

**PENN TOWNSHIP BOARD OF SUPERVISORS
1301 Centerville Road
Newville, PA 17241
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Special Meeting
December 19, 2013**

Chairman Martin called the meeting to order at 8:00 AM and led everyone present in the Pledge of Allegiance.

Those present: Chairman Gary Martin, Vice-Chairman Ken Sheaffer, Solicitor Marcus McKnight, Engineer John Shambaugh and Secretary Vicki Knepp. Also present was Gary Cribbs from the Planning Commission. Supervisor Seiders was unable to attend.

The Solicitor asked the Secretary if the meeting had been advertised. She replied that it was.

PUBLIC COMMENT

None

Chairman Martin stated there would be a short break for an Executive Session to clear up a few issues they had among themselves. The Solicitor stated no decisions would be made in the Executive Session; it will be simply discussing some legal issues with the plans that have been submitted.

The meeting reconvened. The Solicitor stated that during the Session we talked about some legal aspects of the plan but no decisions were made.

SUBDIVISION PLANS

IDI Penn Commerce Center – Attending for IDI were: Charles Suhr, Brian Reisinger, Dave Thomas and Eric Stump.

The Solicitor stated that now is the time on the agenda to discuss the plan. He stated that in the Executive Session he shared with the supervisors that an important point is that the developer is willing to accept the one entrance proposal. He asked if that was correct. Charles Suhr stated that it was. The Solicitor asked if the Supervisors had a motion so we could get to the discussion stage. Vice Chairman Sheaffer made a motion to approve the preliminary plan pending conditions, one of which is the second entrance. Chairman Martin seconded the motion. The Solicitor stated now is the time to have the discussion on the conditions.

The preliminary plan reflects 3 separate buildings. The entrance to the facility will be across from the Key Logistics roadway. He asked if it was understood that was what the plan is. There can be an emergency entrance but the Supervisors would prefer an emergency entrance north of the main entrance. It was felt that it was more logical to have it north of the light rather than south of it since most traffic will be coming from the north. We will agree that the emergency entrance can be changed and will still be part of the preliminary plan approval. Vice Chairman Sheaffer stated that it must be understood that the one to the south goes away. If they go with two buildings instead of three we ask that the preliminary plans be revised to

show that. We understand that as the plan is shown, with three buildings, there may be some design issues. Dave Thomas stated that to go with a single entrance they will reroute the circulation road from around the outside of the buildings and push the building "out" they can put the circulation roads between the buildings they can still break the buildings off to give them secure access. He believes with minor adjustments they can still make everything work. The Engineer asked if they moved the road, would they still have their parking along the outside of the buildings so there would still be access around the buildings, only the main road would be changed. Mr. Thomas replied that was correct.

Vice Chairman Sheaffer stated that the comment was made that most tenants now want 1,000,000 plus square foot buildings. This plan is three 800,000 square foot buildings so it only makes sense that this will change. Till this comes to fruition in all likelihood they will have two larger buildings. Mr. Thomas stated that they have studied that. We felt that three buildings was the most dense, the worst case scenario they could show us. Their other plan leaves Building A alone, removes building B and makes Building C a 1.2 square foot building and they lose 400,000 square feet. A third option would be to do a single 1.8 square foot building and they lose 6 or 700,000 square feet, but those options are better from the Township perspective. They will bring new plans showing buffering, etc. if they do change. Charles Suhr stated that the buffering, lighting and screening they discussed will all stay the same. It may be better, but it will not get worse.

The Solicitor summarized what had been discussed to this point:

- IDI is agreeing on the one entrance across from the Key Logistics entrance
- If the number of buildings is changed IDI will amend the preliminary plans to reflect the new change, we will be fine if all the other essential components of the screening, the entrance, and so on we remain as is. We are recommending but not insisting that they consider the emergency entrance north of the main entrance.

Charles Suhr asked if an emergency exit was a requirement. Vice Chairman Sheaffer stated that as far as the Township is concerned they don't have to have one at all. If down the road the need is seen it can be revisited at that time. Brian Reisinger thought that the Building Code might require the emergency exits. The Solicitor stated that they can always go to the COG and have an appeal hearing on the Building code issue.

- The Solicitor stated it was a condition that the essential terms of the Developer's Agreement be in place.

