

Benner Township Supervisors
June 5, 2023
Public Hearing Rezoning of Parcel 12-003-213

The public hearing for the potential rezoning of Tax Parcel 12-003-213 from Industrial to Commercial was called to order at 7:00 p.m. by the Chairman, Randy Moyer with members Larry Lingle and Tom Moyer present. Also in attendance were Rod Beard, Sharon Royer, Scott Rhoat, Thomas Eby, Tony Fruchtl, Debra Smeal, John Fisher, Allen Strouse, Treva Strouse, John Elnitski, Ed Galus, Dani Houtz, Dustin Houtz, Marshal Aloï, Karl Shellenberger, Gene Stocker, John Kostas, David Roberts, and Asif Khatri.

Mr. Beard noted that we received an application for rezoning on April 3, 2023. The request was made to rezone the property from Industrial to Commercial. At that time, the property was owned by the Commonwealth of Pennsylvania. PKA Associates made the application for rezoning. Since that time, the property has been acquired by Stuckey Ford Bellefonte RE LLC. Letters were sent to both the Commonwealth and Stuckey Ford Bellefonte. Notice of the request was sent to the Centre County Planning Commission on April 27, 2023, for their review. The Benner Township Planning Commission reviewed the application at their meeting on April 27, 2023, and found the request favorable. The property was posted for public notice on May 22, 2023. Legal notice was given in the Centre Daily Times on May 16, 2023, and May 23, 2023.

Mr. Randy Moyer asked if anyone from the audience had any public comments or questions.

Mr. Gene Stocker questioned if any land development plans have been submitted for this property? Mr. Moyer indicated that no land development plans have been submitted. Mrs. Royer noted that on the application, the applicant noted that potential uses for the lot could be retail uses, possibly a restaurant, hotel, or a car dealership. The preliminary sketch of the lot has been provided indicating perhaps five lots would be created out of this one.

Mr. David Roberts questioned if there would be enough sewer capacity for these lots and uses. He also questioned which sewer authority would provide service to this area. Mr. Randy Moyer noted that at this point in time because this is a rezoning request that sewage capacities would not be addressed. Sewage capacity will be addressed once land development plans are presented. The sewage will be handled through Spring Benner Walker Joint Authority.

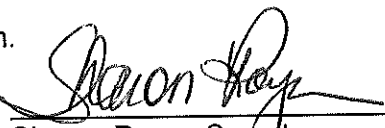
Mr. Beard noted that Ordinance 140 has been prepared which will rezone tax parcel 12-003-213 from Industrial to Commercial if the board is so inclined to adopt. Mr. Randy Moyer moved to approve and adopt Ordinance 140. Mr. Larry Lingle seconded the motion.

Vote: Mr. T. Moyer – yes

Mr. Lingle – yes

Mr. R. Moyer - yes

The hearing was adjourned the time being 7:08 p.m.


Sharon Royer, Secretary

Benner Township Supervisors
June 5, 2023
Public Hearing Zoning Ordinance Text Amendments

The public hearing for the potential zoning ordinance text amendments was called to order at 7:10 p.m. by the Chairman, Randy Moyer with members Larry Lingle and Tom Moyer present. Also in attendance were Rod Beard, Sharon Royer, Scott Rhoat, Thomas Eby, Tony Fruchtl, Debra Smeal, John Fisher, Allen Strouse, Treva Strouse, John Elnitski, Ed Galus, Dani Houtz, Dustin Houtz, Marshal Aloj, Karl Shellenberger, Gene Stocker, John Kostas, David Roberts, and Asif Khatri.

Mr. Beard noted as our zoning officer continues to work with the zoning ordinance, we come up with a list of clarifications and additional items that need to be added to the zoning ordinance document. At a previous meeting, the board authorized the list of the changes to be prepared for a zoning ordinance amendment. The proposed changes were mailed to the adjoining municipalities for review and comment on May 2, 2023. The proposed changes were also sent to the municipalities of the Nittany Valley Joint Planning Commission on May 2, 2023. In addition, the proposed changes were sent to the Centre County Planning Commission for their 30-day review comment also on May 2nd. Legal notice was given of the potential ordinance amendment in the Centre Daily Times on May 16, 2023, and May 23, 2023.

