drains into the stormwater pond and then is discharged into the stream. Spring Creek is a cold-water fishery. Warm water changes the ecology of Spring Creek. The heat island requirement breaks up the asphalt with tree canopies and vegetation.

Mr. Schwartz discussed solar panels. Solar panels are designed to absorb sunlight and do not produce heat like asphalt. Solar reflectance then becomes a non-issue. The Airport Authority issue of site

disturbance with regards to the construction of solar panels is a non-issue, since the site is already disturbed with a parking lot.

Mr. Schwartz addressed the USDA comments that there should be no "new" agricultural activity within 5-mile radius of the airport. If Penn State was concerned, then they won't be farming their properties. USDA also made some comments regarding hatcheries. USDA suggests the existing hatchery be exempt but further expansion fall under the overlay. Mr. Schwartz did not know how to address this comment.

Mr. Swartzell asked about the deed restrictions for the properties. Ms. Robine noted that Clearwater is not involved. Ms. Robine stated deed restrictions falls with the Township.

Ms. Robine stated Dave Breon made a very good point at the public hearing. She wants everyone in the audience to think before making comments. Instead of looking at why we can't do it, look at the reason why we did the ordinance [protect spring creek canyon] and provide us with comments that allow us to achieve our goal.

Mr. Swartzell asked what was the driving force from the master plan to create the secondary zone? Mr. Schwartz stated while the plan focused only the lands to be transferred, there are other eco-systems that are watershed driven that need to be protected.

Mr. Fugate thinks the spring creek overlay map oversteps its bounds in some respects. He thinks the dark sky requirements should be included in the base ordinance, since they are so important. Mr. Swartzell agrees with Mr. Fugate's statement about placing some of the requirements into the base zone.

PUBLIC COMMENT REOPENED

Dan Sieminski: Primary zone includes review and approval by LAMP which will now be TAG. He does not think that TAG should be responsible outside the primary zone. His second comment relates to tree inventories. Do all the trees need inventoried? What is defined as a "site." His last comment relates to chemical management plan. He is unsure that there is a way to prepare a plan for chemical usage for agriculture since certain chemicals used are regulated by law and usage. The amount of application depends upon a number of factors (soil study), etc.

Allen Neely: Mr. Neely noted most of the comments and concerns have been addressed. Mr. Neely asked if EPD had documentation showing where the drainage goes? Mr. Schwartz noted "no." Mr. Schwartz noted that with the recent parking lot construction, the airport authority should have this documentation. Mr. Schwartz also noted stormwater piping can be different than topography, so each has to be evaluated.

Mr. Neely asked about the FAA requirements. Mr. Campbell noted Benner Township does not have any intention to override the federal requirements. Mr. Neely noted some of the warm grasses may need further defined. Mr. Neely still thinks there is a lot of overlap and confusion within the ordinances. Mr. Schwartz noted the requirements listed within the zoning ordinance (steep slopes, riparian buffers, etc.) are requirements for all zones not just the conservation zone, and as previously stated, does not see any conflicts or overlapping.

Dan Sieminski: Mr. Sieminski feels the dark sky requirements are very important in the primary canyon zone. Mr. Schwartz noted there are two different lighting requirements between the primary and secondary canyon zones.

Jim Meyers: Mr. Meyers stated Ms. Robine noted when the Planning Commission started the overlay ordinance it was not known "who" the property owners were going to be. The same principal applies to the Shiloh Road area. Those property owners are not known. Mr. Schwartz clarified the reason the Planning Commission did not include the area, as stated previously, since it is unknown what type of development could occur and the area is to be master planned with another municipality. Mr. Meyers thinks the area should be included now and then taken it off later if needed. Mr. Meyers asked if solar panels could be included in the heat island as a "credit." Mr. Schwartz noted that solar panels are already included as a credit in the computation for heat island computations.

Mr. Campbell ended the discussion by stating the Township has a once in a lifetime opportunity to protect the canyon. If the canyon is ruined, the canyon is ruined forever. You will not get it back. Everyone needs to think "hard" about it.

The Commission decided to meet on January 6, 2011. Mr. Fugate moved to add January 6th as our reorganizational and canyon meeting. Mr. Jackson seconded the motion.

Vote: Mr. Swartzell - yes Mr. Fugate - yes Mrs. Robine - yes
 Mr. Jackson -yes Mr. Campbell - yes

Cooper Beeches/Conditional Use application: Mr. Mark Torretti and Eric Porter of Copper Beeches were present to discuss the conditional use application. A 10,000 sq. ft. building is proposed in Airport Park on Lot 22. Half of the building will be used for a bio-diesel laboratory and the other half will be used for furniture storage for the rental units managed by Copper Beeches in State College. Because a use needed to be defined for the storage area, warehousing was selected which is a use by "condition." Bio-diesel is a permitted use-by-right in the airport industrial zone. In the warehouse, no employees are proposed. No chemical storage will occur on-site within the furniture warehouse side. Traffic trips are to be protected as "minimal." It was noted that State College Borough Water Authority was contacted about the bio-diesel facility and a letter was sent to the Township indicating the Authority was comfortable with the proposal. Extra parking was designed in case the use changes in the future. Mr. Fugate moved to recommend approval to the Supervisors. Mr. Swartzell seconded the motion.

Vote: Mr. Swartzell - yes Mr. Fugate - yes Mrs. Robine - yes
 Mr. Jackson -yes Mr. Campbell - yes

NEW BUSINESS

OLD BUSINESS

CORRESPONDENCE

NOTES

ADJOURN

With all business complete, the meeting adjourned.

Respectfully submitted by:
Renee Swancer, Zoning Officer