

**SPRINGETTSBURY TOWNSHIP  
CONDITIONAL USE HEARING**

**JANUARY 23, 2014  
VERBATIM APPROVED**

The Board of Supervisors of Springettsbury Township held a Conditional Use Hearing, continued from December 12, 2013, on Thursday, January 23, 2014 at 6:30 p.m. at the Township Offices located at 1501 Mt. Zion Road, York, PA.

**MEMBERS IN**

**ATTENDANCE:** George Dvoryak, Chairman  
Julie Landis, Vice Chairman  
Kathleen Phan  
Bill Schenck  
Mark Swomley

**ALSO IN**

**ATTENDANCE:** John Holman, Township Manager  
John Luciani, Civil Engineer  
Patricia Lang, Community Development Director  
Jean Abrecht, Stenographer

**1. CALL TO ORDER**

**DVORYAK** All right. Good evening ladies and gentlemen. Welcome to this special meeting of the, for a Conditional Use Hearing.

**2. NEW BUSINESS**

A. CU-13-01 – Springetts Commons (Action 12/24/13)

**DVORYAK** I would like to announce that I am reopening this Hearing on the application of Vienna-York, LLC. The applicant, however, has approved a continuance of this evening's Hearing date. The Hearing is underway as of this evening, as the board has convened the Hearing and opened the record. The Hearing will be continued to a date, time and place certain. That date, time and place being Thursday, February 27, 2014 at 6 p.m. at the township administrative office, 1501 Mt. Zion Road, York, Pennsylvania 17402. Therefore, we are continuing the Hearing for this evening, and it will continue on Thursday, February 27, 2014 at 6 p.m.

**DVORYAK** And with that we'll move to, I think what we'd like to do, and I believe Ms. Lang you've been prepped for this. Kind of explain the project that we're going to be having this Hearing on the 27<sup>th</sup> and the Conditional Use process.

**LANG** (inaudible) am speaking during the Hearing. It didn't matter to me. I just think the record – she needs to know whether...

**HOLMAN** You're speaking during the Conditional. This is still part of the Conditional Use Hearing.

**LANG** Sure. I think both the process and the project are complex, and so I have not had the opportunity to talk to you before to (inaudible) the requirement to make a

decision. The Town Center Overlay is applicable in an area of East Market Street. There's also an area with what's called a Gateway of the I-83 and Exit 18 area with the same set of requirements. Every, literally every use in the Town Center Overlay Zoning District is only permitted by Conditional Use approval. Rather than committed by right, which means everybody can come in and do it, Conditional Use approval means there's a special set of criteria that you have to meet in order for this use to get approved. So although it is on the list of things you can do, unless you meet the criteria you can't necessarily do it. So there's a specific list in the Zoning Ordinance Conditional Use Design Standards. Some of them are fairly straightforward, such as you can't use this type of sign; others of them, much more difficult and maybe slightly vague; open to interpretation. The Design Criteria calls for specific type of development in looking for sort of a downtown feel rather than a suburban highway commercial feel that's kind of what's out there right now. So it's a very different look, buildings being brought towards the street, emphasis on sidewalks and pedestrian access; some concerns about lighting, signage, architectural improvements. You'll find all of those conditions or criteria in the Zoning Ordinance. It's not kind of an open book, but there are – you get to decide if you like it or not. The question is do they meet the specific criteria that were laid out in the Zoning Ordinance for this specific use. A Use by Right has criteria as well. The lot has to be a certain size with certain setbacks. Those would apply, but there's an extra layer of requirements when you get to Conditional Use approval. If you're familiar at all with the Zoning Hearing Board work, they look at special exceptions. Special exception is the same thing, a use subject to criteria. The only thing that's different about Conditional Use is the board has authority to decide. Instead of the Zoning Hearing Board, it's the Board of Supervisors. And so the applicant will be coming and making a presentation to you about how they meet these criteria and you can then make a decision. You have the opportunity to establish additional conditions. If there is something specific about this site or this use that you think you need a little bit more protection, you can establish additional conditions that can be attached to be approved. Fortunately for you all, the project goes through a staff review before it's presented to our Planning Commission, and at the Planning Commission level they are going to try to get it in a format where they think it's going to be acceptable to the board. They will make a recommendation to you as they always do, and also recommend any conditions that they think might be appropriate for the project as well. So it's helpful to take a look at obviously Chapter 325 in Zoning, but the Town Center Overlay criteria. If you have the opportunity to look at those in advance of the meeting, that's a much better idea of the type of criteria standards that we're trying to meet. This particular proposal is for a vacant lot that has some significant concerns. It's not a straightforward development proposal. It's bisected by a fairly large drainage way/stream. We've also come to acknowledge in the review process that the updated FEMA maps show a significant portion of the property also in a floodplain. So those are things I'm not sure they were prepared to deal with. The proposal at this point in time calls for a mix of uses, which is appropriate. Some residential in the form of a assisted living facility; the rest sort of office/commercial type; a bit of a retail strip center