Mr. Beard noted that the Township did receive comments back from the Centre County Planning Commission with some minor suggestions/clarifications which would make everything tie together better in the ordinance. For instance, the County recommended to make sure that our definitions matched the master use schedule. Mr. Beard noted that that makes sense and that is what was intended with these changes. Mr. Beard noted that there was no opposition to the changes that were being proposed.

Mrs. Royer noted that letters were received from both College Township and Patton Township noting that neither had any comments on the changes being proposed. No comment letters were received from any of the Nittany Valley Joint Planning Commission municipalities.

Mr. Randy Moyer ask the public if anyone had any comments on the proposed amendments.

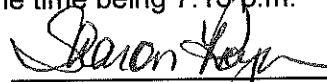
John Elnitski stated that he does not believe that the alternate energy matched up with any of the definitions in the zoning ordinance book. He noted that he feels that this is a problem.

Mr. Beard noted that the county pointed that out as well. The titles used in the master use schedule does not match up in the definitions section. Mr. Beard noted that he feels that this really only has to do with alternative energy "accessory" to a principle use versus alternative energy facility that is a principal use on the property. Mr. Beard noted that the Energy Production Facility (alternative energy) is what is to only be allowed as a permitted use in the Industrial Zone. The "accessory" energy production is permitted in any zoning district to a principle use.

Mr. Elnitski noted that, that is not how the proposal was written and he believes that it needs to be re advertised and done over. Mr. Beard noted that he does not feel that this is a substantial change to what was done and doesn't believe that it needs to be re advertised. Mr. Beard noted that the county did not indicate that they felt this needed to be re advertised for a minor correction in the language. Mr. Elnitski questioned what wording would be changed? Noting that there are three different definitions in the ordinance. He noted that he believes that the

public needs to know what is going to be done. Mr. Beard noted that he is removing the word solar from the master use table where it reads energy production solar. Mr. Beard noted as stated in the legal ad what is happening is the conditional use designation in the forest conservation and AG district will be removed from the table for energy production facilities (alternative energy). Mr. Beard noted that where the confusion comes from is the word solar.

Mr. Randy Moyer noted that he's fine with rewording it and re-advertising the ordinance. The board decided to table proposed ordinance 141 until further amendments can be made and it can be re advertised. The hearing was adjourned the time being 7:18 p.m.



Sharon Royer, Secretary

**Benner Township Supervisors
June 5, 2023**

The regularly scheduled meeting of the Benner Township Board of Supervisors was called to order at 7:20 p.m. by the Chairman, Randy Moyer with members Larry Lingle and Tom Moyer present. Also in attendance were Rod Beard, Sharon Royer, Scott Rhoat, Thomas Eby, Tony Fruchtl, Debra Smeal, John Fisher, Allen Strouse, Treva Strouse, John Elnitski, Ed Galus, Dani Houtz, Dustin Houtz, Marshal Aloj, Karl Shellenberger, Gene Stocker, John Kostas, David Roberts, and Asif Khatri.

PERSONS TO ADDRESS THE BOARD

Mr. Moyer asked if anyone in attendance that wasn't on the agenda wanted to address the board.

