COLLEGE TOWNSHIP PLANNING COMMISSION
REGULAR MEETING AGENDA
Tuesday, February 6, 2024
7:00 PM
Hybrid Meeting (In-Person or via Zoom)

General Meeting Information
College Township offers both in-person and virtual meeting attendance for all public meetings. To attend in-person, meetings will be held at 1481 E. College Avenue, State College PA, 16801, 2nd floor meeting room. To attend virtually, please see the information below.

To Attend the LIVE Meeting Via Zoom on Computer or Smart Phone:
- Click here to REGISTER for the meeting via Zoom. Once registered, you will receive a confirmation email containing information about joining the meeting.

To Attend the LIVE Meeting Via Phone:
- Dial: 1 (646) 558-8656  ●  Meeting ID: 862 7222 5139  ●  Passcode: 107370

*Click Here for detailed instructions on how to participate via zoom.

VIRTUAL PUBLIC COMMENTS: Please use the raised hand feature to participate. The moderator will recognize those with their hands raised (either by name or phone number).

WRITTEN PUBLIC COMMENTS: For specific Planning Commission agenda items and for items not on the agenda, written public comments may be submitted in advance by emailing smeyers@collegetownship.org by noon the day of the meeting.

CALL TO ORDER:

ZOOM MEETING PROTOCOL:

OPEN DISCUSSION (items NOT on the agenda):

CONSENT AGENDA:  CA-1 January 16, 2024 Meeting Minutes (Approval)
PLANS:  P-1 Sketch Plan – Mt. Nittany Elementary School
OLD BUSINESS:  OB-1 Workforce Housing (Continued Discussion)
NEW BUSINESS:

REPORTS:  R-1 Council Report
- R-2 DPZ CoDesign Update

STAFF INFORMATIVES:  SI-1 Council Approved Minutes
- SI-2 Zoning Bulletin

OTHER MATTERS:

ANNOUNCEMENTS:  Next regular meeting will be Tuesday, February 20, 2024 at 7:00pm
- Next joint meeting with Council will be Tuesday, March 26, 2024 at 6:00pm
- Statement of Financial Interests – complete and return to Sharon Meyers ASAP

ADJOURNMENT:
CALL TO ORDER: Mr. Forziat called the meeting to order at 7:00 p.m.

ZOOM MEETING PROTOCOL: Mr. Forziat verified there were no members of the public present via Zoom and protocol did not need to be reviewed.

ROLL CALL: Mr. Forziat verified Ms. Ekdahl was excused from the meeting.

OPEN DISCUSSION:
Mr. Forziat stated that he would like to start 2024 off on the right foot and would like to remind everyone that we are all on the same team. The Planning Commission needs to rely on staff as valuable resources and expertise, and he continues to encourage diversity of thought while staying on task. Ms. Schoch stated that staff hears the Planning Commissions concerns and we are trying to keep the big projects separate. Mr. Gabrovsek noted that the Township is governed by the four corners of the code book we cannot approve/deny or require/prohibit specific things if they are not spelled out in the Code book. He added that anything the Planning Commission recommends must fall within the parameters of the Township Code.

CONSENT AGENDA:
CA-1 January 2, 2024 PC Meeting Minutes

Mr. Darrah moved to approve the January 2, 2024 meeting minutes as written. Mr. Fenton seconded. Motion carried unanimously.
PLANS:

P-1  320 Struble Road Building Addition Land Development Plan

Ms. Schoch gave a brief introduction of the plan while projecting a plan sheet. She stated that the impervious area on the lot will be decreasing with the building addition and added that this lot is considered a Superfund Site and has deed restrictions which this plan complies. Ms. Schoch then introduced Mr. Torretti from Penn Terra Engineering, Inc. for further explanation.

Mr. Torretti described the parking area, its lay out for ease of semi-truck circulation, and that there will ultimately be a surface coat overlaid to fix some patches and make the area a little more aesthetic. He also discussed the existing sidewalks both on the property and along Struble Road.

Mr. Forziat thanked Mr. Torretti for the well written narrative and opened the floor for discussion and questions. Ms. Khoury asked if there are any outstanding comments from staff. Staff confirmed there are none. Mr. Forziat asked if this is a retail/sales store. Mr. Torretti stated this is a distribution center and there are no sales at this location or contractor picking products up either. Mr. Hoffman asked where the front door is located. Mr. Torretti pointed it out on the projected image and explained it is located near the ADA parking stalls.

Mr. Darrah moved to recommend that Council approve the 320 Struble Road Building Addition Final Land Development Plan dated December 18, 2023 and last revised January 8, 2024 subject to the following conditions:

1. Within ninety (90) days from the date of approval by Council, all conditions must be satisfied, final signatures must be obtained and the plan must be recorded with the Centre County Recorder of Deeds Office. Failure to meet the ninety (90) day recordation time requirement will render the plan null and void.
2. Pay all outstanding review fees.
3. Address, to the satisfaction of the Township Engineer, any outstanding plan review comments from staff.
4. Fully comply with College Township Code Section 180-12.
5. Post surety as approved by the Township Engineer prior to recordation.
6. All conditions must be accepted in writing within seven (7) days from the date of the conditional approval letter from the Township Engineer.

Mr. Fenton seconded.
Motion carried unanimously.

OLD BUSINESS:

OB-1  Workforce Housing

Mr. Forziat introduced the topic and gave a brief summary of Mr. Brumbaugh’s chalk talk from the prior Planning Commission meeting. Ms. Schoch stated in November 2023 the Planning Commission had discussed the remand from Council and compiled five questions to be presented to Council. The Planning Commission has received the answers to those questions and will review them this evening.

Question 1 – How does the Township plan to offer realistic incentives to developers and bankers to construct single-family workforce housing?
The Planning Commission agreed with the response from Council and had no further questions.

Question 2 – Regarding owner-occupied units, how do we maintain the 60-120% Area Median Income (AMI) in resale?
This is addressed through deed restrictions and developer agreements, notes on plan, and a memorandum of understanding with Centre County Housing and Land Trust. Staff stressed that affordability is safeguarded for a thirty year period.

Question 3 – Clarify bullet #1 to recognize social-economic diversity of neighborhoods. What does this mean in more detail?
The Township is focused on new development and fostering inclusive neighborhoods, not revitalizing existing neighborhoods. Some commissioner’s opined that the Township should provide a variety of units from efficiency units to multiple bedroom units. Other commissioner’s said the types of units developed should be decided between the developer and Centre County Housing and Land Trust. Ms. Schoch stated that we need to keep in mind the possibility of unintended consequences. Mr. Forziat offered that College Township has a fairly liberal ordinance and restriction within the ordinance like predetermining the number of bedrooms per workforce housing units could ultimately be a disincentive to developers.

Question 4 – How do we prepare for changes in the AMI?
Planning Commission agreed that continued monitoring through the Township’s agreement with Centre County Housing and Land Trust is needed.

Question 5 – Does College Township have any percentage in mind for amount of workforce housing in the Township? What is your goal in the next few years?
The Planning Commission agrees to not set a numerical goal. However, as development occurs the ordinance should continue to be reviewed, tested, and updated as needed.

Ms. Schoch reviewed the remand and determined that the Planning Commission has completed the first suggested task to be completed prior to ordinance evaluation. The Planning Commission will move forward to the second suggested task of reviewing terms and definitions within the current ordinance and consider new definitions that should be incorporated. A glossary of terms was provided to the Planning Commission to review before the February 6th meeting at which time staff and the Planning Commission will examine and discuss the terms with subject matter experts. The Commissioner’s requested a version of the terms be provided that indicates which terms are currently defined in the zoning ordinance and which are not. Staff agreed to make the change to the glossary and email it to the Commissioner’s later in the week.

**OB-2 2023 Annual Report**
Mr. Forziat introduced the topic and asked if there were any changes the Planning Commission would like to see or if there were any questions. Ms. Meyers added that changes were made to one member’s bio and dates of recording were added to the plan inventory section, as requested at the prior Planning Commission meeting.

*Mr. Darrah moved to approve the 2023 Planning Commission Annual Report as written, to be presented to the College Township Council at their regular scheduled meeting on Thursday, February 15, 2024.*

*Mr. Fenton seconded*
*Motion carried unanimously.*

Ms. Schoch added that Ms. Snyder will be in contact with the Chair and possibly Vice-Chair to finalize arrangements for the presentation.

**NEW BUSINESS:** None presented.

**REPORTS:**
- **R-1 DPZ CoDesign Update**
  Ms. Schoch gave a brief update with no questions or comments from the Planning Commission.

**STAFF INFORMATIVES:**
- **SI-1 Planning Commission Reappointments**
  No further discussion.
SI-2  EZP Update
Mr. Darrah mentioned that the development at Millbrook Marsh is coming along.

OTHER MATTERS: None presented.

ANNOUNCEMENTS: Mr. Forziat thanked the Planning Commission their presence and input the past year and expressed his appreciation for staff as well. He added that moving forward in 2024 we all need to remember that we are a team and are working together to get to the same goal.

Mr. Forziat announced the next Planning Commission meeting will be held on Tuesday, February 6, 2024 at 7:00 p.m. He added that there is a joint meeting with Council on Wednesday, January 24, 2024 at 6:00 p.m.

ADJOURNMENT:
Mr. Fenton moved to adjourn.
Mr. Darrah seconded.
Motion carried.

Meeting adjourned at 8:02 p.m.

**Draft**

Sharon E. Meyers
Senior Support Specialist – Engineering/Planning
Mount Nittany Elementary School

SKETCH PLAN PROJECT NARRATIVE

This plan proposes a 26,000 square foot building addition to the existing Mount Nittany Elementary School to accommodate an increase in enrollment. The addition is proposed to be added on the southern side of the existing building. Passenger vehicle access/drop-off will be provided with by constructing a new access drive connected to the existing elementary/middle school parking lot and running in a southerly direction parallel to the existing building and the new addition. This access drive is intended to be used by parents for drop off and pick up. In addition to the access drive, 44 parking spaces will be added to provide visitor, faculty, and staff parking. Pedestrian connections will be maintained to the existing streets and new connections within the campus will be developed to ensure pedestrian mobility. The existing open grass playing fields and the softball field located on the east side of the existing school will be shifted for the addition and access drive/parking. The existing grass field within the elementary school bus loop will be rehabilitated for continued physical education and extracurricular activities. Stormwater management will be directed into inlets and piping and will be directed to detention facilities.
As a result of a request made by the Planning Commission at the January 16, 2024 Meeting, please find attached Workforce Housing Terms. These terms have been updated to indicate the terms taken directly from Zoning Chapter 200.7 - Definitions and the terms sourced from Zoning Chapter 200.38.4 - Workforce Housing. Any amended definitions as part of the Workforce Housing Zoning update will be incorporated into Chapter 200.7, along with the existing definitions.

End of Memo.
Glossary of Terms – Workforce Housing

★ = Term came from Zoning Ordinance (Chapter 200-7)
♦ = Term created from Workforce Housing section of Zoning Ordinance (Chapter 200-38.4)

★ Accessory Dwelling Unit: A second unit either in, added to, or on the property of an existing single-family detached dwelling in which there is no means of access between the two dwelling units. An accessory dwelling unit shall comply with established use regulations found within the Zoning Ordinance.

Affordable Housing: In general, housing for which the occupants are paying no more than 30 percent of her income for gross housing costs, including utilities.

Area Median Income: The midpoint of a specific area’s income distribution, calculated on an annual basis by the Department of Housing and Urban Development (HUD).

Building Coverage: The percentage of the lot area that is covered by building area, which includes the total horizontal area when viewed in plan.

Certificate of Occupancy: a document issued by a local government or building department that certifies a building's compliance with applicable building codes and regulations and declares it suitable for occupancy. This certificate is typically required before a building or part of a building can be used or inhabited.

♦ Certification of Buyers: regarding workforce housing, prior to the executing a purchase contract for any workforce unit, the prospective buyer shall be certified as meeting income requirements for the specified unit. Process involves ensuring the understanding of any deed restrictions, restrictive covenants, and/or liens that are placed on the workforce housing unit to ensure long-term affordability.

♦ Certification of Renters: Prior to renting a workforce housing unit, renters shall be certified as meeting income requirements. Some restrictions apply, such as the rental unit must be used as the principal place of residence, students enrolled in post-secondary program, college, or university are eligible if the student does not meeting the IRS definition of a dependent, and the student can be classified as an independent student.

★ Condominium: A dwelling, building or group of buildings in which the dwelling unit is owned individually and the structure, common areas and facilities are owned by all the owners or an association.

Consumer Price Index: measures the average change overtime in the prices paid by urban consumers for a basket of goods and services. The CPI provides a way to track inflation by examining the price changes of a representative set of goods and services commonly purchased by households.
Cost Off-sets: mechanisms or strategies used to balance financial burdens imposed by zoning requirements on property owners or developers. Used as zoning incentives, including increased density, reduced setbacks, height allowances, in exchange for features like affordable housing, public open space, or other community benefits.

Density: measures the number of housing units per acre.

