

The Greene Township Planning Commission met Monday, March 13, 2023 at 7:00 p.m. in the Fayetteville Volunteer Fire Department Social Hall located at 101 West Main Street, Fayetteville, Pennsylvania. Present: William Green, Chairman; Ralph “Kip” Feldman, Rich Fogal, Brian Kuhns, and Brooke Wenger, Members; Gregory Lambert, Township Engineer; Tim Cormany, Planner; Daniel Bachman, Zoning Officer; and Tyler Beaston, Solicitor.

VISITORS

See attached list.

CALL TO ORDER

Chairman Green called the meeting to order at 7:10 p.m., advised that the meeting will be recorded for accuracy purposes and asked visitors to please sign in.

APPROVAL OF MINUTES

On a motion by Member Fogal, seconded by Member Kuhns, and by a vote of 5-0, the Board unanimously voted to approve the minutes of the February 13, 2023 meeting as presented.

CARGILL ANIMAL NUTRITION - 1 LOT FINAL LAND DEVELOPMENT PLAN

The Zoning Officer (ZO) presented the 1 Lot Final Land Development Plan for Cargill Animal Nutrition located on Overcash Avenue in the Cumberland Valley Business Park. The applicant proposes construction of an addition onto an existing office building located in the Heavy Industrial (HI) Zoning District. Franklin County Planning Commission reviewed the plan with no comment; the sewer and water authorities reviewed and approved the plan; Franklin County General Authority’s comments are attached and state that the proposed expansion would place the building directly under and existing electric line. LIDA Electric policy does not permit facilities to be located within the existing easement area, but West Penn Power is in the process of engineering the relocation of the existing line in question; Franklin County Conservation District reviewed the plan and deemed the erosion and sedimentation controls adequate; The proposed expansion will generate two (2) new peak hour trips in the Traffic Service Area 1 (TSA-1) for a total Transportation Impact Fee of \$4,400.00; The Planner and Engineer’s comments are included in the packets for review. The Township Planner, Tim Cormany reviewed his comments and noted that sidewalks are required for all commercial land development unless waived by the Supervisors, but the revised plan otherwise addresses all comments to his satisfaction. The Township Engineer noted that the expansion will be constructed onto an existing concrete pad such that there will be no increase in impervious surface and no additional stormwater created. He recommends approval of the plan upon a tabulation of the parking being added to the plans. On a motion by Member Fogal, seconded by Member Wenger and by a vote of 4-0, with Kip Feldman abstaining from the vote, the 1 Lot Final Land Development Plan for Cargill Animal Nutrition was approved contingent upon the parking tabulation being added to the plans, consideration of the sidewalk waiver, and relocation of the existing electric line.

CONDITIONAL USE PERMIT APPLICATION – METROPOLITAN 4 LLC, 676 UNIT APARTMENT COMPLEX

The ZO presented the Conditional Use Permit Application for Metropolitan 4 LLC located off of Ragged Edge Road in the R-1 (Low Density Residential) Zoning District. The application was submitted on January 3, 2023 and presented at the last Planning Commission meeting, at which time the applicant requested that the plan be tabled until a later date. A Public Hearing has been scheduled by the Board of Supervisors for March 22, 2023 at 6:00pm at the Fayetteville Fire Department Social Hall. The agencies that received copies of application are the Chambersburg Area School District, Franklin County Planning Commission, Greene Township Municipal Authority, Guilford Water Authority, Franklin County

