

Benner Township Board of Supervisors
July 6, 2020
Public Hearing on Rezoning of Tax Parcel 12-004-035
Consisting of 88.77 acres from Industrial to R-2

The public hearing for the rezoning request of 12-004-035 was called to order at 7:00 p.m. by the Chairman, David Wise with board members Randy Moyer and Larry Lingle present. Also in attendance were Czapla, Doug Baney, Cheryl Baney, Thomas Kupchinsky, Bryan Rodgers, Charima Young, Stephanie Ward, Jim Lanning, Brian Heiser, Matt Harlow, Gary McEwen, Bruce Balmat, Thomas Eby, George Downsborough, Ed Dunkelberger, Cathy Dunkelberger, John Elnitski, Chris Groshel, Joann Dornich, Devon Warner, James Meyer, Doug Erickson, Ken Layng, Rodney Beard and Sharon Royer.

Mr. Wise noted that he was going to turn the hearing over to Mr. Beard to conduct. It was noted that a court stenographer is present and will be recording the meeting. Mr. Beard noted the following:

- *The Dunkelberger application for rezoning was received on or about May 5, 2020.
- *The proposal was forwarded to the Centre County Planning Commission and the Nittany Valley Planning Commissions on May 15, 2020 for their ability to review and comment on the application as per the Municipality Planning Code.
- *The Benner Township Planning Commission reviewed the request at their meeting which was held on May 28, 2020 which received a favorable response.
- *Adjoining property owners were notified by regular mail on or about June 3, 2020.
- *The public hearing notice was published in the Centre Daily Times legal section on June 18 and June 25, 2020, giving public notice.
- *The property was posted on June 26, 2020.

Matt Harlow, principal with the ELA group spoke on behalf of Berks Homes who has equitable interest in the Dunkelberger property as well as Mr. Dunkelberger, the owner. Points that Mr. Harlow made in favor of the rezoning request include:

- *The township has a lot of land zoned industrial and very little land zoned residential that isn't already built out.
- *The Nittany Valley Regional Comprehensive Plan forecasts Benner Township as the fastest growing in the Nittany Valley Planning Region and that there is a need for housing. The comp plan lists Benner Township as one of the three highest employment destinations in the area.
- *This parcel is adjacent to the R-3 residential zoning of Nittany Glen and there for it is compatible and not spot zoning.
- *This parcel has utility infrastructure on site.
- *State College Borough Water Authority would like to see residential uses near their well field rather than industrial uses.
- *If the land is rezoned, the developer will work with the State College Borough Water Authority to readjust lot lines and create a larger wellhead protection area.

*Exhibits were presented regarding noise and PennDOT compatibility guidelines. Mr. Harlow noted that he feels with the location of the proposed development and the elevations of the area, that the level of noise exposure will be much lower than the FAA 65 DNL threshold.

*Mr. Harlow pointed out on the University Park Airport's master plan that there are several areas noted about future land acquisition on plan documents however, none of these properties are located near the Dunkelberger property. He continued that if this was a concern that the airport own this parcel, that he feels that the University should have signed a first right of refusal for the property.

*Mr. Harlow noted that when comparing the location of the Aero Point residential development located in Patton Township with the location of the future proposed center line of the runway with the proposed Berks development that the two developments are pretty much in alignment.

Mr. Wise questioned if there was anything in writing from the water authority that they are ok with this. Mr. Dunkelberger noted that there is in fact a memorandum of understanding between himself and the SCBWA for the land swap. It was noted that the proposed land swap would be an almost even swap. Mr. Heiser noted that the Water Authority's first choice for the Dunkelberger property would for it to remain agriculture if it had a choice. He noted further that when being faced with development that they would rather have residential development of the property instead of industrial.

Ken Layng questioned how many homes are being proposed. Mr. Harlow noted that at this time it is not known that they haven't gotten that far into the planning process.

Thomas Kupchinsky questioned where the proposed egress would be for this development. Mr. Harlow noted that it would be onto Fillmore Road, but that the exact location won't be known until the land development process would begin.

Bryan Rodgers, Director of the University Park Airport, presented the Board members with a packet of information that was prepared by Mead & Hunt. Mr. Rodgers noted that the property in question, with the current zoning of industrial, provides a buffer between the existing residents of Nittany Glen and the airport. Mr. Rodgers noted that the zoning classification of industrial is consistent with the Nittany Valley Regional Comprehensive Plan that was adopted by multiple municipalities including Benner Township. Mr. Rodgers quoted the Comprehensive Plan as stating, "Local officials should coordinate their community development goals to accommodate this important facility and prevent the development of new uses that would adversely affect or be adversely affected by the planned airport expansion." Mr. Rodgers noted that by rezoning this property to residential would remove the existing buffer and expose future township residents to adverse impacts of aviation activity.