Density Calculation: Pertaining to workforce housing, to determine residential density: Density of a development containing residential dwelling units shall be equal to the number of proposed dwelling units divided by the gross site area inclusive of proposed rights-of-way or any other portion of the site to be dedicated to the Township or homeowners association; only those residences which meet the definition of applicable residential dwellings shall be used to calculate the total number of dwelling units in a development; and the residential density within a planned residential development shall not include areas devoted to nonresidential uses noted in Chapter 145 (Planned Residential Developments).

Duplex: A building containing two dwelling units located side by side sharing a common wall with each dwelling unit having its own access. The dwelling units may be located on the same lot or separate lots.

Dwelling: A building designed for human living quarters.

Dwelling Unit: A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, cooking, sleeping, eating and sanitation. The maximum occupancy of a dwelling unit is established by § 200-11Z.

Fee-in-lieu: in the context of land use, typically refers to a financial arrangement where a developer or landowner pays a fee to a local government or relevant authority in lieu of providing certain required amenities or facilities on-site as part of a development project. Typically associated with land development regulations and zoning requirements.

Gross Floor Area: The sum of the gross areas of all floors of a building measured from the exterior face of exterior walls, or from the center line of a wall separating two buildings, but not including interior parking spaces, loading spaces for motor vehicles or any space where the floor-to-ceiling height is less than six feet.

Household: all the people who occupy a housing unit. A household includes the related family members and all the unrelated people, if any, such as lodgers, foster children, wards or employees who share the housing unit. A person living along in a housing unit, or a group of unrelated people sharing a housing unit such as partners or roomers, is also counted as a household.

Impervious: a surface that limits the infiltration of water into the ground, including any rooftop surface or swimming pool surface, or any asphaltic pavement, concrete or compacted gravel; any of which is used for driveways, ditches, or courts.

Impervious Surface: A surface that limits the infiltration of water into the ground, including any rooftop surface or swimming pool surface, or any asphalt surface, concrete or compacted gravel; any of which is used for driveways, ditches or courts.
Incentive: something that encourages or motivates an individual to take a particular course of action or to behave in a certain way.

♦ Inclusionary Housing: Refers to strategies that mandate or incentivize the inclusion of affordable housing units within market-rate residential developments. The goal is to create mixed-income communities and prevent the segregation of socioeconomic groups.

♦ Mandatory: Regarding workforce housing, developments where the residential density is five or more dwelling units per acre, the provisions of workforce housing is required.

♦ Market-rate Unit: a dwelling unit other than mobile homes as defined, which sells on the market at a price which is affordable to those households which make above 100% of the area median income.

Mean: average obtained by summing values and dividing by the number of values.

Median: Middle value in an ordered dataset or the average of the two middle values in an even dataset.

Mode: Value(s) that occur most frequently in a dataset.

★ Multi-family Building: A building containing more than two dwelling units where access to individual dwelling units is provided by a common entrance(s) to the building. Dwelling units may be located on top of one another.

Nonresidential Use: offices; medical and dental offices and clinics, excluding animal hospitals and veterinary offices; places of assembly; libraries, museums, art galleries and reading rooms; retail establishments for the sale and service of goods; eating and drinking establishments, excluding fast-food establishments; research, engineering or testing offices and laboratories; health clubs and athletic and recreational facilities; child and adult day-care centers.

Occupancy (limit): the number of individuals that can reside in a particular unit.

★ Planned Residential Development: A form of development permitted in Chapter 145, Planned Residential Development. (PRD An area of land, controlled by a landowner to be developed as a single entity for a number of dwelling units, the development plan for which may not correspond, in lot size, bulk or type of dwelling, density, lot coverage and required open space, to the regulations established in any one residential district created, from time to time, under the provisions of Chapter 200, Zoning.)

♦ Regulatory Relief: refers to the easing or relaxing of certain zoning regulations or restrictions imposed by local governments on property use and development. To address housing shortages or promote affordable housing, municipalities may grant relief from certain zoning requirements for developers building affordable housing developments.

★ Single Family House: A building designed for one dwelling unit and surrounded by open space or yards and not attached to any other dwelling. One additional dwelling unit either in,
added to or on the property of a single-family house may be considered accessory and permitted in accordance with § 200-11.

★ Townhouse: A building containing three or more dwelling units where each dwelling has its own outside access.

★ Two-family Detached Dwelling: A building containing two dwelling units one above the other.

★ Two-family Semidetached Dwelling: A building containing two levels of individual dwelling units with two units on each level sharing a common wall.

US Department of Housing and Urban Development (HUD): Established in 1965, HUD’s mission is to increase homeownership, support community development, and increase access to affordable housing free from discrimination. To fulfill this mission, HUD will embrace high standards of ethics, management and accountability and forge new partnerships – particularly with faith based and community organizations that leverage resources and improve HUD’s ability to be effective on the community level.

♦ Workforce Housing Dwelling Unit: a dwelling unit which is affordable to those making up to 100% of the area median income (AMI).
<table>
<thead>
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<th>Household Size</th>
<th>60%</th>
<th>65%</th>
<th>70%</th>
<th>80%</th>
<th>90%</th>
<th>100%</th>
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MEMORANDUM

To: College Township Planning Commission  
From: Dustin Best, Council Chair  
Re: Council Remand: Workforce Housing Ordinance  
Date: November 16, 2023

OBJECTIVES:
As a practice, Township Staff provides Council with periodic reviews of both the interpretation and application of pertinent ordinances. This exercise is done to ensure these ordinances meet their desired intent and continue to be appropriate for current community development needs. The most recent ordinance to undergo such a review is Chapter 200 Zoning, Section 38.4, Workforce Housing Ordinance.

Ensuring that our workforce has access to affordable housing is a key policy of this Council. This ordinance’s application is intended to do so in a way that provides a meaningful impact on the community and economic development needs of both College Township and the Centre Region.

Council is appreciative of Planning Commission’s experience and expertise. As such, we are remanding the Workforce Housing Ordinance with the intent that Planning Commission will take their time and offer careful consideration on both the “why” and “how” behind the ordinance’s eventual application. Council is providing the following Objectives that are to be addressed during the development of any recommendations pertaining to the ordinance:

<table>
<thead>
<tr>
<th>Objectives</th>
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<tr>
<td>1) Ensure that current ordinance and any recommended revisions thereof are both consistent and upholding of the new Purpose and Intent Statements.</td>
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<tr>
<td>2) The current ordinance addresses development of both rental and owner-occupied workforce housing, but does not provide a clear distinction in terms of ordinance implementation between those two specific housing types. Evaluate and, where appropriate, provide recommendations on how to better provide for separate, but parallel, paths for development of rental and owner-occupied workforce housing units under the ordinance.</td>
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<td>3) The Area Median Income (AMI) in the region has increased over the past two years, which has a direct impact on the development of units for the targeted demographic and overall implementation of the ordinance. Review the current AMI data and application of ranges within the Workforce Housing Ordinance to ensure that it is appropriately allowing for development of units for the targeted demographic in both the rental and owner-occupied paths.</td>
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<td>4) When originally adopted, the ordinance was crafted to offer incentives in terms of reductions in open space requirements and necessary infrastructure to encourage development of workforce housing units. However, when the ordinance was amended to become inclusionary, the incentives remained without any revisions. Review the incentives outlined in the current ordinance and offer recommendations on whether those incentives should be altered given the ordinance’s inclusionary nature and goal to ensure that neighborhoods remain equitable in terms of basic amenities.</td>
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The balance of this remand letter will serve to provide Planning Commission additional context on the newly developed Purpose and Intent Statements and provide a recommended process to aid in completion of the Objectives.
PURPOSE & INTENT STATEMENTS:
While the intent was implied during the original passage of the Workforce Housing Ordinance in 2009 and its subsequent amendment, it is nevertheless notable that the current ordinance is lacking both a Purpose and Intent Statement.

As with the revisions to the Residential Rental Ordinance, College Township Council recently established the new Purpose and Intent Statements below for the Workforce Housing Ordinance:

**Purpose Statement:**
Consistent with College Township’s adopted Vision, Mission, and Goals Statements, the purpose of the Workforce Housing segment (Section 200.38.4) of the Zoning Ordinance is to establish and maintain housing affordability within College Township.

**Intent Statement:**
The Intent of the Workforce Housing segment (Section 200.38.4) of the Zoning Ordinance is to:

1) Recognize the importance of socioeconomic diversity in nurturing more inclusive and dynamic neighborhoods.
2) Facilitate the provision of affordable and attainable rental and owner-occupied workforce housing options within College Township.
3) Place a strong emphasis on crafting sustainable, enduring solutions to housing challenges, including the implementation of long-term affordability requirements.
4) Foster collaborative efforts with neighboring municipalities to establish regional consistency in workforce housing ordinances.
5) Promote private sector investments in affordable housing through partnerships between local government and private developers aimed at constructing affordable housing units.
6) Implement incentives to promote the creation and maintenance of workforce housing.
7) Safeguard rental and owner-occupied workforce housing options within the community, enabling individuals and families with moderate to middle incomes* to reside proximate to their workplaces. **Specific targeted ranges to be determined for both rental and owner-occupied options, but will likely fall somewhere between 65-120% AMI.**
8) Continuously monitor the Housing and Urban Development (HUD) Area Median Income (AMI), adjusting the AMI thresholds in the ordinance to accommodate annual increases or decreases.

RECOMMENDED PROCESS:
Recognizing the complexity of both the topic of this ordinance and the work being requested through this remand letter, Council suggests the following review tasks be undertaken prior to commencing work on the Objectives:

**Suggested tasks to be completed prior to ordinance evaluation:**

1) Review the Purpose and Intent Statements as developed by Council and seek clarification from Council as needed.
2) Review the specific terms and definitions applicable within the current ordinance and consider new definitions that should be incorporated.
3) Conduct a detailed review the “continuum of affordable housing” to fully understand the distinctions between attainable, affordable and workforce housing.
4) Review the various applications of Area Median Income (AMI) as it pertains to the respective segments of the continuum of housing. **Please note** that Council is targeting this ordinance toward development of units for the workforce or “missing middle” demographic.
5) Review the definition of “inclusionary” and how it applies to College Township’s Workforce Housing Ordinance.

**SCHEDULE:**
Upon completion of the recommended review tasks outlined above, Council requests that Planning Commission and staff begin working on the Objectives, as outlined on Page 1 of this letter, with the goal to provide recommendations on the Workforce Housing Ordinance prior to end of the first quarter of 2024.
§ 200-38.4 Workforce housing.

Zoning requirements for applicable residential developments may be reduced, as follows, upon the provision of workforce housing within a development:

A. Applicability. The regulations contained herein shall apply upon the designation of dwelling units as workforce housing and shall be applicable as follows:

   (1) General. A developer(s) of residential dwelling units shall receive regulatory relief from zoning and/or subdivision of land regulations as an incentive for providing workforce housing dwelling units. Such relief shall be based upon the type and amount of dwelling units designated as workforce housing in accordance with the regulations contained in this section.

   (2) Mandatory requirement.

(a) For those developments where the residential density is five or more dwelling units per acre, the provision of workforce housing is required. A development which exceeds this density threshold shall designate a percentage of its total dwelling units as workforce housing units in accordance with the minimum levels listed in the table below:

<table>
<thead>
<tr>
<th>Density of Proposed Development (dwellings per acre)</th>
<th>Percentage of Required Workforce Housing Units*</th>
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<tbody>
<tr>
<td>5 to 5.99</td>
<td>5%</td>
</tr>
<tr>
<td>6 to 6.99</td>
<td>6%</td>
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<tr>
<td>7 to 7.99</td>
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<tr>
<td>8 to 8.99</td>
<td>8%</td>
</tr>
<tr>
<td>9 to 9.99</td>
<td>9%</td>
</tr>
<tr>
<td>10 or more</td>
<td>10%</td>
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</tbody>
</table>

* Reflects a percentage of the total number of dwelling units within a development that are to be designated as workforce housing. In case of a fraction, the required number of units shall be rounded to the next highest whole unit.

(b) Developers can exceed the minimum levels of mandatory workforce housing listed above and shall receive any additional incentives in accordance with the regulations below.
(c) Any residential development which proposes 10 or less dwelling units shall be exempt from this mandatory requirement.

(3) Calculation of density. To determine residential density, the following shall apply:

(a) Density of a development containing residential dwelling units shall be equal to the number of the proposed dwelling units divided by the gross site area inclusive of proposed rights-of-way or any other portion of the site to be dedicated to the Township or homeowners' association.

(b) For the purposes of this section, only those residences which meet the definition of applicable residential dwellings in Subsection B below shall be used to calculate the total number of dwelling units within a development.

(c) The residential density within a planned residential development shall not include areas devoted to nonresidential uses as noted in § 145-17B.

B. Incentives. The incentives provided to a residential developer are on a per-dwelling-unit basis unless otherwise noted within the regulations. The incentives offered below will differ depending on the type of dwelling that is being designated as workforce housing.