David Roberts: Mr. Roberts questioned the status of the proposed Bellefonte Warehouse project? Mrs. Royer indicated that the lot consolidation plan is complete and they plan on recording that plan when the closing for the lots takes place. She noted that she believes that the land development plan itself is pretty close to being completed as well. The building plans have been reviewed by zoning and by the building code officer and thinks that those permits are also ready to be issued when the time comes that they are officially applied for. Mr. Roberts noted he had lots of questions dealing with stormwater on this project. He has concerns dealing with the runoff of the 1,000,000 square feet of roof, thermal heating from the roof and parking lot areas and how is this going to be managed. He noted that he also has questions if riparian buffers would be built in as well. The Board noted that stormwater is looked at by the Township's Engineer as well as the Conservation District. Mr. Roberts noted that while this runoff may go into a detention basin, the land in that area is karse and has concerns that that water will end up in the near by trout streams and have an effect on the fish. Mr. Roberts noted that he would like an opportunity to review the plans. The Board noted that they are at the building, that he could make arrangements to look at them.

Karl Shellenberger/ Cascade Land Development Plan: Mr. Shelleberger was present to seek conditional approval of the Cascade Land Development plan. Mr. Shelleberger noted that there are a few more items to address on the plan but feels that they are relatively minor in nature. Mr. R. Moyer noted that the Board is in receipt of a Second review letter from the Centre County Planning Office indicating that there is approximately 20 items needing addressed, a letter from the Township's Engineer, Don Franson with concerns dealing with Stormwater and recommending that the plan not be approved, comments from the township's traffic engineer

with outstanding items that need to be addressed, a letter from the Zoning Officer, Mike Lesniak noting outstanding items needed to zoning approval and a letter from the Centre County Conservation District noting that the submission to them was incomplete and would need to be resubmitted after additional information is obtained. The Board noted that with so many items outstanding that there is no possible way for them to conditionally approve this plan.

Mrs. Royer indicated that the Township is in receipt of the Sewage Planning Module with the accompanying approval letters from Bellefonte Borough and SBWJA for the Cascade Land Development plan so that the Sewage Planning Module could be processed. Mr. R. Moyer moved to approve the Cascade Sewage Planning Module. Mr. Lingle seconded the motion.
Vote: Mr. T. Moyer – yes Mr. Lingle – yes Mr. R. Moyer – yes

Bridleridge Subdivision: Tony Fruchtl was present to review the proposed Bridleridge Subdivision proposed for Spring Township. Mr. Fruchtl noted that this subdivision was proposed several years ago and was then withdrawn. It was noted that none of the homes would be located in Benner Township. The entrance is located in Benner, but onto a state road that will require a PennDot HOP. It was noted that previously the Board had waived any review of this subdivision since it was almost exclusively located in Spring Township. A copy of the previous letter was shared with the Board. Mr. R. Moyer moved to waive reviews of this plan. Mr. Lingle seconded the motion.
Vote: Mr. T. Moyer – yes Mr. Lingle – yes Mr. R. Moyer – yes

Scott Rhoat – Bellefonte EMS: Mr. Rhoat was present to give the Board an update on the calls that Bellefonte EMS has responded to in the Township for the 1st quarter of the year. It was noted that the two locations in the Township that receive the most calls are the Greystone Court building and the Continental Courts mobilehome park. To date this year 125 emergency calls have been responded to in the Township. Mr. Rhoat asked that the Board members please try to attend the meeting in July at the Bellefonte EMS building. He noted that the possibility of creating an intergovernmental agreement will be discussed. Mr. Rhoat thanked the Board for hosting the location for last week's EMS workshop on Effective EMS Relationships with Township and Borough Officials.

MINUTES

The minutes of the May 1, 2023 meeting were presented to the Board for their review and comments. Mr. R. Moyer moved to approve the minutes as presented. Mr. Lingle seconded the motion.
Vote: Mr. T. Moyer – yes Mr. Lingle – yes Mr. R. Moyer – yes

BILLS

The bills of June 5, 2023, were presented to the Board for their review and approval. Mr. R. Moyer moved to approve the payment of the general fund bills in the amount of \$104,113.03. Mr. Lingle seconded the motion.
Vote: Mr. T. Moyer – yes Mr. Lingle – yes Mr. R. Moyer – yes

OLD BUSINESS

Ordinance 141: Ordinance 141 was tabled and will be readvertised with additional clarifications noted in the draft.