He stated that that did not mean we had to sign the Developer's Agreement at this point but that the terms would be understood by the parties. Part of the issue is what is the amount of the money we are asking for; how is it to be paid; and how is it to be allocated if it is paid. The total amount we had coming in from Key Logistics was \$450,000.00 which included water and sewer. Vice Chairman Sheaffer stated that \$150,000.00 was put in the water and sewer account, there was no rec fee at that time, \$276,000.00 was given for the Township to use at its discretion. Half of that was given to the fire company. We are basically using those same numbers. We would apply \$150,000.00 to the rec fee, \$150,000.00 to the fire company and the final \$150,000.00 for the Township. The Solicitor stated that he understood that part of it they wanted designated for improvements at the Newville exit of 81, part for rec fees and part tied up with each building's initial start. We would like most of the payment up front because there are impact fees up front. We might designate part of it first building, second building. Mr. Suhr stated that the rec fee would be paid in one lump sum. Mr. Thomas asked if the rec fee could be the deferred payment. Mr. Thomas stated that if they revise the number of buildings they would allocate the payment differently. The Solicitor suggested that we say the rec fee is not payable up front but subject to being divided by the number of buildings finally proposed at the issuance of the first building permit. Vice Chairman Sheaffer stated something he has thought,

and has not discussed with anyone is of the \$300,000.00 we would give half to the fire company and the rest be put into a fund toward 81 improvements. The Solicitor stated that if we did that we would have to have a clear agreement on what happens if after 10 years goes by what happens to the funds. We would need to get together with anybody in the vicinity that we would have a contribution to this fund that was established. He asked if IDI was agreeable to a Developer's Agreement which talks about the \$450,000.00 fund. Mr. Thomas stated he needs to be careful of fees so that he can be competitive and attract tenants. Water and sewer expenses are going to be around half a million or more each. Part of it is going back to Key as reimbursement for work that was done in the past and some reimbursing Verus for what has been done on the water tower so far. They asked if they could have a few minutes to discuss it among themselves. Mr. Suhr stated that they will agree to make the rec contribution as discussed and on top of that they will do the \$300,000; the \$150,000.00 to the fire company with the remainder of the funds going toward the I-81 interchange. They would like to put in that if the funds are not used within 10 years it goes back to IDI. Since they are installing the light and moving the stop bars, there needs to be talk about a lane for turning into their facility. They do not want to do it unless PennDOT makes them. The Solicitor stated that we are going to call it a Capital Improvement fund, but we do not want it necessarily tied into 81 improvements. We don't know if it will be a reality. Vice Chairman Sheaffer stated that the Engineer pointed out that \$150,000.00 is just a drop in the bucket compared to what would be needed for 81. The \$300,000.00 is unconditional on how the Township wants to use it. If we decide down the road we want to use it toward 81 O.K. It will not be refunded under any circumstances. The Solicitor stated that the rec fee can be paid in installments. He inquired if it will be \$163,000.00 or \$150,000.00. Mr. Suhr said that he assumed it would be the \$163,000.00 as specified in the zoning based on acreage. Vice Chairman Sheaffer stated that it will be \$150,000.00 and can be paid in installments. Chairman Martin stated that our problem with the fund is that Exit 37 is very constricted, if we start building a fund for everybody who comes in with a new development, very soon we will reach a point where we cannot take another development because the interchange won't handle it. You can't get money out of somebody who can't build and they won't give you money in the hopes of building 15 years down the road. We would never reach our goal without cooperation. So he is hesitant to tie this to that project. Mr. Thomas stated that it will be easier for him to get this through if he can tell his company what it will be used for. Chairman Martin stated that we can designate that \$150,000.00 will go to the fire company. It was asked what about other highway improvements. The Engineer stated that there is nothing specific, it's just that there may be other areas where it can be used instead of the interchange that may never happen. Any improvement that the municipality makes to its road systems will be an improvement to their development. The roads in the 233 corridor are all state roads. If a fund is developed by the municipalities we would be willing to contribute to that. Chairman Martin stated that if PennDOT ever designates that as a project we will contribute \$150,000.00 to that, but that would be years down the road. Mr. Thomas asked if we could preserve the fund for 10 years and then it will become a Capital Improvement fund. Chairman Martin stated that 10 years is good.

- It is understood that the developer will be paying for the installation of the light when PennDOT gives approval for the light and an escrow fund for the operation and maintenance of the light for 10 years.

The Engineer stated that at the time of installation we will find out the cost of the maintenance agreement. Charles Suhr asked if we thought it would be \$8,000.00 a year for 10 years. Vice Chairman Sheaffer said about that. Mr. Thomas asked if Key would help with that. He stated that their developer's agreement stated they would install the light and contribute to its maintenance. The Solicitor stated that we can approach Key about the maintenance of the light. Because of the single entrance we will be able to get the light sooner rather than later.