(1) Single-family house and duplex. All single-family houses, duplexes and/or any other structure containing two or less dwelling units in which at least one is designated as workforce housing shall be permitted to the following regulatory reductions:

(a) Minimum lot size and density: 5,000 square feet per dwelling unit or that permitted under existing zoning, whichever is less with one exception: In the Single-Family Residential Zoning District (R-1), only those lots two acres or greater in size can be developed with multiple duplexes not to exceed a density of seven dwelling units per acre. This calculation shall be inclusive of all land proposed for development including all proposed rights-of-way, parkland/open space areas, stormwater management facilities, and the like. [Amended 9-15-2016 by Ord. No. O-16-05]

(b) Minimum lot width: 40 feet per unit.

(c) Maximum impervious coverage: 55%.

(d) Side setback. The side yard setback for a lot containing workforce housing dwelling unit(s) may be reduced to seven feet. Side yard setbacks may also be reduced to seven feet for market-rate housing units for those side yards that directly abut lots containing workforce housing dwelling units.

(e) Parkland and open space requirements. The parkland and open space requirements of § 180-26B may be waived for dwelling units designated as workforce housing. Those subdivisions or land developments which thereby reduce the parkland and open space requirements by more than 50% shall only be permitted to do so under the following conditions:

[1] All workforce housing units within the residential development will have safe, reasonable access via sidewalks, paths or bike paths to parkland or open space located within or near the subject residential development.

[2] No workforce housing unit shall be more than 1/4 mile from parkland or open space in or near the subject development as measured between the two closest points of property lines of the workforce housing unit and park or open space perimeter.

[3] For the purposes of this Subsection B(1)(e) of § 200-38.4, parkland and open space shall be considered as that designated as "existing parks" or "recreation land owned by others" and available for public use. In addition, land owned by the State College Area School District may also be considered as parkland.
and open space if such land contains recreation facilities that can be used by the public.

(f) Sidewalk. The amount of sidewalks required pursuant to §180-16.1 may be reduced in an amount equal to the total street frontage of all lots containing dwelling units defined as workforce housing units pursuant to the following:

NOTE: See also §§ 180-16, Streets, and 180-16.1, Sidewalks.

[1] The reduction may take place anywhere within the subdivision or land development containing workforce housing units.

[2] Any collector or arterial streets within the residential development should have a sidewalk on both sides of the street. All other streets (public or private) shall have a sidewalk on at least one side of the street.

[3] Sidewalks shall provide access to any parkland, open space or school within or adjacent to the development.

[4] In instances where a development of single-family houses and/or duplexes developed with multiple dwellings on a single lot in which the development contains workforce housing units, the reduction in sidewalks shall be calculated as follows:

[a] The reduction in required sidewalk may be in an equal proportion to the percentage of the total proposed dwelling units which are designated as workforce housing.

[b] Regardless of the amount of sidewalk permitted to be reduced as calculated above, a sidewalk shall be provided along an adjacent public street as noted above in §200-38.4B(1)(f)[2] and [3].

[5] The sidewalk reduction is not guaranteed upon the provision of workforce housing. Approval of such reduction by Council will be based upon ability to meet the conditions set forth §200-38.4B(1)(f)[2] and [3].

NOTE: See §§ 180-16, Streets, and 180-16.1, Sidewalks.

(g) Additional bonus. The reduced lot requirements noted in §200-38.4B(1)(a) through (e) above may also be applied to market-rate housing units in addition to that of the designated workforce housing units based on the following ratios or fractions thereof rounded to the nearest whole number:

[1] For every two workforce housing units which are affordable to those households with incomes between 80% to 100% of AMI, one market-rate housing unit shall be permitted to have similar lot requirements noted above in §200-38.4B(1)(a) through (e).

[2] For every one workforce housing unit which is affordable to those households making less than or equal to 80% of AMI, one market-rate housing unit shall be permitted to have similar requirements noted above in §200-38.4B(1)(a) through (e).

(h) Accessory dwellings. Single-family houses designated as workforce housing may be permitted to contain accessory dwellings pursuant to §200-11A(1). If the accessory dwelling unit is to be rented, than the anticipated income from renting the accessory dwelling unit shall be included in calculating a household's total income when certifying income of potential buyers of a workforce housing unit.

(2) Townhouse and multifamily units. All townhouse, multifamily units and/or any other structure containing three or more dwelling units in which some or all are designated as workforce housing units shall be permitted to the following regulatory reductions:

(a) Maximum impervious coverage. The maximum impervious coverage for a development containing
workforce housing units may be increased above that permitted in the zoning district by an amount equal to the total gross floor area of those units designated as workforce housing units. However, in no instance shall the impervious coverage exceed 55%, regardless of the number of workforce housing units.

(b) Parkland and open space requirement. The parkland and open space requirements of § 180-26B shall be waived for all townhouse and multifamily dwelling units designated as workforce housing. Those subdivisions or land developments which thereby could reduce the parkland and open space requirements by more than 50% shall only be permitted to do so in the same manner as that allowed for single-family houses and duplexes as noted in § 200-38.4B(1)(e).

(c) Occupancy limit. The occupancy of unrelated individuals as established in § 200-11Z may be increased from three to five individuals as follows:

[1] For each unit designated as workforce housing, one unit in the development may be permitted to have up to five unrelated individuals residing within it.

[2] The unit which is permitted to have the increased occupancy, as noted above, does not have to be designated as workforce housing and can be located anywhere within the residential development containing the workforce housing.

(d) Permitted height. The permitted height of a building may be increased by 10 feet above that permitted in the zoning district regulations, if the building contains either two dwelling units or 10% of the total dwelling units, whichever is greater, are designated as workforce housing.

(3) Planned residential developments. The workforce housing regulations herein are also applicable to planned residential developments as permitted in Chapter 145, Planned Residential Developments, with the following incentives:

(a) Maximum building coverage. The total ground floor area of all buildings and structures shall be permitted to exceed 30% of the total land area of the planned residential development in a manner equal to an increase of coverage by 1% for every 1% of total number of dwelling units which are designated as workforce housing. However, regardless of the number of dwellings designated as workforce housing, the total building coverage shall not exceed 40% of the total land area of a planned residential development.

(b) Maximum total impervious coverage. The maximum impervious surfaces shall be permitted to exceed 50% of the total area of the planned residential development in a manner equal to an increase of impervious coverage by 1% for every 1% of the total number of dwelling units which are designated as workforce housing. However, regardless of the number of dwellings designated as workforce housing, the total impervious coverage shall not exceed 60% of the total planned residential development.

(c) Open space. The minimum amount of open space required in § 145-18A may be decreased below 30% of the total area of the planned residential development in a manner equal to a decrease of 1% for every 1% of the total number of dwelling units which are designated as workforce housing. However, regardless of the number of dwellings designated as workforce housing, the total open space required may not be decreased beyond 20% of the total area of the planned residential development.

(d) Additional bonus. The maximum amount of land devoted to nonresidential uses within a planned residential development shall be permitted to exceed 20% in a manner equal to an increase in nonresidential land by 1% for every 1% of the total number of dwelling units which are designated as workforce housing for households earning less than 80% of the area median income. However, regardless of the number of dwellings designated as such, the maximum area of land devoted to nonresidential uses shall not exceed 30%.
C. Provision of workforce housing. All workforce housing units proposed in a land development and/or subdivision are required to be built on site covered by such plan unless one of the following options enumerated below is utilized. In such instances, the developer shall continue to retain the incentives applied to on-site development for the number of workforce housing units being provided for under the options listed below:

(1) Fee in lieu. An applicant may pay a fee in lieu of constructing some or all of the workforce housing units which it is receiving incentives for given the following regulations:

(a) College Township Council shall establish by resolution the amount of the fee-in-lieu payment per unit, which shall be based on actual construction costs and inclusion of land purchase costs.

(b) To determine the total fee-in-lieu payment, the per-unit amount established by the Township shall be multiplied by the number of workforce housing units otherwise required to be constructed or as desired by the developer to be eligible for the incentives.

(c) The Township shall be required to establish and administer a workforce housing fund into which all fee-in-lieu payments shall be deposited. The Township shall then be required to use such funds to further its mission of providing workforce housing as defined herein.

(2) Land donation. Land within College Township may be donated to the Township or its designee in place of workforce housing dwelling units being built within a proposed development pursuant to the following:

(a) The value of the land must be equal to or greater than the value of the fee-in-lieu payment noted above in Subsection C(1) to be calculated as follows:

[1] The value of the land will be determined by an appraisal completed by a certified appraiser. Each party (developer and the Township) shall submit an appraisal.

[2] If the lower appraised value is 90% or greater of the other appraisal, the two appraised values shall be averaged.

[3] If the lower appraised value is less than 90% of the other appraisal, then each appraiser shall, within 15 days of notice from the Township, agree on a third appraiser, the cost of which is to be shared equally by the Township and the developer. Within 30 days of notice of his appointment, the third appraiser shall submit an appraisal. The middle of the three appraised values shall be used to determine the value of the land to be donated.

[4] If both the Township and the developer agree, the requirement for the appraisal process above in whole or in part may be waived upon mutual agreement between the Township and the developer.

(b) The land to be donated must meet all applicable zoning, land development and subdivision requirements to construct the desired type and amount of units.

(c) The land donation must occur prior to the completion of the market-rate units. The certificate of occupancy will be withheld pursuant to the requirements of Subsection D(1) below until the land donation occurs.

(3) Off-site development (new dwellings). Workforce housing units otherwise required to be constructed or as desired by the developer to be eligible for the incentives listed above may be constructed off site given the following regulations:

(a) Location. The dwelling units to be utilized to satisfy the workforce provisions shall be located within College Township.
(b) Number of. The total number of units provided off site shall be equal to those which would have been provided on site.

(c) Approval. The applicant must obtain off-site development plan approval from the Township at the same time the applicant obtains plan approval for the proposed market-rate units within the covered development. The off-site development plan must include, among other land development plan requirements, documentation of site control, necessary financing in place to complete the off-site development, architectural designs and elevations, and any other documentation deemed necessary by the Township to ensure compliance with the regulations contained herein.

(d) Each of the off-site dwellings designated as workforce housing shall meet all of the supplemental regulations stipulated in § 200-38.4D.

(4) Existing dwellings. A developer may designate dwelling units which have already been constructed as workforce housing units to meet his obligation (whether voluntary or mandatory) to obtain the incentives listed in § 200-38.4B for a particular development. Such off-site, existing dwelling units shall meet the regulations listed above in § 200-38.4C(3) and the following additional regulations:

(a) The units must be inspected and rehabilitated to meet current building codes.

(b) The proposed dwellings to be designated as workforce housing units shall be considered market-rate units. Utilizing this provision shall result in the conversion of market-rate dwellings to income-restricted workforce housing dwelling units.

(5) Credits for existing workforce housing. A developer of a new development may be given credit for previously built dwelling units which could be defined as workforce housing given the following regulations:

(a) The existing dwelling units in which a developer is seeking credit shall not have previously been created or in any way developed utilizing the regulatory relief provided herein.

(b) The developer shall only receive credit in whole or in part to relieve him of the mandatory obligation of providing workforce housing units as stipulated in § 200-38.4A(2). If the number of dwelling units being credited toward a developer's mandatory obligation is less than that required under § 200-38.4A(2), then the developer shall be required to provide workforce housing units equal to the difference of the credit and the mandatory requirement.

(c) In order for a previously built dwelling unit(s) to be credited towards a development's workforce housing obligation, each credited unit must:

[1] Have received its certificate of occupancy no more than five years prior to the date of the developer's submission of the new subdivision or land development plan; and

[2] Be designated as workforce housing upon land development and/or subdivision approval of the development seeking said credits and therefore meet all workforce housing unit regulations stipulated in § 200-38.4D.

D. Supplemental workforce housing regulations. In addition to the regulations above, all workforce housing units shall have the following requirements:

(1) Amenities. Workforce housing units may differ from the market-rate units in a development with regard to interior amenities and gross floor area, provided that:

(a) The differences, excluding differences related to building size differentials, are not apparent in the general exterior appearance of the development;
(b) The gross floor area of the habitable space within workforce housing dwelling units is not less than the following minimum requirements:


[2] Two bedrooms: 1,000 square feet.


[4] Four bedrooms: 1,400 square feet.

[5] Five or more bedrooms: add an additional 150 square feet per additional bedroom.

(2) Timing of construction. Workforce housing units shall be made available for occupancy at approximately the same rate as the market units, except that certificates of occupancy for the last 15% of the market-rate units shall be withheld until certificates of occupancy have been issued for all of the workforce units.

(3) Cost offsets. The Township may discount or defer municipal fees associated with the approval process of a subdivision/land development. Any developer of workforce units may submit a request for a discount or deferment of fees. The request must also contain information detailing how real costs will be reduced and how the savings will be passed on to the workforce housing units. The Township Council’s decision on a discount or deferment of municipal fees will be based upon Council determining that such savings will be appropriate and directly proportionate to the reduction in unit sales or rental costs. The Township shall review the request and provide an answer to the developer within 30 days of receipt of the request.