with unknown tenants at this time, and two restaurants proposed; no definite tenants at this time. So a mix of uses, a torrent corner that currently sees a lot of vehicle traffic but also has potential to draw from people who work at the IRS building across, that's new across the street, people that may work at Wal-Mart and may want to do banking or go to lunch or dinner or something during their work shift. So, but we don't anticipate that people are going to walk from East York to this location. There's a lot of people doing business in that area right now during the day. If they didn't have to get in their car to go some place, that would be a good thing so that's kind of where the proposal is at this point in time. The continuance is, again at this point in time, at the request of the applicant. They are trying to get their ducks in a row so that they're ready to move forward with the proposal. I was in touch with them earlier this week, and they are even hesitant about the 27<sup>th</sup> of February, but they are going to be shooting for that. Any questions about the specifics; I can try to answer those. I've already given you at least a glance of what the requirements are for a better idea of what will be seen when they come in.

**LANDIS** I have a couple questions, two actually. I know last meeting you had stated that the floodplain map was going to be revised. By the 27<sup>th</sup> are we going to have that new, the new updates on that?

**LANG** The maps have been released. They are preliminary at this point in time. FEMA's position is that if, if the floodplain, shown on the preliminary maps, is greater than what it was, that the new maps should be the ones that are used. We have encouraged this applicant that if they dispute where that boundary is shown, they should make that appeal to FEMA right now before the maps get adopted. They need to do some modeling in order to accomplish that. I'm not certain that they want to go to that extent or not, but we can show you the preliminary maps. We have copies, both digital and paper copies, of the currently-released preliminary update of the FEMA map.

**LANDIS** Did it change drastically in that area?

**LANG** Yes.

**LANDIS** It did.

**LANG** Yes.

**LUCIANI** It wasn't there before.

**LANG** It wasn't there at all, and now clearly almost half the property is in the floodplain. I think we had some warning of that when we worked on the project across the street. The same tributary crosses the IRS property, and when they did the modeling for the floodplain, they found that it is much larger in width than they anticipated.

**SWOMLEY** They actually raised that building.

**LUCIANI** Right. That's why it sits up above Industrial Highway, right.

**SWOMLEY** And that's much higher than the other property on the other side of the street.

**LANDIS** My other question is, and I hear this quite often and I'm not sure how to fix it, with the Town Center Overlay, the projects that are coming forward since I've been on the board always seems to never fit in what we designed, okay. So I'm hearing this over and over and over again, and I haven't, I don't know if we're doing anything about it. I've heard maybe perhaps we need to go back and look at the Town Center Overlay structure, and maybe we need to revise that a little bit so we don't have to continuously come back to, you know, the various committees and ask for variances and things like that. So where do we stand with that because that is a common theme that I've heard numerous times?

**LANG** I would say there is, there is two concerns. One is procedural. The way that the ordinance is set up, it asks for a lot of detail up front. I would say that most people aren't use to doing business that way. I looked at Springetts Commons. They have no idea. They have no tenants. It's all spec. So it's very hard for them to design a building when they don't know who's going to move in it. And so there's a tension there because we're saying we've got to know this in order to approve it, and they're saying, well we don't know. You know? So it's just a way, it's a different way of approaching a project than most people are use to. The other is when you look at what's out there right now, it's very different from what this ordinance calls for, and so the idea of a drive-through bank, why not? That's the kind of focused development that's out there and what we're looking for is something that's very different. And there's not – the franchise model that's out there, the Dunkin Donuts and the banks, you know, that's not what we're looking for. And so you have to find the right person that wants to be a part of what we're trying to create in the down town, and that isn't just anybody. So I don't know, it depends on what your commitment is to the regulations that were designed to accommodate and implement a Town Center. If you really believe in the vision of the Town Center, then I think the ordinance, with some tweaks, is what you want to go with. If you don't want to change the look of what's down there, then you probably should amend the ordinance significantly and think about whether you need the Town Center Overlay.

**LANDIS** Mr. Holman, when was the Town Center created?

**HOLMAN** Town Center Overlay was part of the Comprehensive Plan that was adopted by the township in 2007. We will begin re-looking at that based upon concerns in this year as part of the Comprehensive Plan review so that it is given full, a full opportunity for both the public and the board and everybody to weigh in on this, as we did before. And then we will revise, or tweak as the case may be, what is

needed. In a lot of these items we have met the spirit of the Town Center Overlay, but the board itself has allowed some conditions and stuff, which can be about waivers and other items to allow things to go through. Because we've had quite a bit of development with the sidewalks, with the improvements we've been looking for, with the board allowing some waivers so that we were able to move forward with the development. So all that will be looked at as part of the Comprehensive Plan, which we'll also do as we are talking about that. We'll also include a Historic Preservation Review. But that will be part of this process that we go through.