Emergency Services, The Township Planner and Engineer, and Guilford Township Supervisors. Of those agencies, comments have been received back from Franklin County Planning Commission, who expressed concerns with the project being consistent with the Comprehensive Plan. They stated that the volume and density of the proposed plan far exceeds the current transportation infrastructure capacity in the area. Franklin County Emergency Services reviewed the plan and noted that the development is not consistent with the Franklin County Hazard Mitigation Plan, and a portion of the complex is located in the inundation area for Long Pine dam in the event of that the reservoir would fail. Greene Township Municipal Authority (GTMA) is currently under a consent order with PADEP, and expressed concerns about the main interceptors being currently undersized. In order to provide any extra capacity, the interceptors would require upgrading. Guilford Water Authority was provided a copy of the application and performed a flow test of the water authority's facility on February 6, 2023. The applicant should provide that data from the flow test to the Water Authority's Engineer to evaluate the results. The Township Planner stated that at last month's meeting, he provided a memo dated February 7, 2023 in which he identified roughly seventeen (17) issues that need more information or correction. To his knowledge, there have been no new application materials submitted by the applicant, therefore his comments remain unchanged (attached). The Township Engineer stated that after reviewing the plan, he noted several deficiencies in the application including lack of available sanitary sewer service, public water issues, a non-conformity of the internal street system, stormwater issues, site access issues, and traffic and transportation issues. He noted that the location and intensity of the impervious coverage and housing units proposed do not fit well within the R1 zoned area, and the underlying karst limestone topography make the development of this property as proposed problematic. The Solicitor explained to the audience that the Planning Commission is a recommending body that makes recommendations to the Township Board of Supervisors about an application, and the Board of Supervisors ultimately makes the final decision on whether or not to approve the application. He explained that the Planning Commission is happy to hear public comments, and asked that those wishing to comment state their name and address, direct their comments to members of the Planning Commission as a whole, limit their public comment to three (3) minutes per person, remain respectful to one another, and if possible, have someone who is appointed to speak on behalf of the group. Attorney Bill Cluck, from Harrisburg spoke representing the citizens group opposed to the apartment complex. He explained that under the law of Pennsylvania, a Conditional Use is required to be reviewed by the Planning Commission and a hearing held by the Board of Supervisors. The applicant has the burden to meet the objective specific criteria of the Zoning Ordinance relevant to this application, and they completely failed to do so. He stated that he is impressed with the thoroughness of the review by the Planner and Engineer, but the review that caught his attention was the review of the Franklin County Department of Emergency Services dated February 2, which stated that the proposed development is not consistent with the Franklin County Hazard Mitigation Plan, and that a portion of the complex is located within the inundation area for the Long Pine Dam. This dam is classified as an A-1 high hazard dam indicating that the loss of life would be substantial or that economic loss would be excessive to residential, commercial and agricultural areas if there is a dam failure. Five of the proposed buildings are located entirely within the inundation area for the dam and one building is partially located within that area, and that information in itself is sufficient basis to recommend denial of the plan. Mr. Cluck referred to two letters that the applicants counsel deemed necessary to communicate to the ZO. He explained that when they submitted the application, they attacked the ordinance by saying that chapter 105-60 improperly requires submission of a fully engineered subdivision and land development plan, and on March 8th they wrote a letter alleging bad faith by the Township because they didn't have enough time to respond to the comments of the Engineer and Planner. Under Pennsylvania Law, the duty of good faith is reciprocal, meaning that it's not only good faith as a Township, but the applicant also has a good faith requirement, and their failure to attend this meeting, and communicate with staff regarding the comments is a violation of their duty of good faith. Mr. Cluck stated that he is very familiar with this law firm and has litigated with them over the years, and he views their tactic as bullying. He encouraged the Commission to limit

the recommendation to the applicants' failure to meet the specific conditional use criteria contained in the zoning ordinance, and to not give them an opportunity to litigate. The Chairman opened the floor for public comment. None was offered. On a motion by Member Feldman, seconded by Member Fogal, and by a vote of 5-0, the Conditional Use Permit Application for Metropolitan 4 LLC was denied based on the substantive comments and concerns from the Township Planner, Township Engineer, the Franklin County Emergency Services Department, the Greene Township Municipal Authority, along with comments from the numerous citizens relevant to the Township codes, rules and regulations, including but not limited to: Health, safety, comfort, convenience and general welfare of the public relative to the plans submitted and corresponding effort by the applicant.

CONSIDERATION OF ORDINANCE 2023-2 – ZONING TEXT AMENDMENT REMOVING MOBILE HOME PARKS, TOWNHOUSES, AND APARTMENTS AS CONDITIONAL USES IN THE R-1 (LOW DENSITY RESIDENTIAL) ZONING DISTRICT

The ZO presented the Zoning Text Amendment removing mobile home parks, townhouses, and apartments from the R1 (Low Density Residential) Zoning district. The Board of Supervisors have scheduled the Public Hearing for the Amendment for March 28, 2023 at 12:00pm at the Greene Township Board of Supervisors meeting room located at 1145 Garver Lane, Chambersburg. The proposed amendment was forwarded to the Franklin County Planning Commission who reviewed it and commented that the changes are consistent with the County's Comprehensive Plan and the amendment would better align housing densities with existing infrastructure. The Planner reviewed the amendment and recommends proceeding with the proposed amendment based on the following concepts: The Township's zoning program has evolved over the years to include multiple residential zones, each intended to represent a specific character defined by density and housing type, compatibility with existing housing development patterns, and proximity to infrastructure suited to serve the needs of varying degrees of population. The R-1 District was defined as low density and has developed primarily as neighborhoods of single-family detached residences. The continued inclusion of traditionally higher density residential options within the low density residential district increases the probability of conflict and incompatibility between adjoining properties. He stated that the proposed amendment would offer greater protection of established single family housing neighborhoods in the R1 areas, eliminate certain potential conflicts and incompatibilities between adjoining properties, promote a better municipal understanding of the limitations of the conditional use, guide developments of higher density to areas where suitable improvements, services and resources are more readily available, and discourage the introduction of attractive development resources further into areas of the Township not intended for growth. On a motion by Member Kuhns, seconded by Member Wenger and by a vote of 5-0, the Board unanimously voted that the Consideration of Ordinance 2023-1, Zoning Text Amendment removing mobile home parks, townhouses, and apartments as Conditional Uses in the R-1 Zoning District be forwarded to the Board of Supervisors for consideration.

ADJOURNMENT

There being no further business before the Commission, the Chairman adjourned the meeting at approximately 8:15 P.M.

Respectfully submitted,

/s/ Ralph (Kip) Feldman, III, Secretary

GREENE TOWNSHIP PLANNING COMMISSION