(4) Certification of buyers. Prior to executing a purchase contract for any workforce unit, the prospective workforce unit buyer shall be certified as meeting income requirements for the specified unit by the Township or its designee. Developers and workforce housing unit buyers may execute only purchase agreements that are approved as to form by the Township or its designee. The purchase agreement shall include language attached as an addendum provided by the Township or its designee which shall require that an appropriate disclosure form be provided to and explained to the workforce housing unit buyer prior to execution of the contract. The disclosure form shall explain any deed restrictions, restrictive covenants, and/or liens that are placed on the workforce housing unit to ensure long-term affordability.

(5) Certification of renters. Prior to renting a workforce unit, the prospective renter shall be certified as meeting income requirements by the Township or its designee. The following limitations shall apply to the certification of renters:

(a) The rental unit must be used as the principal place of residence.

(b) Students enrolled in a post-secondary program, college or university are eligible only if they can meet the following two conditions:

[1] The student does not meet the Internal Revenue Service's definition of a "dependent," and

[2] The student can be classified as an "independent student" as defined by § 480(d) of the Higher Education Act.

(6) Ensuring affordability. To ensure that any unit created under this section of the Zoning Ordinance (rented or owner-occupied) remains affordable over time, the owner of said unit(s) shall be required to maintain affordability based upon a legally binding agreement with either the Township or its designee, to be recorded at the Centre County Recorder of Deeds. Said agreement shall include:
(a) The period for which the units shall remain affordable, which at a minimum should be at least 30 years from the date of initial occupancy of a workforce housing unit;

(b) The process for certifying subsequent buyers of workforce housing dwelling units for the duration of the specified period of affordability;

(c) The level of affordability, including the amount of equity able to be recouped by the homeowner or owner of a rental property containing workforce housing units upon sale of the property; and

(d) A provision allowing the Township or its designee to first be offered the right to purchase a workforce housing unit prior to selling said unit without income restrictions if such sale is to occur after the affordability period noted above in §200-38.4D(6)(a) with the following stipulations:

[1] The resale price which the Township or its designee shall pay the owner of the workforce housing unit(s) shall be no less than that calculated in §200-38.4D(10) below;

[2] The Township or its designee shall be given a period of 90 days to execute a purchase agreement for said unit(s).

[3] Upon reaching the end of the ninety-day resale period or upon notice by the municipality or its designee that there is no interest in the workforce housing unit, the owner will be free to sell the unit.

(7) Calculation of rental prices. Workforce housing units which are to be rented shall have a rental price which is affordable to households which earn 65% or less of the area median income, with the exception of those housing units which have a rent-to-own option pursuant to §200-38.4D(12). Affordability shall be determined as monthly housing expenses being no greater than 30% of the household gross monthly income based upon household size assumptions noted in §200-38.4D(11). Monthly housing expenses shall be calculated as the sum total of the monthly rent, plus the current utility allowance per the Housing Authority of Centre County.

(8) Rental price increases. Annual rent increases shall be limited to the percentage increase in the median household income within the State College metropolitan statistical area.

(9) Calculation of sales prices. Workforce housing units which are to be sold shall have a sale price which is affordable to households which earn 100% or less of the area median income. Affordability shall be determined as monthly housing expenses being no greater than 30% of the household gross monthly income based upon household size assumptions. Monthly housing expenses shall be calculated as the sum total of the principal and interest of the mortgage plus all property taxes, homeowners' insurance, homeowners' association fees, and any other fees approved for inclusion by the Township.

(10) Resale value of workforce housing units. The resale value of a workforce housing unit(s) during the affordability period stipulated in §200-38.4D(6)(a) shall be limited to the lowest of:

(a) The purchase price plus an increase based on the percentage increase in the Consumer Price Index for the State College metropolitan statistical area (MSA) for all urban consumers since the date of previous purchase; or

(b) The purchase price plus an increase, based on the percentage increase in the area median income since the date of purchase; or

(c) The purchase price plus an increase, based upon the compound average growth rate of Centre Region average house sale prices since the date of purchase; or

(d) The fair market value.
Household size assumption. In calculating rent or sales price of a workforce housing unit, the following maximum relationship between unit size and assumed household size to determine income affordability shall apply:

(a) Efficiency units: one-person household.

(b) All other units: one plus number of bedrooms equal number of persons per household.

Rent to own. Workforce housing units which are part of a rent-to-own program may be rented to households who earn more than 65%, but less than 100%, of the AMI subject to the following:

(a) The minimum duration of the initial term of a lease for renting the workforce housing unit shall be for no less than an initial 18 months followed by the ability to be annually renewed. In addition the duration of the lease may be shortened upon the tenant entering into an option to purchase the workforce housing unit.

(b) The owner of the workforce housing unit(s) must also enter into an agreement with the tenant of the rent-to-own unit which will specify the terms of the program.

(c) The rent-to-own agreement between the owner and the renter of the workforce housing unit shall include provisions for a percentage of the rent to be set aside and utilized towards the purchase of the unit by the renter.

(d) The rent-to-own agreement shall be provided to the Township for review to determine if the rent-to-own terms will lead to an acceptable number of renters succeeding in obtaining ownership of the workforce housing unit.

E. Administration. College Township and/or its designee shall ensure compliance with all regulations contained herein and/or Chapter 180, Subdivision of Land, and Chapter 200, Zoning. The developer shall draft and submit for approval a legally binding agreement which states the responsibilities of all entities involved with the ongoing administration, and marketing of, and compliance with these regulations upon approval of a development containing workforce housing units. College Township shall reserve the right to designate another legal entity for the purpose of administrative needs of this section of who should be a party in all legally binding agreements required in this section.
CT Meeting 2.1.24

1. 320 Struble Road Plan approved with street/parking lot light condition.
3. Dustin Best is our rep. For the COG Executive Director Search Committee with Tracey Mariner as our alternate.
4. There will be an ad in the Centre County Gazette announcing our Joint Meeting on March 2nd. This meeting will be a “workshop-kickoff” type of meeting. Public is invited.
<table>
<thead>
<tr>
<th>Date</th>
<th>Topic</th>
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<th>Next Steps</th>
<th>Staff/Others</th>
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</thead>
<tbody>
<tr>
<td>Week Ending</td>
<td>Interim Zoning Changes in Dale Summit</td>
<td>Ordinance enacted.</td>
<td>Technical Corrections necessary. References only. Working with E-Code to ensure all items presented to PC and Council are included in the Enacted language.</td>
<td>Staff</td>
</tr>
<tr>
<td>January 19, 2024</td>
<td>Plan Preparation</td>
<td></td>
<td>Hold Joint Meeting #1 on Wednesday, January 24, 2024 at 6:00 PM</td>
<td>Staff / PC / CTC</td>
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<td></td>
<td>Code Preparation</td>
<td>Prepare for Joint Meeting #2</td>
<td>Provide materials for Joint Meeting #2 at the conclusion of Joint Meeting #1</td>
<td>Staff / PC / CTC</td>
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<td>DPZ Discussions</td>
<td>On-going discussions with DPZ</td>
<td>DPZ will be in attendance at the Joint Meeting #2.</td>
<td>Staff / PC</td>
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<tr>
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<tr>
<td>Week Ending February 2, 2024</td>
<td>Interim Zoning Changes in Dale Summit</td>
<td>Ordinance No. O-23-05 amends Chapter 87 (Conditional Uses) to permit multi-family residences in the Planned Research and Business Park District (PRBD).</td>
<td>E-Code (online code website) updated Chapter 87 to reflect the newly enacted Ordinance.</td>
<td>Staff</td>
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<td>Dale Summit Area Plan</td>
<td>Plan presented to Council and the PC at the January 24, 2024 Joint Meeting.</td>
<td>Hold Joint Meeting #2 on March 26, 2024.</td>
<td>DPZ / CTC / PC / Staff</td>
</tr>
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<td>Dale Summit Form Based Code</td>
<td>Preparing for Joint Meeting #2. Draft Code and Terms provided to CTC and PC.</td>
<td>Prepare for Joint Meeting #2. Work with DPZ on logistics and presentation materials.</td>
<td>DPZ / CTC / PC / Staff</td>
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<tr>
<td></td>
<td>Dale Summit Area Planning in General</td>
<td>Reengage the Community Advisory Committee (CAC).</td>
<td>Send “Save the Date” postcards to stakeholders and community members to notify them of the upcoming March 26 Joint Meeting.</td>
<td>Staff / PC</td>
</tr>
</tbody>
</table>

Link to Coralville, Iowa Map. This is the example of a comparable community to College Township that has had success with Form Based Code. Mike Tylka, the Centre Regional Planning Director offered this information at the January 24, Joint Meeting.

Follow this link to the Coralville City municipal website.
ATTEMENDED BY –
COUNCIL: Dustin Best, Chair
D. Richard Francke, Vice Chair
L. Eric Bernier
Susan Trainor
Tracey Mariner

STAFF: Mike Bloom, Assistant Township Manager
Don Franson, P.E., P.L.S., Township Engineer
Amy Kerner, P.E., Public Works Director
Lindsay Schoch, Principal Planner
Mark Gabrovsek, Zoning Officer
Jennifer Snyder, CGA, Assistant Township Secretary

ABSENT: Adam T. Brumbaugh, Township Manager/Secretary

CALL TO ORDER: Mr. Dustin Best, Council Chair, called to order the January 18, 2024, regular meeting of the College Township (CT) Council at 7:01 PM and led in the Pledge of Allegiance.

PUBLIC OPEN DISCUSSION: No Public Open Discussion Items brought forward.

NEW AGENDA ITEMS: No New Agenda Items were added to the agenda.

REPORTS:

a. Manager’s Update

Mr. Mike Bloom, Assistant Township Manager, offered that Council and the Planning Commission will hold a joint work session on January 24, 2024, at 6:00 PM to discuss the Dale Summit Area Plan and Form Based Code. The Solar Power Purchasing Working Group will meet next on January 24, 2024. He offered that Staff is monitoring the weather forecast for tomorrow.

b. COG Regional, County, Liaisons Reports

COG Human Resources Committee: Ms. Mariner reported the COG Human Resources Committee met on January 10, 2024, and held their reorganization meeting, approved the 2024 meeting schedule, approved the 2024 Salary Schedule, and reviewed the Senior Planner job description.

COG Facilities Committee: Mr. Bernier reported the COG Facilities Committee met on January 9, 2024, and held their reorganization meeting, approved the 2024 meeting schedule, and received a presentation on the Long Range Facilities Plan. The Committee also heard updates on three (3) ongoing projects:
custodial services and building maintenance review; Whitehall Road Regional Park; and, Millbrook Marsh Nature Center Spring Creek Educational Building Phase II/Diane Kerly Welcome Pavilion.

**Land Use Community Infrastructure Committee (LUCI):** Mr. Bernier reported the LUCI Committee met on January 10, 2024, and held their reorganization meeting, approved the 2024 meeting schedule, and heard a presentation by Planning Director Mike Tylka about future activities for the LUCI committee.

**COG Climate Action Sustainability Committee (CAS):** Mr. Best reported the CAS Committee met on January 8, 2024, and held their reorganization meeting, approved the 2024 meeting schedule, heard a presentation by Planning Director Mike Tylka on future activities and potential work tasks for 2024, and reviewed the Regional Residential Refuse and Recycling proposal.

**Spring Creek Watershed Commission (SCWC):** Mr. Best reported the SCWC met on January 17, 2024, and held their reorganization meeting, heard a presentation on Acid Mine Drainage and the Moshannon Creek Watershed Association, and discussed the State of the Watershed.

**COG Public Safety Committee:** Ms. Trainor reported the Public Safety Committee met on January 9, 2024, and held their reorganization meeting, approved the 2024 meeting schedule, discussed the Emergency Management Coordinator and Deputy Positions, confirmed Alpha Fire Co Command Officers, Centre Region Fire Marshals, and Centre Regional Assistant Fire Marshal.

**College Township Local Traffic Advisory Committee (LTAC):** Ms. Trainor offered that the LTAC met on January 10, 2024, and held their reorganization meeting, and heard an update by the Township Engineer related to Oak Ridge Avenue.

**College Township Industrial Development Authority (CTIDA):** Ms. Trainor offered the CTIDA met on January 17, 2024, and held their reorganization meeting, discussed their financials, and approved the RFP for Auditing services.

**COG Finance Committee:** Mr. Francke reported the COG Finance Committee met on January 11, 2024, and held their reorganization meeting, approved the 2024 meeting schedule, heard a presentation by Kimberlee MacMullen, COG Finance Director, on the 2025 COG Budget, and the COG Finance 2024 Objectives.

**COG Parks Capital Committee:** Mr. Best reported the COG Parks Capital Committee met on January 11, 2024, and held their reorganization meeting, approved the 2024 meeting schedule, heard project updates on Whitehall Road Regional Park Phase I project, Millbrook Marsh Nature Center Spring Creek Education Building Phase II & Diane Kerly Welcome Pavilion and heard a presentation by Mr. Eric Norenberg and Ms. Kristy Owens on the future activities of the Committee.