Bid Opening for Pipe Replacement Walnut Grove: Mrs. Royer indicated that she just opened the sealed bids for the Walnut Grove stormwater pipe replacement job. Bids were as follows:
Hogen's Heros DBA J5 Construction - \$79,000.00

John Claar Excavating, Inc. - \$53,995.00

Ameron Construction, Inc. - \$49,000.00

Mr. R. Moyer moved to award the bid to Ameron Construction in the amount of \$49,000.00. Mr. T. Moyer seconded the motion.

Vote: Mr. T. Moyer – yes

Mr. Lingle – yes

Mr. R. Moyer – yes

NEW BUSINESS

Easement Agreements – SunCap Lot Addition: Mr. Beard noted with the 3 lot, lot consolidation plan for SunCap for the Bellefonte Warehouse project there are several easements that were created when the property was going to be utilized as three separate parcels. With the parcels being consolidated, there are several easements that need to be altered or extinguished. Mr. Beard noted that he has reviewed the proposed easement agreements and found them to be acceptable for signatures whenever the documents are formally presented for signatures.

ATV/Dirt Bikes on Township Roads: The Board was in receipt of an email from Dani Houtz asking if the Supervisors would consider taking action to allow ATV's and dirt bikes to be driven on Walnut Grove, Majestic View and Millson Circle roads. Dani Houtz, Dustin Houtz and Marshal Aloï were present to address the board regarding this request. Mr. T. Moyer questioned Mr. Beard if there would be legal implications to the Township by doing this. Mr. Beard noted that yes there would be implications. He noted that he knows that it is allowed in other municipalities but that the roads that are used are very rural in nature and usually serve the purpose of connecting areas to rail trail facilities. Ms. Houtz noted that while this area isn't rural they are all dead end roads. Mr. Lingle noted that he could see if looking into it if there were trails in the area but can see problems allowing it just to ride on the townships roads. Mr. T. Moyer agreed with Mr. Lingle. Gene Stocker noted that he has lived in that area for over 40 years and that the utility road around the airport has been used by motorcycles and 4 wheelers with Penn State knowing about it for a very, very long time. He noted that in order to get to the road that people would probably have to access his property. Mr. R. Moyer noted that just because people are using that road doesn't mean that it is legal to do so. Mr. T. Moyer noted that Rails to Trails are areas that are legally accessible to these types of traffic. Mr. R. Moyer noted that he doesn't feel that it would be in the Township's best interest to allow this. The question was asked what the Township's Right of Way was in this area. It was noted that at most it would be 25' from the center of the road, a total of 50'.

Street Sweeper: Mr. T. Moyer went over the two street sweeper options that the Road Crew and himself looked at. He noted that they went to Spring Township and ran their Elgen sweeper and then Johnson brought a unit to the Township building for the employees to look at and drive. It was the opinion of the staff and himself that the Johnson would be a better fit for what the machine is needed for. It was noted that both units are on the state contract. The Board noted that ARF funds would be used for this purchase. The Johnson unit's price is \$324,252.00. Members of the audience questioned if this purchase was really necessary. How often does this machine get used? The Board noted that this machine gets used very frequently, year round. The current machine that we have was purchased from a neighboring municipality several years ago and it is currently using 2 gallons of oil each day it is run. The roadcrew has already replaced several major components of the current machine from parts of another used machine that we had. The usefulness of the current machine is quickly coming to an end. Mr. T. Moyer moved to approve the purchase of the Johnson machine using ARF funds. Mr. R. Moyer seconded the motion.