Eric Stump stated with two entrances it would require about 89% occupancy, with one entrance it is about 64%.

The Solicitor stated we also have the issues that were identified by the Planning Commission.

- DEP Planning Module ready for submission will be required prior to the submission of the final plan.
- Erosion and Sedimentation Plan with an NPDES Permit will be required prior to the submission of the final plan.
- A complete Stormwater Management Plan will be required prior to the submission of the final plan

The Engineer stated we do not want the final plan and then be waiting 6 month to a year for third party approvals. All that stuff should be with it when Mr. Reisinger comes back with the final plan.

Mr. Thomas asked about the \$3,000.00 landscaping contribution toward the neighbors. He said they are O.K. with that if it makes sense. Or does the landscaping and berms replace that. The Solicitor asked if that was important to us. Vice Chairman Sheaffer stated that was in case there was damage to a neighboring property during construction. Mr. Thomas asked if there were any specific properties we were talking about. It was determined it was two properties. Vice Chairman Sheaffer stated that the idea was to have that if the property of a neighbor was damaged. There is a condition in the Agreement that states that the developer will take care of any damage that impacts any adjoining property. It is believed that is sufficient. We will eliminate the \$3,000.00 condition.

- In order to proceed with the project, the water tower will be built, regardless of existing agreements with other developers.
- Conditioned on the Developer's Agreement. It is not ready for signature today, but it is understood that the Developer's Agreement will be binding upon heirs and assigns and we are agreeing to the \$0.04 square foot 12 years. All Bonding will be in place before the final plan is submitted.

Mr. Thomas stated they would estimate that to begin on tenant occupancy.

- The developer will comply with all PennDOT required improvements and in addition the developer will monitor the situation at the I-81 northbound light.

This will change if another developer comes in before them, they would need to monitor it.

The final Developer's Agreement and Bonding must be in place before the final plans are submitted.

Chairman Martin repeated the motion and called for a vote. The vote was 2 yeses and one absent Supervisor.

Charles Suhr thanked the Supervisors for accommodating them and having the meeting. The Solicitor stated a lot of the credit should go to the Planning Commission. We had an open discussion with them and they functioned the way a Planning Commission should work, with all the preliminary work being vetted and discussed prior to this meeting. It was a team effort.

ZONING ORDINANCE CHANGES

The Solicitor stated that the amendments to the Zoning Ordinance that were recently passed were more preliminary than we thought. At the last Planning Commission meeting the Director of the County Planning Commission provided input and gave us some options. Meeting adjourned for a few moments to allow the Secretary to make copies. Meeting reconvened. Chairman Martin stated he was confused when we did the rezoning, he thought we were doing an overlay but it will not work like we thought it would. We need to clarify the situation and go back to the text. The Solicitor said the question is do we create new zones with an overlay, do map changes or text changes or some combination of the two. Chairman Martin stated the Kirk Stoner's comment to him was if we do text changes it will allow us to grow with the water and sewer as it changes in the Township. If we do map we have to adjust the map to accommodate it. If we do a text change it will apply to anywhere there is water and sewer. Chairman Martin read "modify the Agricultural zone to include a variety of low impact uses by special exception in areas served by water and sewer." The Solicitor prefers that we do it by Conditional Use rather than Special Exception. The Solicitor recommended that we choose the option that we want and have the Engineer work with Mr. Stoner to get this accomplished. Vice Chairman Sheaffer stated that he believes the Supervisors have a little more objectivity and work with the residents on a one on one basis while the Zoning Hearing Board is more restricted than the Supervisors. The Solicitor said that both Conditional Use and Special Exceptions are a matter of right; it is a matter of who is putting on the conditions. Legally it is the same thing; it is a matter of who is doing it. Either way the burden is on those who are objecting to it. The Engineer pointed out that for a Zoning Hearing the fees have be based strictly on expenses for the Zoning Hearing Board. We need to consider the Conditional Use Hearing fees. The Solicitor suggested we have a \$150.00 filing fee but any commercial conditional uses the applicant pay any legal and engineering fees that are appropriate for review of their proposal. The Engineer suggested two fees, one for residential and one for commercial and the commercial fee needs to include legal, engineering, etc., call them professional fees. He will get together with Mr. Stoner to iron out what we need to adopt.

The Solicitor reiterated how well the Planning Commission worked.

Vice-Chairman Sheaffer made a motion to adjourn. Chairman Martin seconded the motion. Motion approved.

NEXT MEETING January 6, 2014

Respectfully submitted,

Vicki Knepp
Secretary