It was noted that College Township continues to be well-represented in leadership of COG and Regional Committees.

c. **Staff/Planning Commission/Other Committees**

In his written reports, Mr. Matthew Fenton, PC Liaison to Council, reported the PC met on January 2, 2024 and January 16, 2024. At the January 2, 2024, meeting, the PC held their reorganization meeting and heard a Chalk Talk presentation by Mr. Adam Brumbaugh, Township Manager, related to Workforce Housing. At the January 16, 2024, meeting, the PC reviewed the answers from Council related to Workforce Housing.
d. **Diversity, Equity, Inclusion & Belonging (DEIB) Reports (Public Invited to Report)**

Mr. Bloom, Assistant Township Manager, reported College Township officials attended a recent Martin Luther King banquet and January 27 is International Holocaust Remembrance Day.

**CONSENT AGENDA:**

**CA-1 Minutes, Approval of**
- a. December 21, 2023, Public Hearing College Township Budget
- b. December 21, 2023, Regular Meeting
- c. January 2, 2024, Reorganization Meeting
- d. January 2, 2024, Regular Meeting

**CA-2 Correspondence, Receipt/Approval of**
- a. Email Kristy Owens, dated January 1, 2024, regarding Vandalism for Fogleman field
- b. Letter Wayne Laubscher, dated January 11, 2024, regarding 2023 County West Nile Virus Program
- c. Email Daniel Materna, dated January 12, 2024, regarding Casino – PGCB Lack of Transparency
- d. Invitation 35th Annual Historic Preservation Awards – CC Historical Society

**CA-3 Action Item, Approval**
- a. Intermunicipal Agreement with Harris Township regarding sub-lease of 1.1-acre property identified as No. 2 located at 2900 Block of Stewart Drive, State College
- b. Appointments to the CT Industrial Development Authority;
  - i. One-Year Term
  - ii. Two-Year Term
  - iii. Five-Year Term

Council pulled CA-3.b. for further discussion.

Council discussed briefly CA-2.a. related to vandalism in the Parks. Council is committed to stopping this from happening. They asked that Staff add this to a future agenda for discussion.

**Mr. Bernier made a motion to approve the January 18, 2024, Consent Agenda minus CA-3.b.**
**Ms. Mariner seconded the motion.**
**Motion carried unanimously.**

**CA-3.b.:** Council interviewed two of the three candidates, Messrs. Jake Igoe and Richard Button, for potential appointments to the College Township Industrial Development Authority. Ms. Miller, CTIDA Executive Director, met with each candidate and recommended Mr. Igoe be appointed to fill the unexpired one-year term, and Mr. Button be appointed to fill the unexpired two-year term.

**Mr. Bernier made a motion to appoint the interviewed candidates as recommended by the CTIDA Executive Director.**
**Ms. Trainor seconded the motion.**
**Motion carried unanimously.**

**OLD BUSINESS:** No *Old Business* items on the agenda.
NEW BUSINESS:

**NB-1  Policy Direction for 2025-2029 Capital Improvement Program**

Mr. Mike Bloom, Assistant Township Manager, offered that on an annual basis College Township develops 5-year Capital Improvement Program (CIP), which is an important planning document that ultimately informs a major portion of the annual budget. This strategic planning effort provides Council with an annual opportunity to review the Township’s Mission-Values-Goals Statements and offer policy-level direction to Staff through Objectives to be factored into the development of the CIP.

The development of the Strategic Summary document shows the alignment of Vision and Mission with Values and Goals. It provides a series of Policy-Level Objectives that could be realized through Capital and Operational Implementations Steps, which could then be transferred into proposed expenditures in the current and future CIPs and Township Budgets.

Mr. Bloom offered that the discussion today provides an opportunity to move the strategic planning efforts, for the 2025-2029 CIP, to the very beginning of the development process, which allows Council’s direction to better inform Staff’s work in compiling the DRAFT CIP document.

Council was asked to; review the Township’s Mission-Values-Goals Statements; review the alignment and categorization of the Values and Goals in the Strategic Summary and offer feedback; and, review the Objectives identified in the Strategic Summary and offer input on any revisions/additions to this policy-level direction.

Council made the following suggestions:

- Consider adding language to the Mission-Values-Goals Statement related to public safety;
- Add the terminology “suburban” to the Mission Statement;
- Expand the “diversity and inclusiveness” statement to address Diversity, Equity, Inclusion, and Belonging;
- Expand infrastructure reference to include pedestrian facilities under Objectives;
- Values is missing the state regarding “engaging and involving citizens;”
- Add “assigned duties that are appropriate” to Objective 3
- Expand Objective 6 to read “COG and other regional bodies;”
- Add an emphasis to expand Broadband fiber; and,
- Consider assigning dates appropriate to accomplish objectives.

Mr. Bloom thanked Council for their comments. He will prepare an updated Draft to bring back to Council to kick off the 2025-2029 CIP.

**NB-2  Review of Cities Digital Inc. (LaserFiche) Proposal**

Mr. Mike Bloom, Assistant Township Manager, offered that Staff continues to work with consultants, Cities Digital Incorporated (CDI), on implementation of the LaserFiche document management system. The development of the new system has proven to be more complex than initially anticipated. To date, CDI has completed the file structure for the Administrative and Finance Departments.

Staff anticipates the full buildout of the remaining departments, Engineering, Public Works and Planning/Zoning, will require upwards of 160 hours. CDI offers packages of service levels up to the Diamond Plan which includes 160 hours at $28,000.00, a 12.5% discount. The budget for 2024 for this line items is $13,000.00. Since this recommendation represents an expenditure that significantly exceeds the estimate provided in the budget, Staff is asking Council for approval.
Council supports the additional support hours to implement this new system.

Mr. Francke made a motion to authorize Staff to execute the 160 hour Diamond Plan Service Contract with Cities Digital Inc. for the buildout of the LaserFiche Document Management System not to exceed $28,000.00 with funds being reallocated from the General Fund.
Ms. Mariner seconded the motion.
Motion carried unanimously.

**STAFF INFORMATIVES:** No *Staff Informatives* brought forward for discussion.

**OTHER MATTERS:** Council discussed the recent issues with collection of Refuse and Recycling due to inclement weather.

**ADJOURNMENT:**

Chair Best called for a motion to adjourn the meeting.

Ms. Trainor moved to adjourn the January 18, 2024, Regular College Township Council Meeting.
Chair seconded the motion.

The January 18, 2024, Regular College Township Council Meeting was adjourned at 8:00 PM.

Respectfully Submitted By,

*Adam T. Brumbaugh*

Adam T. Brumbaugh  
Township Secretary
COLLEGE TOWNSHIP COUNCIL
REORGANIZATION MEETING MINUTES
Tuesday, January 2, 2024
1481 E. College Avenue, State College PA 16801
Hybrid Meeting (In-Person or via Zoom)

ATTENDED BY –
COUNCIL: Dustin Best, Chair
L. Eric Bernier, Vice Chair
D. Richard Francke
Susan Trainor
Tracey Mariner

STAFF: Adam T. Brumbaugh, Township Manager/Secretary
Mike Bloom, Assistant Township Manager
Don Franson, P.E., P.L.S., Township Engineer
Amy Kerner, P.E., Public Works Director
Lindsay Schoch, Principal Planner
Mark Gabrovsek, Zoning Officer

SWEARING IN OF NEWLY ELECTED OFFICIALS: Judge Greg Koehle officiated in swearing in
the newly elected Council Members, Mr. D. Richard Francke, Ms. Tracey Mariner, and Ms. Susan
Trainor, who were all elected to serve a four-year term.

POINT OF PROTOCOL: College Township Council Members typically rotate through the office of
Chair and Vice Chair. The Township Manager typically serves as the Temporary Chair at the start of the
meeting.

CALL TO ORDER: Mr. Adam Brumbaugh, Township Manager, called the January 2, 2024,
Reorganization meeting of the College Township Council to order at 12:03 PM and led in the Pledge of
Allegiance.

FIRST ORDER OF BUSINESS:

Mr. Brumbaugh, Temporary Chair, called for nomination for the 2024 Chair of College Township
Council.

Mr. Bernier nominated Mr. Dustin Best to serve as Council Chair in 2024.
Mr. Francke moved to close nominations.
Mr. Brumbaugh closed the nominations and called for a motion to
elect Mr. Dustin Best for the 2024 Council Chair.
Motion carried unanimously.

Mr. Brumbaugh turned the gavel over to Chair Best for the remainder of the meeting.

SECOND ORDER OF BUSINESS:

Chair Best called for a nomination for the 2024 Vice Chair of College Township.
Ms. Trainor nominated Mr. Eric Bernier to serve as Vice Chair in 2024.
Ms. Trainor moved to close the nominations.
Chair Best closed the nomination and called for a motion to nominate Mr. Eric Bernier as 2024 Council Vice Chair.
Motion carried unanimously.

NEW BUSINESS:  NB-1 COG Committee and Regional Appointments

a. COG Committees:

<table>
<thead>
<tr>
<th>Committee</th>
<th>2023 Rep.</th>
<th>2024 Rep.</th>
<th>1st Meeting</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Executive</td>
<td>Best</td>
<td>Best</td>
<td>Tues. Jan 16, 2024, 12:15 PM</td>
</tr>
<tr>
<td>2) Finance</td>
<td>Francke</td>
<td>Francke</td>
<td>Thurs. Jan 11, 2024, 8:30 AM</td>
</tr>
<tr>
<td>3) Human Resources</td>
<td>Best</td>
<td>Mariner</td>
<td>Wed. Jan 10, 2024, 12:15 PM</td>
</tr>
<tr>
<td>4) Parks Capital</td>
<td>Best</td>
<td>Best</td>
<td>Thurs. Jan 11, 2024, 12:15 PM</td>
</tr>
<tr>
<td>5) Public Safety</td>
<td>Trainor</td>
<td>Trainor</td>
<td>Tues. Jan 9, 2024, 12:15 PM</td>
</tr>
<tr>
<td>6) Land Use &amp; Comm. Infrastructure</td>
<td>Bernier</td>
<td>Bernier</td>
<td>Wed. Jan 10, 2024, 8:30 AM</td>
</tr>
<tr>
<td>7) Facilities</td>
<td>Bernier</td>
<td>Bernier</td>
<td>Tues. Jan 9, 2024, 8:30 AM</td>
</tr>
<tr>
<td>8) Climate Action &amp; Sustainability</td>
<td>Fragola</td>
<td>Best</td>
<td>Mon. Jan 8, 2024, 12:15 PM</td>
</tr>
<tr>
<td>9) Parks &amp; Rec Governance</td>
<td>Francke</td>
<td>Francke</td>
<td>Wed. Jan 24, 2024, 8:30 AM</td>
</tr>
<tr>
<td>10) General Forum</td>
<td>ALL</td>
<td>ALL</td>
<td>Mon. Jan 22, 2024, 7:00 PM</td>
</tr>
</tbody>
</table>

Mr. Bernier moved to accept the COG Committee assignments as presented.
Ms. Trainor seconded the motion.
Motion carried unanimously.

b. Regional/General Committees:

<table>
<thead>
<tr>
<th>Committee</th>
<th>2023 Rep.</th>
<th>2024 Rep.</th>
<th>1st Meeting</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) LTAC</td>
<td>Trainor</td>
<td>Trainor</td>
<td>Wed. Jan 10, 2024, 7:00 PM</td>
</tr>
<tr>
<td>2) SC Watershed Delegate</td>
<td>Best</td>
<td>Best</td>
<td>TBD</td>
</tr>
<tr>
<td>3) Centre Area Cable Consort.</td>
<td>Best</td>
<td>Mariner</td>
<td>TBD</td>
</tr>
<tr>
<td>4) CCMPO Coordinating</td>
<td>Bernier</td>
<td>Bernier</td>
<td>Tues. Feb. 27, 2024, 6:00 PM</td>
</tr>
<tr>
<td>5) CTIDA Liaison</td>
<td>Trainor</td>
<td>Trainor</td>
<td>Wed. Jan. 17, 2024 9:30 AM</td>
</tr>
</tbody>
</table>

Ms. Trainor moved to accept the Regional/General Committees as presented.
Mr. Francke seconded the motion.
Motion carried unanimously.

c. PSATS/PML Voting Delegate:

<table>
<thead>
<tr>
<th>Committee</th>
<th>2023 Rep.</th>
<th>2024 Rep.</th>
<th>1st Meeting</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) CT Voting Delegate PSAT</td>
<td>Trainor</td>
<td>Trainor</td>
<td>PSATS Conv. 4/14/2024</td>
</tr>
<tr>
<td>2) CT Voting Delegate PML</td>
<td>Francke</td>
<td>Best</td>
<td>PML Leadership Conf.</td>
</tr>
</tbody>
</table>
Mr. Francke moved to accept the PSATS/PML Voting Delegates as presented.
Ms. Mariner seconded the motion.
Motion carried unanimously.