Vote: Mr. T. Moyer – yes

Mr. Lingle – yes

Mr. R. Moyer – yes

Harvest Meadows Lane Shift improvements in Township Right of Way: It was noted that as part of the Harvest Meadows Subdivision, a turning lane into the development off Fillmore Road was deemed to be necessary. In order for the developer to complete this roadway improvement, they are asking permission to utilize the township's existing Right of Way. Mr. R. Moyer moved to grant permission to Harvest Meadows to use the Township's Right of Way of Fillmore Road for the turning lane construction. Mr. T. Moyer seconded the motion.
Vote: Mr. T. Moyer – yes Mr. Lingle – yes Mr. R. Moyer – yes

Harvest Meadows, Phase 1 Surety Reduction: The developer of Harvest Meadows is seeking a surety reduction for Phase I from \$3,134,657.00 to the new amount of \$1,610,373.00. The Board is in receipt of a letter from Don Franson dated May 3, 2023, stating that Mr. Franson reviewed the request and finds the request acceptable. Mr. R. Moyer moved to approve the surety reduction. Mr. Lingle seconded the motion.
Vote: Mr. T. Moyer - yes Mr. Lingle – yes Mr. R. Moyer – yes

Village of Nittany Glen Phase VI Surety Reduction: The developer is seeking a surety reduction for Phase VI of the Village of Nittany Glen from \$1,089,817.91 to \$336,238.65. The Board is in receipt of the review and approval letter from Mr. Franson dated May 13, 2023, that he finds the request acceptable. Mr. R. Moyer moved to approve the surety reduction. Mr. Lingle seconded the motion.
Vote: Mr. T. Moyer - yes Mr. Lingle – yes Mr. R. Moyer – yes

Village of Nittany Glen Phase VII Surety: Mrs. Royer noted that the developer of the Village of Nittany Glen is working on the surety package for Phase VII. The final version of the agreement is awaiting review and approval from Chris Schnure. The amount of \$1,993,083.07 has been approved by the Township Engineer, Don Franson. Mr. R. Moyer moved to conditionally approve the surety package once the agreement and original bond are provided. Mr. Lingle seconded the motion.
Vote: Mr. T. Moyer - yes Mr. Lingle – yes Mr. R. Moyer – yes

Valentine Hill Road Maintenance Agreement Re: Logan Green Development: Mr. Beard noted that he has reviewed the draft Valentine Hill Road Maintenance Agreement that has been drafted by the developer and revised by Spring Township's solicitor, Tracey Benson. The agreement states that \$15,000 will be placed into an account that can be used to fix the road at anytime that it is needed and will be replenished to the \$15,000 when funds are expended. Since the development is already in progress, \$12,500 will be placed in an escrow account with an additional \$400 from every new home permit issued will be added. Those funds will be saved up to be utilized for final road construction improvements. Mr. Beard noted that there are a few final details to work out such as setting up the accounts, etc., but that this is the main points of the agreement. The Board noted that they agree with the concept of the agreement.

NOTES

Mr. Kotes questioned how much of the ARF funds are left, what has the money be utilized for. It was noted that a mini excavator has been purchased, \$250,000 has been earmarked for a new plow truck, \$5,000 for the Bellefonte EMS, the \$324,000 for the street sweeper, potentially \$5,000 to the airport if the contract materializes with a new airline, and \$30,000 for the 10% match of a new one man leaf truck.

Mr. David Roberts questioned what the time extension was for the Bellefonte Warehouse. It was noted that once a plan is conditionally approved by the Centre County Planning Office with conditions the developer has a designated time period to address all of the conditions. If the

conditions are not met in that time frame, a time extension needs to be requested in order for the plan to remain active. After a certain number of time extension requests, the developer then must pay a fee to keep the plan active.

Mr. Roberts questioned the correspondence on the PFAS update by DEP. Mr. T. Moyer noted that all of the updates are available on the DEP website.

Mr. Roberts questioned what the Centre County Conservation District letter is about dealing with the completeness letter SunCap – Bellefonte Warehouse. Mrs. Royer read excerpts of the letter.