Stephanie Ward from Mead & Hunt who assisted University Park Airport in updating and preparing the sustainable airport master plan spoke to the Board regarding the airport master plan and the ACRP Report, Airport Cooperative Research Program Airport Number 27. Stephanie also referenced a report that she helped compose for the Transportation Research

Board titled, “Enhancing airport land Use Compatibility, Land Use Fundamentals and Implementation Resources.” Ms. Ward noted that FAA is currently updating its Airport Land Use Compatibility Advisory Circular, a document that is based on ACRP research. She noted that when residential development takes place in close proximity to an airport two things happen; the quality of life for the residents living in that area is effected by noise, smells, and traffic from the airport and the loss of asset to the airport in terms of activity that might take place or by stymied at the airport because of those residential uses. Ms. Ward noted that she views the 65 DNL as a line on a piece of paper. She noted that it isn’t until a Part 150 noise study is done that the true noise levels would be known. She noted other concerns as being visual obstructions and distractions depending on how the development is laid out, wildlife hazards (ie. stormwater ponds that attract wildlife), and safety issues should an aircraft have to divert during a landing or just off of a take off. Ms. Ward noted that this proposal is counter to development of orderly growth and development due to its potential impact on the airport as well as quality of life for future residents. It isn’t consistent with the Township’s Regional Comprehensive Plan. It was noted that the airport has had an extensive amount of growth lately in terms of passenger claimants. It was noted the University Park Airport is sixth in the state of the 15 commercial service airports in terms of economic impact to the state.

More discussion took place regarding the 65 DNL that was referenced. Discussion was also held regarding linear layouts of the development when it is proposed to create a new road that would line up with Seibert Road. Ms. Ward noted that things can be done with lighting etc. to separate the two.

Mr. Heiser noted that he knew nothing of a Seibert Road proposed extension that could impact the Alexander well field. Mr. Groshel noted that this proposed road relocation goes back to the initial master plan 2003-2004 and is sure that Mr. Heiser’s predecessor Max Gill was aware and involved.

Mr. Elnitski made comments from his prospective as the manager of Bellefonte Airport.

Doug Erickson, Patton Township Manager, pointed out the following: Patton Township has concerns regarding potential traffic impacts on Patton Township from this proposed development, they have concerns with the lack of planning consistency and what effects this development could have on future airport expansion since it is a vital asset to the entire county.

Chris Groshel, Chairman of the Centre County Airport Authority, noted how much growth the airport was experiencing prior to COVID. Mr. Groshel noted that he and other authority members recognize the rights of the land owners to maximize their value of their property and of the Township to allow sufficient utilization of the land, but at the same time they understand the laws of unintended consequences and of poor planning. He noted that the predecessors carefully considered their actions when this land was originally zoned industrial and that today we are now seeing that their efforts and foresight have contributed to the subsequent success of the airport which benefits all of Central Pennsylvania.

Tom Eby noted that he doesn't feel that Penn State pays its fair share to the Township. Mr. Groshel noted that the Township received over \$100,000 just last year in parking tax revenue.

Mr. Beard noted for the record all of the exhibits that have been submitted as well as the letters that have been received concerning this rezoning proposal.

The hearing was concluded at 8:09 p.m.

Sharon Royer, Secretary

Benner Township Supervisors

July 6, 2020

The regularly scheduled meeting of the Benner Township Board of Supervisors was called to order at 8:10 p.m. by the Chairman, David Wise with members Randy Moyer and Larry Lingle present. Also in attendance were Czapla, Doug Baney, Cheryl Baney, Thomas Kupchinsky, Bryan Rodgers, Charima Young, Stephanie Ward, Jim Lanning, Brian Heiser, Matt Harlow, Gary McEwen, Bruce Balmat, Thomas Eby, George Downsborough, Ed Dunkelberger, Cathy Dunkelberger, John Elnitski, Chris Groshel, Joann Dornich, Devon Warner, James Meyer, Doug Erickson, Ken Layng, Rodney Beard and Sharon Royer.

MINUTES

The minutes of June 1, 2020, were presented to the Board for their review and comments. Mr. Moyer moved to approve the minutes as presented. Mr. Lingle seconded the motion.

Vote: Mr. Lingle – yes Mr. Moyer – yes Mr. Wise – abstained

BILLS

The bills of July 6, 2020, were presented to the Board for their review and approval. Mr. Wise moved to approve the bills as presented. Mr. Moyer seconded the motion.

Vote: Mr. Lingle – yes Mr. Moyer – yes Mr. Wise – yes

PERSONS TO ADDRESS THE BOARD

Jim Langing: Mr. Langing noted that he feels as though the entity related to tonight's hearing is asking the Supervisors to consent to an unlawful taking of property.

OLD BUSINESS

Zoning Ordinance: It was noted that it is planned that the final non-substantial corrections can be made in the final document ready for adoption at the Board's August meeting.

Code Enforcement: Mr. Wise noted that the Township is looking into finding someone to go out into the field and address complaints dealing with township ordinance violations. It was noted the currently the township lacks a mechanism to address such complaints. Mr. Wise noted that the goal is to have someone in place by September to deal with these situations.