CONSENT AGENDA:

CA-1 Appointment of all College Township Committee Alternates with full force vote, As Needed

CA-2 Appointment of Louis T. Glantz, Glantz and Johnson, as College Township Solicitor for 2024

CA-3 2024 Auditing Services - Fiore Fedeli Snyder Carothers; Appointment of

CA-4 Re-appointment of all current College Township staff members to their current positions and the additional appointments of the following for 2024:

- Adam T. Brumbaugh - Township Manager/Secretary;
- Donald M. Franson - Local Traffic Advisory Committee;
- Robert T. Long, Jr. - Township Treasurer; and
- Amy Kerner - Local Traffic Advisory Committee;
- Jeremiah Northridge - Local Traffic Advisory Committee;
- Jennifer Snyder - Assistant Township Secretary; and
- Walter Schneider PA SEO 03970 - Primary Sewage Enforcement Officer
- Cory M. Warner PA SEO 03994 - Secondary Sewage Enforcement Officer
- James W. Royer PA SEO 04028 - Secondary Sewage Enforcement Officer
- Robert E. Royer, Jr. PA 04025 - Secondary Sewage Enforcement Officer
- Bryan K. Roan PA SEO 04041 - Secondary Sewage Enforcement Officer
- Jonathon T. Long PA SEO 04039 - Secondary Sewage Enforcement Officer
- Laron Horner PA SEO 03969 - Alternate Sewage Enforcement Officer
CA-9 Authorities, Boards, and Commissions (ABC) Matters

a. Appointments and Reappointments to Authorities, Boards, & Commissions:

1) Anthony Fragola Industrial Development Authority 1/2/2024 – 12/31/2028;
2) Earl Moore Local Traffic Advisory Committee 1/2/2024 – 12/31/2027;
3) Joe Davidson CATA Board 1/2/2024 – 12/31/2028;
4) Dave Wasson Vacancy Board 1/2/2024 – 12/31/2024;
5) Ed Darrah Planning Commission 1/2/2024 – 12/31/2027;
6) Matthew Fenton Planning Commission 1/2/2024 – 12/31/2027;
7) Ash Toumayants Planning Commission 1/2/2024 – 12/31/2027;
8) Martin McGann CT Water Authority 1/2/2024 – 12/31/2028;
9) Shaun Pardi Zoning Hearing Board 1/2/2024 – 12/31/2028;
10) Dave Schulte Parks & Recreation Committee 1/2/2024 – 12/31/2028;
11) Ned Brokloff Parks & Recreation Committee 1/2/2024 – 12/31/2028
12) Bill Caplan C-NET Board 1/2/2024 – 12/31/2026;
13) Frank Mellot UAJA Board 1/2/2024 – 12/31/2028; and
14) Lee Murphy SC Watershed Commission Alternate 1/2/2024 - 12/31/2024.

CA-10 Appointment of the following financial institutions as depositories for College Township funds for 1/1/2024 through 12/31/2024: First National Bank of Pennsylvania, PA Local Government Investment Trust (PLGIT), and Jersey Shore State Bank.

CA-11 Setting of mileage reimbursement rate at the federal IRS rate

CA-12 College Township Rates, Fees and Penalties Schedule; Amendment of

a. R-24-02 §A203-8 Planned Residential Development
b. R-24-03 §A203-10 Sewage Disposal System
c. R-24-04 §A203-11 Signs
d. R-24-05 §A203-12 Solid Waste Collection
e. R-24-06 §A203-13 Driveway Permit and Rights-of-Way Permits
f. R-24-07 §A203-14 Plan Review Fees
g. R-24-08 §A203-16 Zoning
h. R-24-09 §A203-17 Fines for Violations
i. R-24-10 §A203-20 Administration Fees
j. R-24-11 §A203-24 Residential Rentals
k. R-24-12 §A203-25 Keeping of Chickens
l. R-24-13 §A203-27 Sidewalks

Mr. Bernier made a motion to approve the Consent Agenda as presented.
Mr. Francke seconded the motion.
Motion carried unanimously.
ADJOURNMENT:

Chair Best called for a motion to adjourn the Reorganization Meeting.

Mr. Francke moved to adjourn the January 2, 2024, Reorganization Meeting.
Chair seconded the motion.

The January 2, 2024, Reorganization Meeting of the College Township Council was adjourned at 12:12 PM.

Respectfully Submitted By,

Adam T. Brumbaugh

Adam T. Brumbaugh
Township Secretary
CALL TO ORDER: Mr. Dustin Best, Council Chair, called to order the January 2, 2024, regular meeting of the College Township (CT) Council at 12:12 PM, which followed the 2024 Reorganization Meeting.

PUBLIC OPEN DISCUSSION: No Public Open Discussion Items brought forward.

NEW AGENDA ITEMS: No New Agenda Items were added to the agenda.

PLANS: P-1 Winfield Heights-Phase 2 Final Subdivision Plan

Ms. Lindsay Schoch, AICP, Principal Planner, offered the Winfield Heights-Phase 2 Final Subdivision Plan consists of twenty-two residential lots within the Winfield Heights Development located on Meadowsweet Drive, Tax Parcel 19-004A-100A. In 2017, a preliminary plan was approved for Winfield Heights in three (3) phases. This phase of the plan will connect Farmhill Drive and extend Sunhaven Lane. Ms. Schoch reviewed the outstanding comments to include note 10 to read 5-years, landscaping notes and inlet drain details.

Council discussed the walking path in the northwest corner connecting to an easement right of way in the Penn Hills development. Mr. Kann, Hawbaker Engineering, offered that this property has been purchased for the walking path and Trail Surface Aggregate will be used for the surfacing. Mr. Franson offered TSA is considered an ADA compliant surface. TSA was developed by Penn State. Council discussed another trail in the southwest corner. This trail already exists. Council discussed potential reaction from current Penn Hills residence when a walking path is extended to connect to Buchenhorst Road.

Mr. Francke moved to approve the Winfield Heights Phase 2 Final Subdivision Plan dated November 17, 2023, and last revised December 11, 2023, subject to the following conditions:
1. Within ninety-days from the date of approval by Council, all conditions must be satisfied, final signatures must be obtained and
the plan must be recorded with the Centre County Recorder of Deeds office. Failure to meet the ninety-day recordation time requirement will render the plan null and void.

2. Pay all outstanding review fees.

3. Address, to the satisfaction of the Township Engineer, any outstanding plan review comments from Staff.

4. Fully comply with College Township Section 180.12.

5. Post surety as approved by the Township Engineer prior to recordation.

6. Record the approved DSAME for Phase 2.

7. All conditions must be accepted in writing within seven (7) days from the date of the conditional approval letter from the Township Engineer.

Ms. Mariner seconded the motion.
Motion carried unanimously.

REPORTS:

a. Manager’s Update - None

b. COG Regional, County, Liaisons Reports - None

c. Staff/Planning Commission/Other Committees - None

d. Diversity, Equity, Inclusion & Belonging (DEIB) Reports (Public Invited to Report)

Mr. Bloom, Assistant Township Manager, offered January 11th is National Human Trafficking Awareness Day, and in January fall Martin Luther King Jr. Day, Religious Freedom Day, and International Holocaust Remembrance Day.

CONSENT AGENDA:

CA-1 Minutes, Approval of
a. None

CA-2 Correspondence, Receipt/Approval of
a. Letter from Rettew, dated December 22, 2023, regarding Time Extension UAJA Biosolids Upgrade Project to April 15, 2024

CA-3 Action Item, Approval of
a. None

Ms. Mariner made a motion to accept and approve the January 2, 2024, Consent Agenda.
Mr. Bernier seconded the motion.
Motion carried unanimously.

OLD BUSINESS: No Old Business items on the agenda.
NEW BUSINESS:  NB-1  RACP Grant – ClearWater Conservancy

Mr. Mike Bloom, Assistant Township Manager, offered that recently, ClearWater Conservancy notified CT of its intent to pursue a Redevelopment Assistance Capital Program (RACP) grant in the amount of $3,500,000. This funding would be applied toward the construction costs to repurpose and renovate the Rockenbeck property in Houserville.

RACP grants require a municipal partner to serve as the Grantee on behalf of the applicant for this funding; CT has been asked to fulfill this role. ClearWater Conservancy has retained Delta Development to assist with administration of the RACP grant, which helps limit the Township’s overall Staff time and role in the process. CT will serve as a pass-through for the RACP funding and attend approximately four (4) construction meetings.

The next step in the RACP process is the submission of a formal and complete RACP application to the Office of Budget. The deadline for submission is January 12, 2024. To submit the application, the Township must pass a resolution authorizing the submission of the RACP application and designating the Township Manager as the official to execute all documents and agreements. Other documents to be completed are the Statements of Compliance Acknowledgment, Works Protection Form, and forms RDA 300, RDA 301, and RDA 302.

A representative from ClearWater Conservancy, Mr. Ford Stryker, fielded comments from Council.

Ms. Trainor made a motion to approve Resolution R-24-14 and authorize Mr. Brumbaugh, Township Manager, to complete the Statement of Compliance Acknowledgement, Works Protection Form, and forms RDA 300, RDA 301, and RDA 302. Ms. Mariner seconded the motion. Motion carried unanimously.

STAFF INFORMATIVES:  No Staff Informatives brought forward for discussion.

OTHER MATTERS: The annual PSATS Conference will be held on April 14 through the 17 at the Hershey Lodge. Registration opens on January 9. Council/Staff were asked who would be attending this Conference.

ADJOURNMENT:

Chair Best called for a motion to adjourn the meeting.

Mr. Francke moved to adjourn the January 2, 2024, Regular College Township Council Meeting. Chair seconded the motion.

The January 2, 2024, Regular College Township Council Meeting was adjourned at 12:49 PM.

Respectfully Submitted By,  
Adam T. Brumbaugh  
Township Secretary
ATTENDED BY –
COUNCIL: Dustin Best, Chair
D. Richard Francke, Vice Chair
L. Eric Bernier
Susan Trainor
Anthony Fragola

STAFF: Adam T. Brumbaugh, Township Manager/Secretary
Mike Bloom, Assistant Township Manager
Don Franson, P.E., P.L.S., Township Engineer
Amy Kerner, P.E., Public Works Director
Lindsay Schoch, Principal Planner
Mark Gabrovsek, Zoning Officer

CALL TO ORDER:
Mr. Dustin Best, Chair, called to order at 7:00 PM the December 21, 2023, the College Township (CT) Council Public Hearing for 2024 College Township Budget and led in the Pledge of Allegiance.

ANNOUNCEMENT: Council met in an Executive Session prior to the start of this meeting to discuss a personnel issue.

PUBLIC OPEN DISCUSSION:
No Public Open Discussion comments were brought forward.

PRESENTATION:
Mr. Adam Brumbaugh, Township Manager, offered a brief presentation of the 2024 Budget, which does not include a property tax increase in 2024, mainly due to fiscal discipline in primary COVID years of 2020-2022, anticipated return to normal revenue from PSU Impact Fee, and continued allocation of American Recovery Plan funds. The 2024 Property Tax will remain at 6.10 mills. Staff projects receipts of $10.2 million from multiple sources. Expenditures in 2024 are estimated at $11.97 million. Mr. Brumbaugh reviewed the significant 2024 capital projects anticipated.

ADJOURNMENT:
Hearing no public discussion, Chair called for a motion to adjourn the Public Hearing.
Mr. Bernier moved to adjourn the December 21, 2023, Public Hearing on 2024 College Township Budget.
Chair Best seconded the motion.

Chair Best adjourned the December 21, 2023, Public Hearing at 7:12 PM.

Respectfully Submitted By,

Adam T. Brumbaugh

Adam T. Brumbaugh
Township Secretary/Manager
CALL TO ORDER: Mr. Dustin Best, Council Chair, called to order the December 21, 2023, regular meeting of the College Township (CT) Council at 7:12 PM, which followed a Public Hearing on the 2024 College Township budget.

PUBLIC OPEN DISCUSSION: No Public Open Discussion Items brought forward.

NEW AGENDA ITEMS:

Mr. Francke made a motion to add to the December 21, 2023, Consent Agenda, a support letter for the Redevelopment Assistance Capital Program (RACP) funding Request for ClearWater Conservancy.
Mr. Bernier seconded the motion.
Motion carried unanimously.

Chair Best announced that the RACP support letter would be entered into the Consent Agenda as CA-3.a.

SPECIAL PRESENTATION

SP-1 College Township

Ms. Keri Miller, Executive Director of the College Township Industrial Development Authority (CTIDA), presented the mission/vision statement of the CTIDA, to promote a vibrant, diversified, and sustainable economy through supporting and encouraging job growth and investment of capital into the economy. Ms. Miller introduced objectives to support the mission/vision of the CTIDA. The overarching theme is relationship building within the CTIDA, economic development allies, and business partners. During her 3-month tenure as Executive Director, she has been fostering these relationships.
Ms. Miller introduced the current CTIDA Board members. Currently, there is three (3) vacancies on the CTIDA Board. Ms. Miller is hopeful that Council will be successful at filling these vacancies early in 2024.

Ms. Miller offered in 2022, Mr. Adam Brumbaugh, CT Manager, was contracted to serve as the Interim Director of the CTIDA. In 2023, Ms. Miller was hired by the Township as the Economic Development Coordinator with the responsibility to serve as the CTIDA Executive Director.