**LANDIS** When is this process supposed to start?

**HOLMAN** We start this year. We are funded to start this year. We will be much heavier into it in the following year, and then 2016 when it is supposed to be finished, we will close out and revise all the ordinances as we did previously with a three-year project. Now if it isn't as difficult a project as it was before because it took quite a bit of work to come up with the Town Center's gateways. It was a time intensive project. It may not take us that amount of time, but I always look at it as a two-year process at least to get through. So '14 through '16, adoption of the new Comprehensive Plan and then the board, as we're doing that, we revise ordinances to match what the new Comprehensive Plan would look like, and then they can follow right along with the Comprehensive Plan and get adopted after the Comprehensive Plan is adopted.

**LANDIS** And this, my last question to that is, why was, back in 2007 obviously I didn't sit here as a supervisor, but what was the reasoning that the board, administration had gone this direction with this more Town Center Overlay versus what is there? What was the reasoning behind all of that?

**HOLMAN** As we know, when you do a Comprehensive Plan, you're looking 20 years in the future, and what we're looking at there was to encourage more pedestrian, more bicycle usage as opposed to car, encouraging bus transportation, encouraging people to go to the stores, go to park their car and walk around to the stores instead of what they do now, which is travel. And that takes time for that to come into play, and so far with the sidewalks that have been installed at the IRS building, that was a big plus what we received at the Chick-Fil-A, a number of the other properties that have come into play. We have seen the sidewalks and the pedestrians beginning to improve, as well as the buildings that are built that are more attractive or I'd say attractive and more esthetically pleasing than might have been there initially.

**LANDIS** What, if I remember correctly, when I was reading that, wasn't there some sort of plan to do some type of trolley or transportation in that format versus really encouraging people, like you said, to park their vehicles and walk from one area to the other and keep it more like a city style environment versus...?

**HOLMAN** I would have to go back and read it to see if there were trolleys. I'm sure there was a discussion with regard to Rabbit Transit, helping Rabbit Transit get involved. If you remember correctly, there was – if you remember Rabbit Transit came forward and offered to put in a number of bus shelters for the township so that people would be more encouraged to use the buses, but at this point they have not. They did submit a master plan for bus shelters. That master plan was approved so when they are ready, Rabbit Transit will be adding bus shelters throughout the township. But at this point Rabbit Transit has not put them in.

**DVORYAK** Anything else?

**LANDIS** No, nothing else.

**DVORYAK** Any other questions, comments?

### **3. PUBLIC COMMENT**

**DVORYAK** At this time I'll open the floor to any Public Comment. Charlie?

**STUHRE** Yes George. About a year and a half ago there was a combined meeting with the Planning Commission and the Board of Supervisors. I don't remember how many of the supervisors were there, and Marian Hull, I believe is her name,...

**HOLMAN** Marian Hull.

**STUHRE** She was here in attendance and I think she took back a lot of the comments from that. Has there ever been a report from her as to any of her recommendations from the discussion?

**DVORYAK** Charlie, can I ask you to come to the mic 'cause we're having trouble hearing you up here, and I'm sure in the back they can't as well.

**STUHRE** I would say about a year and a half ago there was a joint meeting of the Planning Commission and the Board of Supervisors. We had Marian Hull from – I don't know what the name of the company is she represents – but we discussed, basically that meeting was to over the Town Center and where we felt it should be tweaked, and I'm just wondering with the information she gathered, did she come back with a report of any recommendations or suggestions?

**DVORYAK** John, you remember the...?

**HOLMAN** Yes, there was a report that came back. If you remember, Charlie, that meeting was to try and determine what is mandatory, and what is, what could be waived because that was a confusion that was both with the Planning Commission and with the Board of Supervisors. She did come back with a report that was

provided back to the Planning Commission and to the Board of Supervisors. I think that meeting was about a year and a half ago.

**STUHRE** Yeah, it was a year or so ago, yeah.

**HOLMAN** Which did clarify a lot of points with regard to the Town Centers.

**STUHRE** I never saw the report. That's why I asked the question.

**HOLMAN** I'll be happy to get the Planning Commission another copy of the report, or I'll have – I know Patricia would have to find it – but I'm sure I have one back in my files in my email to pull back out. And it really was, this is what was considered when something says "shall" is something you really can't waive, but if something is just "may" or "could" that allows us to waive it. We do have that report and that was one of the preliminary steps in looking at what we're going to do long term because we all know that we do have to do some tweaking with the Town Center as part of the Comprehensive Plan Review so that it will be more effective.