Nittany Express Final Land Development: Mrs. Royer noted that Nittany Express is nearing completion. A final walk through is scheduled for later this week. It is anticipated that all of the work is done and no surety will be required. Mr. Wise moved to contingently approve the Nittany Express Final Land Development Plan pending the walk through inspection finds no additional items need addressed. Mr. Moyer seconded the motion.

Vote: Mr. Lingle – yes

Mr. Moyer – yes

Mr. Wise – yes

Letter from Christine Line Re: 537 Special Study: The Board is in receipt of a letter from Christine Line, attorney for Gene Stocker asking that the Supervisors revise the Act 537 Special Study, and to respond to her previous letters. Mr. Beard noted that he will forward Ms. Line’s most recent letter to both SBWJA and the Centre Region Planning Agency to see if they have any further comments that they have regarding the Act 537 Special Study that was done. After that, a response will be drafted and sent back to Ms. Line. Mr. Wise moved to have Mr. Beard proceed with sending letters to both SBWJA and Centre Region on this matter. Mr. Moyer seconded the motion.

Vote: Mr. Lingle – yes

Mr. Moyer – yes

Mr. Wise – yes

NEW BUSINESS

MOU Phase III All Storage Solutions: The standard memorandum of understanding for the All Storage Solution Phase III was presented for approval. Mr. Wise moved to approve the MOU. Mr. Moyer seconded the motion.

Vote: Mr. Lingle – yes

Mr. Moyer – yes

Mr. Wise – yes

Resolution 2020-4: It was noted that this resolution formally adopts the Township’s restated non-uniform defined pension plan which brings the language up to date for IRS requirements. Mr. Wise moved to adopt Resolution 2020-4. Mr. Moyer seconded the motion.

Vote: Mr. Lingle – yes

Mr. Moyer – yes

Mr. Wise – yes

Ordinance 133: Ordinance 133 was presented to the Board for consideration for adoption. This Ordinance will allow the rezoning of the Edward Dunkelberger property with tax parcel 12-004-035 consisting of 88.77 acres from Industrial to R-2. Mr. Wise noted that a lot of information has been presented tonight. He asked what is the wishes of the Board. Mr. Moyer noted that he believes in private property owner rights and therefore he would like to make a motion to adopt Ordinance 133.

Mr. Lingle noted that he is making his decision based on the following:

*The State College Borough Water Authority is in favor of it.

*The property is already served by all utilities including water, sewer and gas which there isn’t many properties in the township that has this.

*Patton Township is developing near the airport and doesn’t see any reason why we shouldn’t.

*He noted that PSU and the Airport were both given the opportunity to purchase the property or swap it for other property and they turned it down

*He feels that this rezoning is in the best interest of the Township

Mr. Lingle seconded Mr. Moyer’s motion to adopt Ordinance 133.

Mr. Wise noted that there has been discussion tonight about having street lights washed to the ground, cooperation with various entities dealing with the egress to the development, perhaps PSU and the Airport could work with the developer to create more of a buffer. He noted that perhaps disclosures could be written and made to be signed by homeowners under contract so that they completely understand that they are building near an airport that may very well expand in the future. He noted that it comes down to buyer beware. He noted that he wasn't happy that I-99 was built in his back yard, but that he has had to learn to live with it.

Vote: Mr. Lingle – yes Mr. Moyer – yes Mr. Wise – yes

Harold Krape Subdivision Non-Building Waiver Declaration: It was noted that the non building waiver for the Harold Krape Subdivision was before the Board for their approval. It was noted that since the new lot was not going to be built upon at this time, that this allows for sewer testing or a sewer permit not to be obtained at this time. Mr. Moyer moved to approve the non-building waiver. Mr. Wise seconded the motion.

Vote: Mr. Lingle – yes Mr. Moyer – yes Mr. Wise – yes

CORRESPONDENCE

The Board acknowledged receipt of the following correspondence:

1. SBWJA Minutes of May 26, 2020 & June 8, 2020
2. Centre County Planning Commission Correspondence
 - a. Time Extensions
 - i. All Storage Solutions Phase I
 - ii. Nittany Express
 - iii. ARL Test Site Building 3
 - b. Final Land Development Phase IV letter
3. Grove Park 2019 Water Quality Report
4. Benner Township Water Authority Minutes – May 19, 2020
5. June Zoning Officer's report
6. DEP letter Re: Logan Greene Sewage Planning Module rejection
7. Letter from Pleasant Valley Aviation Re: Notice of applying for multimodal Transportation funds
8. Centre County Conservation District
 - a. ARFF – E & S Approval
 - b. SilcoTeck – Earth Disturbance Inspection Report
9. Engineering Review Letters
 - a. Village of Nittany Glen Revised Preliminary Plan
 - b. Village of Nittany Glen Phase IV
 - c. University Park Airport ARFF Building
 - d. Logan Green Preliminary Plan
10. Letter from DEP Re: PFAS Investigation

Being no further business, the meeting was adjourned the time being 8:21 p.m.

Sharon Royer, Secretary