CTIDA Board members serve on anyone of four (4) committees: Loan, Finance, Marketing and Governance. Each committee has a specific role to play moving forward with new business partners. Presently, Ms. Miller is working on clear and consistent lines of communications, recording keeping, policy development, loan administration, task timelines, strategic planning and outreach. The CTIDA now has a LinkedIn page and a rack card with QR code to the CTIDA website.

The CTIDA is working with a network of economic development allies. Work is being done charting and mapping the ecosystem that supports businesses from their inception, with the mantra of “Start, Grow, and Stay” here in Centre County. The CTIDA wants to be connected from the beginning with businesses to build strong connections.

Lastly, the business partners are the reason behind the existence of the CTIDA. The CTIDA wants to become more than the organization that signs over a check. The CTIDA is working on developing sincere relationship building, communication and support of existing clients. Currently, the CTIDA partners with Actuated Medical, Inc., Abington Equine Hospital, Dominight LLC., Xact Metal, Tasty K and X-Hab 3D, Inc.

REPORTS:

a. Manager’s Update

Mr. Adam Brumbaugh, Township Manager, reported that during the meeting tonight, Staff would review the process for approval of Dale Summit Plan and Form Based code and questions from the Planning Commission. Mr. Mike Bloom, Assistant Township Manager, offered the Solar Power Purchasing Working Group met on December 13, 2023, and were presented with a rate schedule. The per kilowatt rate is consistent with the rate College Township is currently receiving. In February, the contracts will be sent to Council for review sometime in March.

Mr. Brumbaugh offered that he attended a meeting with Representative Paul Takac, Don Franson, Township Engineer and PennDOT officials related to two corridors in Centre County, the Benner Pike Corridor and the Shiloh Road Corridor; and discussed how to coordinate efforts for infrastructure improvements on these corridors.

Mr. Brumbaugh offered that for the first time in its history, the College Township Water Authority was awarded $1,151,000, by the Commonwealth Financing Agency (CFA), for the construction of the Oak Hall well and $208,000 for line renewal work on First Avenue. Thanks to Representative Takac for help advancing the application for this work.

b. COG Regional, County, Liaisons Reports

Centre County Metropolitan Planning Organization (CCMPO) Coordinating Committee: Mr. Bernier offered he attended a meet and greet with Senator Cris Dush’s staff and the CCMPO.
**COG Finance Committee:** Mr. Francke reported that the COG Finance Committee met on December 14, 2023, and discussed budget related consideration for review by various bodies outside of the Finance Committee and participated in an after-action review of the 2023 Budget process. Mr. Francke and Mr. Bernier attended the Harris Township meeting to bid farewell to Supervisor Bud Graham.

**COG Executive Committee:** Mr. Best offered the Executive Committee met on December 14, 2023, and had a light agenda.

c. **Staff/Planning Commission/Other Committees**

**Planning Commission (PC):** Mr. Hoffman, PC Liaison to Council, offered the PC met on December 19, 2023, and was reintroduced to the Dale Summit Area Plan. After considerable discussion of the proposed events and timelines, the PC requested they receive the original and final Dale Summit Area plan plus additional information to review and develop questions prior to any joint meetings with Council. PC opined the schedule is aggressive for Form Based Code Study and they would like to review Workforce Housing before Form Based Code. They have questions on Workforce Housing, which is part of the discussion this evening in Old Business.

Council commented on the attitude of some members of PC that set the stage for the discussion at the meeting. Council offered that often times more than one task must be undertaken consecutively.

d. **Diversity, Equity, Inclusion & Belonging (DEIB) Reports (Public Invited to Report)**

Mr. Bloom, Assistant Township Manager, offered that Christmas, Kwanzaa and the New Year holidays would be celebrated in the coming weeks.

**CONSENT AGENDA:**

**CA-1 Minutes, Approval of**

a. December 6, 2023, Regular Meeting

**CA-2 Correspondence, Receipt/Approval of**

a. Email from Daniel Materna, dated December 5, 2023, regarding Casino
b. Letter from Glo Fiber, dated December 4, 2023, regarding rate adjustments
c. Email from Centre Documenters, dated December 10, 2023, regarding nation-wide Documenters program
d. Letter from CRCOG, dated December 11, 2023, regarding 2024 COG Committee Appointments

**CA-3 Action Item, Approval of**

a. Support Letter – RACP Grant request for ClearWater Conservancy Community Center

   Mr. Bernier made a motion to accept and approve the December 21, 2023, Consent Agenda.
   Ms. Trainor seconded the motion.
   Motion carried unanimously.

**OLD BUSINESS:**

**OB-1 2024 College Township Budget**

Council had no further comments with the presentation given during the Public Hearing. The following motion was made.
Mr. Bernier moved to approve Resolution R-23-29 a resolution adopting the College Township 2024 Budget.
Mr. Francke seconded the motion.
Motion carried unanimously.

Mr. Francke moved to approve the Resolution R-23-30 fixing the tax rate for the year 2024.
Mr. Bernier seconded the motion.
Motion carried unanimously.

**OB-2  2024 COG Budget; Resolution R-23-28**

Council had no further comments related to the 2024 COG Budget. The following motion was made.

Mr. Francke moved to approve the Resolution R-23-28 approving the Centre Region Council of Governments 2024 Budget.
Ms. Trainor seconded the motion.
Motion carried unanimously.

**OB-3  Workforce Housing; Answers to Planning Commissions Questions**

Ms. Schoch, AICP, Principal Planner, offered that from the outcome of the previous joint meeting, it was recommended that questions for Council from the PC would be brought forward by the PC liaison to Council. Before Council tonight is a list of five (5) questions from the PC requiring clarification from Council concerning Workforce Housing. Council asked that Staff take the first opportunity to respond to the questions; the original questions and answers from Staff are before Council for discussion.

1. How does the Township plan to offer realistic incentives to developers and bankers to construct single-family workforce housing?

Council offered that as stated in the remand letter, ensuring the College Township’s workforce has access to affordable housing is a key policy. The Workforce Housing Ordinance is an inclusionary ordinance and developments that meet the density thresholds within the ordinance are required to provide a certain percentage of workforce housing units. Council is interested in any recommendations that the PC may have related to the potential incentives that support development of additional workforce housing units without sacrificing basic infrastructure amenities, such as sidewalks or parklands, and are the incentives equitable. Council also added that the PC should discuss what revisions to the ordinance is needed to ensure that provisions of workforce housing can take the form of either owner-occupied units or rental units.

2. Regarding Owner-Occupied Units, how do we maintain the 60-120% Area Median Income (AMI) in resale?

Council agreed with the Staff’s comments that affordability is safeguarded for a 30-year period of affordability through deed restrictions on owner-occupied properties, and through developer agreements for rental properties. College Township ensures that land development plans include a note addressing any required workforce housing units or other provisions for workforce housing. Through a Memorandum of Understanding with the Centre County Housing and Land Trust (CCHLT), they manage all requirements of workforce housing units.

3. Clarify Bullet #1 to recognize social-economic diversity of neighborhoods. What does this mean in more detail?
To clarify Bullet #1 under the Intent Statement of the ordinance, Council is seeking development of communities that are comprised of individuals with varying socioeconomic statuses. Some factors contributing to socioeconomic status include income and education levels and occupation. The goal is to ensure that new development in College Township is not narrowly focusing on any one socioeconomic class, but is instead fostering inclusive neighborhoods. Inclusive neighborhoods provide equitable opportunities for individuals to have affordable housing that is proximate to their respective places of work. The Workforce Housing Ordinance is an income driven policy.

4. How do we prepare for changes in the AMI?

Area Median Income is a statistical measure used to assess the relative income levels and economic conditions within a specific geographic area. The Department of Housing and Urban Development (HUD) establishes AMI on an annual basis and uses it as a benchmark to determine income limits for various housing assistance programs.

AMI has not historically been a dynamic, rapidly changing measure. Nevertheless, College Township, through its relationship with CCHLT, will need to continuously monitor for any changes to the AMI by HUD and adjust the AMI thresholds within the ordinance, as needed, to accommodate any relevant annual increases or decreases.

5. Does College Township have any percentage in mind for amount of workforce housing in the Township? What is your goal in the next few years?

While the intent of the ordinance is to facilitate the provision of affordable and attainable rental and owner-occupied workforce housing options within College Township, Council does not have any preconceived percentages or a specific target for number of workforces housing units to be developed over time.

However, Council has stated its intention to conduct periodic “after action” reviews of the effectiveness of the ordinance in aiding the creation of new affordable housing units. These reviews are intended to help both Council and Planning Commission in setting general benchmarks for the percentage or number of units created through implementation of the ordinance during future land development approval processes.

Mr. Hoffman opined that a joint meeting be held to better understand the Workforce Housing process. Council discussed the timing of looking at both Workforce Housing and Form Based Code. Staff will provide a written response to the PC regarding the discussions tonight.

**OB-4 Dale Summit Area Plan Form Based Code; Review of Process**

Ms. Lindsay Schoch, AICP, Principal Planner, offered that beginning in 2024, Council, PC and Staff would embark on the major undertaking of review, refinement and implementation of some variety of Form Based Code (FBC) in the Dale Summit. Implementation of FBC is one of the primary objectives set forth in Dale Summit Area Plan.

Staff proposed a series of joint meetings with Council and the PC to feature specific Focus Areas and Meeting Objectives. Staff proposes a joint meeting to be scheduled in January and one in late February/March. The joint meetings are intended to provide an opportunity to collectively review the Dale Summit Area Plan and the DRAFT FBC in order to establish a foundational understanding of each of the documents and to set expectations for the overall review process.

Mr. Hoffman, PC Liaison, offered the PC approved the methodology of this review but questioned the
aggressive timeline. Council offered that a third meeting is probably likely to be needed. Council approved the timeline and meeting objectives as presented. Council directed Staff to prepare for, advertise a late January joint meeting, and distribute the materials to provide background, additional context and some direction for the review of the updated Dale Summit Area Plan.

NEW BUSINESS: No New Business Items on the agenda.

STAFF INFORMATIVES: Mr. Brumbaugh offered materials provided in Staff Informatives include the UAJA budget materials.

OTHER MATTERS: Mr. Fragola was appointed to fill the unexpired term of Ms. Carla Stilson beginning on July 1, 2023. As this is his last meeting fulfilling this appointment, Mr. Fragola opined it was his pleasure and privilege to work with this Council. He supports the efforts of this Council to make College Township a great place to live, work and play. He thanked Staff for their support. Council and Staff thanked Mr. Fragola for his service to the Township.

ADJOURNMENT:

Chair Best called for a motion to adjourn the meeting.

Ms. Trainor moved to adjourn the December 21, 2023, Regular College Township Council Meeting.
Chair seconded the motion.

The December 21, 2023, Regular College Township Council Meeting was adjourned at 9:19 PM.

Respectfully Submitted By,

Adam T. Brumbaugh
Township Secretary
Disability Discrimination

City's decision to deny special use permit at center of controversy

Citation: Chestnut Hill NY, Inc. v. City of Kingston, 2023 WL 6796622 (N.D. N.Y. 2023)

Chestnut Hill NY, Inc. and several individuals (collectively, the plaintiffs) filed suit alleging the City of Kingston, New York and its planning and building safety, and zoning enforcement departments (collectively, the city) violated the rights of those with disabilities under the Fair Housing Act (FHA) and the Americans with Disabilities Act (ADA). They claimed the city denied a special use permit (SUP) for the operation of "a family group home" or "boarding home" on 106 West Chestnut Street in Kingston, New York to house individuals with "impairments," including "mental illness," which "substantially limited their major life activities."

This lawsuit followed a court's decision to grant the plaintiffs' request for a temporary restraining order (TRO) prohibiting the city from evicting the residents. As part of the settlement of that action, the city issued a variance and an annually renewable SUP enabling the home to continue operating.

It was after the city denied the home's 2023 application to renew the SUP and informed the plaintiffs to have the home's residents vacate the property that they filed suit.

Before the court was the plaintiffs' request for declaratory and injunctive relief. They also sought a TRO and preliminary injunction to stay the eviction proceedings.

DECISION: Request for TRO and preliminary injunction denied.

The plaintiffs failed to show that their request for either type of injunction relief was warranted.

PLAINTIFFS' BURDEN

For the court to grant an injunction, the plaintiffs had to show:

- a likelihood of irreparable injury in the absence of an injunction;
- a likelihood of success on the merits or sufficiently serious questions going to the merits to make them fair ground for litigation and a balance of hardships tipping decidedly in their favor;
- that the balance of hardships tipped in their favor; and
- that the public interest would not be disserved by the issuance of an injunction.

Concerning the second factor, the city contended that because the plaintiffs sought to enjoin government action—that is, the planning board's denial of the SUP renewal application and its order calling for the eviction of residents—the "sufficiently serious questions" standard was unavailable and the plaintiffs had to "satisfy a 'more rigorous likelihood-of-success standard.'"
The court agreed. Thus, where the plaintiffs sought a preliminary injunction affecting the planning board's "action taken in the public interest pursuant to . . . state and city . . . codes, they [had to] show a likelihood of success."

There were two types of preliminary injunctions, the court explained: prohibitory and mandatory. "Prohibitory injunctions maintain[ed] the status quo pending resolution of the case; mandatory injunctions alter[ed] it."