Mr. Stocker questioned if soil testing has been done in the area where the stormwater pipe is being replaced in Walnut Grove. What is going to happen with the soil that is being dug out? Is it going to be sequestered somewhere? He also questioned if any soil samples have been taken within the development, on any lots owned by residents. Mrs. Royer noted that Terry Cable asked Cheryl Sinclair some of these questions in an email; "At the last Benner Township Supervisor's meeting there was mention of a stormwater drainage pipe repair or replacement in the Big Hollow stormwater drainage areas either under Walnut Grove Drive or under Big Hollow Rd. Are permits required for the replacement? Is PFAS soils testing required for this type of soil disturbance?" Ms. Sinclair's answer to that question was, "a permit is required only if there is to be a stream crossing in an area with 100 acres of drainage. In that case, the required permit would be a general permit which does not require any soil sampling." Mrs. Royer noted that Mr. O'Leary did look into seeing if it met the 100 acres of drainage and it did not, therefore no permits or testing were needed. Mr. Stocker noted that is not correct. Mr. Stocker noted that there was a lawsuit with one of his neighbors and Penn State several years ago and that Todd Gidding's report stated that there was 117 acres of drainage down towards Spring Creek. Mr. Stocker noted that he would like Mr. Franson to investigate that acreage area. Mrs. Royer noted that there was another question that Terry Cable had asked of Cheryl that said, "I spoke with N. Warren Miller (SBWJA Ex.Dir.) today about the sewer project and soils testing for PFAS. He said PADEP had completed the soils testing with the Benner Township PFAS Investigation for the proposed sewer line laterals across airport property to the connector at the Fullington Bus Terminal. That would include a lateral pathway from the end of Majestic View Drive below Dam Pond 1A, below the decommissioned runway to PAANG and along Minute Man Road to Fox Hill Road. Warren said there were no other soils tests for PFAS along the remaining sewer route.

1. I am not aware of any PFAS soils tests performed in the proposed sewer construction areas by PADEP. Are there requirements for PFAS soils tests in the Big Hollow Stormwater drainage areas when constructing the sewer? Do the soils have to be kept on-site as did UPA for the apron reconstruction?" Cheryl's response to that was: "There are no requirements to sample soils when planning or installing a sewer line (or other utility such as a water line). Soils excavated during construction have no special handling requirements, although typically they are placed back in the excavation area and then regraded." Mr. Stocker noted that he disagrees and has emails from Warren Miller that states that the soils removed for the sewerlines will be required to be sequestered. Mr. Stocker noted that he believes that soil samples are needed before the pipe work is completed. Much discussion was held. The Board noted that we received advice from DEP and that the soil samples are not needed. Mr. Stocker noted that he would contact Ms. Sinclair regarding the testing and will pay for the soil testing. Mr. Roberts questioned if the workers would be in danger if the PFAS is in the soil and they are subject to it in the air. The Board noted that we have been in discussions with

DEP. No permits are needed and nor are we required to do soil testing. The bid for the pipe replacement has been awarded and that we will proceed with the work.

CORRESPONDENCE

The Board acknowledged receipt of the following correspondence:

1. SBWJA Minutes – April 24, 2023 and May 8, 2023
2. Centre County Planning Commission Letters
 - i. Commencement with Construction Phase VII Village of Nittany Glen
 - ii. Time Extensions
 1. Village of Nittany Glen Phase VII Village
 2. Belle Rose Townhomes
 3. Cascade
 4. Bellefonte Warehouse
3. DEP PFAS investigation Report update for May 2023
4. Grove Park Water System 2022 Annual Report
5. Conservation District Letters
 - i. Logan Greene Earth Disturbance Inspection Report
 - ii. Completeness letter SunCap – Bellefonte Warehouse
6. NPDES Permit Application Notice Cascade Preliminary Plan
7. Copies of Emails Terry Cable/Cheryl Sinclair Re: PFAS
8. West Nile Virus Program update
9. NPDES Permit Application Notice Logan Greene Subdivision
10. May Zoning Officer's report

ADJOURNMENT

The meeting was adjourned the time being 8:22 p.m.



Sharon Royer, Secretary