**STUHRE** I just wanted to make sure it didn't die and get buried somewhere. Okay, thanks.

**DVORYAK** Thanks Charlie. Any other public comments?

**LUCIANI** Mr. Chairman, I think it would be probably important to say that this week, as a matter of fact, we had an applicant in the Town Center, Nello Tire – very preliminary; they haven't submitted anything. But they walked into the staff meeting and had architectural drawings that met the Town Center requirements. They had a site plan. Their issue is they're being forced by PennDOT to consolidate their operations and move closer to Camp Betty Washington Road, but they had architectural drawings that we thought met the criteria so I think, you know and we, some of the push back we got was it's a new ordinance; nobody's ever dealt with it before, and I think as Charlie said, when we had that meeting to discuss the Town Center, part of it was some of the interpretation. If you recall we were sending applicants off to the Zoning Hearing Board, and now you had to go through the Zoning Hearing Board, then you had to go through the Conditional Use and then you could start the Land Development Plan. It was like a one-year process. I think the interpretation that we, the takeaway from the meeting with Marian – I don't think – I think Jim Baugh was still here. Trisha was not on board at that time, but I think the takeaway was this board, the Board of Supervisors, can be the one-stop shopping to say they're going to release you from this requirement and hold you to that one, and I think there was some benefit to that meeting, but procedurally I think when you read through the ordinance, we didn't have a correct interpretation, and I think that got clarified via that meeting, but I do want to point out that the newest applicant that we see coming down the road, Nello Tire, the Town Center we think actually helped them putting their building closer to the road. They can use more of their space. They have customers that are

going to be sitting outside in warmer weather and so we saw a really good preliminary meeting that I don't think they're going to have to jump through the hurdles that everybody else has perceived. So I just want to add that.

**DVORYAK** Thanks John.

**LANG** It was refreshing. They came to the table, you know, a little bit concerned that they hadn't done enough, and we were, I think, overwhelmed by it. You know, other people we had, you know, had them kicking and screaming to get them to that point, and they started there, so it was, yeah. It takes a while for people to get the feel for it so...

**SCHENCK** Mr. Chairman, if I may.

**DVORYAK** Sure.

**SCHENCK** I was at the meeting that you're referencing with the Planning; the joint meeting with the supervisors and the Planning Commission. Mark, you were on the Planning Commission at the time. We you...?

**SWOMLEY** That was held a little bit earlier than I could make it down from Hershey that particular day.

**SCHENCK** I don't know that anybody else up here was at that meeting, my recollection, but I do know it was rather enlightening, and I think today, to confirm, the big takeaway was there was a lot of misunderstanding of "shalls" versus "may" and those kinds of words that the enlightening takeaway for me was exactly what John said was that supervisors really, you know, basically this is a framework of what we want. Rather than our current stuff for other areas it's prescribed. Right? It's black and white. This is like, "Here's kind of what we want. Show us what you have and we'll work together on it." That was real enlightening for me to hear that and actually I left that meeting thinking, wow, this is doable, workable. Because going into the meeting I thought we had created this huge mess, to be honest. But after that meeting with Planning Commission and Marian's input it seemed much, it made much more sense to me, and I felt – my takeaway was much more comfortable with the process because it's – supervisors aren't use to being able to direct a plan as much as this zoning allows. That was the big thing for me. Usually, it's, as you know, until it gets to us we're not evaluating the architecture. We're evaluating, you know, does it, you know, the legal side of it more or less. So, for what it's worth, it was an excellent – that's kind of when I lost my angst so much with the ordinance. I thought, "Well we'll just let it go for awhile and see as it works after that meeting" for what it's worth.

**SWOMLEY** I think it's also important to note that it's an overlay, so there are minimum standards underneath that so it's not giving them a free reign to do whatever they

want to do or to challenge us and do away with everything we're trying to do. There is a minimum standard.

**DVORYAK** And I can't help but wonder if it wouldn't be helpful to this, to all the board members here, particularly to our newest board members, to have a copy of that report that was referenced that came out of that meeting.

**HOLMAN** I'll be happy to make a copy available to the board. I certainly can email it to them, and if the board would like, and the Planning Commission would like, we could certainly schedule another joint session. There's no reason, and I always think every year or two it's helpful for the Planning Commission and the Board of Supervisors to get together. That's always been a positive point for me and for the boards because you both see the same plans. You both see the same developers. It's very helpful to sit down and see what's going on, and we could certainly bring Marian out and we could review that again.

**DVORYAK** Great. Anyone else have anything for the Good of the Order? None were heard.

#### **4. ADJOURNMENT**

The Hearing was not adjourned, but rather continued to February 27, 2013.

Respectfully submitted,

John Holman  
Secretary

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This document is certified as a true and accurate verbatim transcript of a

Conditional Use Hearing

Held

January 23, 2014

At

Springettsbury Township Offices

1501 Mt. Zion Road

York, PA 17402

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