"A party seeking a mandatory injunction must meet a heightened legal standard by showing 'a clear or substantial likelihood of success on the merits.'"

Here, the plaintiffs sought prohibitory relief, which "would maintain 'the last actual, peaceable uncontested status' between the parties: The house would remain a boarding house and the individual plaintiffs could continue to reside there." This meant they had to show only a likelihood of success on the merits, which the court found they could not do.

To assert a likelihood of success on the merits meant the plaintiffs had to show that they were "more likely than not to prevail on [their] claims, or, in other words, that the 'probability of prevailing [was] better than [50%].""

In support of their requests for injunctive relief, the plaintiffs asserted that 1) the city had subjected them to intentional discrimination on the basis of disability; and 2) its conduct had disparately impacted disabled residents, and it had failed to provide a reasonable accommodation.

There was evidence that prior to 2017, city officials, such as the prior mayor, as well as community members, expressed a disability-based animus against the house and its residents. There was also evidence this animus influenced the city's determination that the home wasn't a permitted use and that its residents should be evicted. But the plaintiffs didn't present "evidence that any city official that participated in the conduct related to the first lawsuit where the TRO was granted had any involvement whatsoever in the current matter."

The reality was that members of the community had complained to the city recently about "trespassing, residents sleeping in cars, excess occupancy, garbage, the presence of a sex offender, and noise levels" at the home, which did not appear to suggest disability-based animus." There were also concerns over whether the house "was meeting the needs of residents with mobility and psychiatric impairments given its entrance to accommodate the physically disabled." "Even if well-intentioned, these comments and complaints were nonetheless disability-based," the court found. But, "even viewing the totality of the circumstances, this thin and attenuated evidence suggest[ed] that the plaintiffs were unlikely to succeed in showing that disability-based discrimination was a factor in the planning board's decision to deny the renewal application."

And even if the court were to assume the plaintiffs could establish a likelihood of success with respect to their initial showing of disability discrimination, "they . . . failed to meet their burden here" because the city sufficiently provided a rebuttal by providing a legitimate, nondiscriminatory reason for its decision.

The planning board asserted that it denied the SUP renewal application due to building safety violations and the failure to remedy those, which involved the operation of fire alarms and the design and structural suitability of the home's fire escape.

Once the city made that showing, the plaintiffs had the opportunity to show that the reasons the city gave were a pretext for its discriminatory motives. Overall, they failed to do so, the court ruled.

Practically Speaking:
Because the plaintiffs failed to show a likelihood of success on the merits, the court had sufficient grounds to deny injunctive relief and didn't have to consider the remaining balance of hardships and public interest factors.
Nonconforming Use

Property owner seeks to have ZBA’s decision annulled

Citation: Mimassi v. Zoning Board of Appeals of Village of New York Mills, 218 A.D.3d 1234, 194 N.Y.S.3d 373 (4th Dep’t 2023)

A property owner challenged the decision of the Village of New York Mills Zoning Board of Appeals (ZBA) finding that his property wasn’t a four-family dwelling nonconforming use under the local zoning ordinance, which barred multifamily dwellings unless an exception applied.

The court granted the request for review to the extent that the owner sought to annul the ZBA’s determination that a continuous nonconforming use as a two-family dwelling did not exist before dismissing the petition. The property owner appealed.

DECISION: Affirmed.

The substantial evidence supported the ZBA’s determination that the property wasn’t a four-family dwelling nonconforming use.

MORE ON THE FACTS

The property owner had bought a home in the village’s R-1 district. Since 1944, the property had been owned by members of his family and used as a multi-family dwelling. Per the village’s zoning ordinance, which was enacted in 1973, one-family, but not multi-family, dwellings were allowed in an R-1 district. In addition, it included an exception: that the lawful use of any land or building as of the time the zoning ordinance was adopted in 1973 may be continued as a nonconforming use, so long as the nonconforming use was not discontinued for a period of one year.

After the sale was finalized, the village’s code enforcement officer (CEO) issued the property owner building permits to construct two decks on the property and to renovate the interior of the residence.

Upon inspection of the property, the CEO issued an “order to remedy violation” and denied the property owner’s application for a certificate of occupancy for the renovated four-family dwelling on the ground that the nonconforming use of the building had been discontinued.

That’s when the property owner appealed to the ZBA seeking reversal of the denial of the certificate of occupancy. The ZBA held a hearing and then denied the appeal. It found that the property was a two-family dwelling at the time the zoning ordinance was adopted and had not maintained that nonconforming use status.

BACK TO THE COURT’S RULING

“[T]he evidence before the ZBA showed that the property was a two-family dwelling prior to [the] renovations, and [the property owner] did not submit any evidence before the ZBA for it to conclude otherwise,” the court wrote. “Contrary to [his] contention, the court did not err in failing to conduct a hearing on whether there was a nonconforming use as a four-family dwelling” as “[a] determination of a zoning board ‘should be sustained on judicial review if it ha[d] a rational basis and [wa]s supported by substantial evidence.’”

CASE NOTE

The statute of limitations (SoL) also came up in this case. The court found that the SoL for the property owner to challenge the ordinance’s validity began to run when the ordinance was enacted and not when he applied to rezone the property.

Free Speech

Billboard company claims city’s variance ordinance violated rights on constitutional grounds

Citation: International Outdoor, Inc. v. City of Troy, Michigan, 77 F.3d 432 (6th Cir. 2023)

International Outdoor Inc. (IO) filed suit against the City of Troy, Michigan, claiming its variance process under a city ordinance created an unconstitutional prior restraint on speech and imposed content-based restrictions in violation of free speech.

The lower court dismissed IO’s claim in part and granted the city judgment without a trial on the remaining claims. IO appealed, and an appeals court affirmed in part, but the court also vacated the ruling in part, sending the case back for further proceedings.

On further review, the lower court found that the permit exceptions were invalid content-based restrictions but could be severed. IO asked for reconsideration, and after the court denied that request, it appealed to the Sixth U.S. Circuit Court of Appeals.

DECISION: Affirmed.

Under the applicable Michigan law, invalid content-based exceptions to the city billboard permit requirement were severable from the remainder of the city’s ordinance.

SIGN AT ISSUE

As an outdoor-advertising company, IO erected billboards in the southeastern region of Michigan. The city of Troy regulated signs in its jurisdiction, which included billboard.

The original version of the city’s ordinance required a permit and the payment of a fee for any sign unless the sign fell into a stated exception: Specifically, street signs, small ground signs, flags, and “temporary signs” were exempt from the permit requirement.

The ordinance included specific size, height, and location requirements for “ground signs,” including billboards. In certain districts, each property was allowed one ground sign not to exceed 100 square feet in area and 12 feet in height, if set back at least 10 feet from the street. An additional ground sign would be allowed if it:

- was set back at least 200 feet;
- was located at least 1,000 feet from any sign exceeding 100 square feet in area;
• did not exceed 300 square feet in area; and
• did not exceed 25 feet in height.

If a sign didn’t meet these requirements, the ZBA could grant a variance so long as:

• The variance wouldn’t be contrary to the public interest;
• it wouldn’t adversely affect properties in the immediate vicinity of the proposed sign; and
• the party requesting it had a “hardship or practical difficulty resulting from the unusual characteristics of the property that precluded the reasonable use of the property.”

Here, IO sought to erect a two-sided billboard at two locations in the city. The billboards measured 14 by 48 feet in area—equal to 672 square feet per side or 1,344 square feet in total—and 70 feet in height when mounted. They were to be less than 200 feet from a right of way and less than 1,000 feet from other signs exceeding 100 square feet.

IO applied for a permit to erect the billboards, but the city concluded they didn’t meet the ordinance’s height, size, and setback requirements, so IO sought a variance. The city also denied this request, finding that IO hadn’t met the variance conditions.

THE SIXTH CIRCUIT’S CONCLUSIONS

IO’s proposed billboards didn’t satisfy “valid, content-neutral standards,” the court ruled. “Even if the entire permit-requirement section were severed, the ordinance would still bar [IO’s] proposed billboards under its unchallenged height, size, and setback requirements. This is because an earlier section of the ordinance... grant[ed] enforcement authority to the zoning administrator, who could enforce the substantive sign standards and punish violations even without a permitting scheme.”

While a “permit requirement without the challenged exceptions would have made erecting flags and ‘temporary signs’ more onerous... if the permit requirement was not integral to the operation of the [ordinance], exceptions to that permit requirement could not be either.” “And while the amendment of the [ordinance] indicate[d] that the city prefer[red] a valid permitting scheme to post-hoc enforcement, the severability clause clarifie[d] that it prefer[red] the latter to allowing nonconforming signs to pop up all over Troy.”

Also, days after IO originally asked the court for judgment in this case, the city “amended its [ordinance] to redefine the exceptions for ‘temporary signs’ and flags in valid, content-neutral terms. The amendment ensured that Troy citizens would not need to obtain a permit before erecting garage-sale or other small yard signs, for example. It also demonstrated the utility of a severability clause, which allowed the city to continue to enforce the substantive remainder while it reworked the discrete, unconstitutional provisions.”

The city’s intent was to “preserve the [ordinance] in the face of constitutional challenges to discrete sections, and the sub-subsections at issue were not so entangled with the other provisions so as to make the [ordinance] inoperable without them.” This meant the lower court didn’t err in finding the content-based exceptions were severable.

A Closer Look:

Under the sign ordinance, “temporary signs” included signs for real-estate, garage sales (also estate and yard sales), political matters, and holidays, etc.

Frontage Variances

Court rules on whether housing appeals board wrongly reversed ZBA’s decision to deny frontage variance application

Citation: Appeal of Town of Derry, 2023 WL 5288122 (N.H. 2023)

The Town of Derry, New Hampshire appealed a Housing Appeals Board (HAB) order, which reversed the local zoning board of adjustment’s (ZBA) decision to deny a frontage variance request. The town contended that the HAB had failed to apply the correct standard of review and had erred by supplanting its judgment for the ZBA’s judgment. Further, the town argued that the HAB had improperly conducted a “de novo” review of the three other variance factors the ZBA hadn’t addressed and erred in its analysis.

DECISION: Affirmed.

The Supreme Court of New Hampshire concluded that:

• the HAB reasonably reversed the ZBA’s decision on a “diminution of property value factor”; and
• the town failed to establish reversible error with respect to the HAB’s analysis of a specific section of state law (RSA 674:33), which concerned the power of a local ZBA.

WHAT LED TO THE CONTROVERSY

A party owned a lot in Derry that stood in a low-medium density residential (LMDR) area. The town’s zoning ordinance stated that properties in LMDR areas had to have 150 feet of road frontage to construct a home.

The party’s lot was 2.6 acres and had 108 feet of frontage along Ballard Road. A strip of land roughly 30 feet wide connected the main section of the property to Ballard Road. The strip of land was intended to be an access road for the lot’s original purpose—supplying water to the neighboring lots by way of a community well. And the majority of the lot’s acreage was located behind three other homes and sat upon a hill.

The party applied for a frontage variance in 2003, but the request was denied. Then in 2021, they again sought a frontage variance from the ZBA, so they could build a single-family home on the lot.

Abutters disapproved of their request at public hearings, claiming they had promised not to build on the lot, and that development of the lot would affect their privacy and cause water runoff concerns.

The variance request was denied by a 2-3 vote by the ZBA, but the HAB reversed, finding that the ZBA’s conclusions that granting the variance would be contrary to the
spirit of the ordinance and would result in the diminishment of the values of surrounding properties was unreasonable. The HAB then evaluated three other variance factors found in the state law and found in favor of the party seeking the variance.

THE HIGH COURT’S REASONING

In affirming the HAB’s decision, the court explained that its review was governed by New Hampshire’s “RSA chapter 541 (2021).” This meant the HAB’s order wouldn’t be set aside unless the court was “satisfied, by a clear preponderance of the evidence, that such order was unjust or unreasonable.”

While the town argued the HAB applied the wrong standard of review, the court disagreed. "In its order, the HAB correctly articulated the standard of review by stating that, when reviewing the board’s decision, it would consider the ZBA’s factual findings to be prima facie lawful and reasonable." "The HAB also indicated that those findings would not be set aside unless, by a balance of the probabilities upon the evidence before it, the HAB found that the ZBA’s decision was unlawful or unreasonable." Finally, “[t]he HAB’s review, which focused upon whether the ZBA’s findings were reasonable in light of the evidence before it, was consistent with this standard.”

The bottom line: The town argued that the HAB had “failed to consider the concerns raised by the abutters and shared by the ZBA’ that the proposed variance would diminish surrounding property values, and in doing so, the HAB ‘shifted the burden of proof, ignored evidence in the record, and improperly put itself in the shoes of the ZBA.’ ” The court disagreed, finding the HAB had applied the correct standard of review.

The zoning board had the power to authorize a variance “ ‘from the terms of a zoning ordinance’ if five factors [were] met.” It was the burden of the variance applicant to establish that all five criteria had been met.

While a ZBA was tasked with resolving “ ‘conflicts in evidence and assessing the credibility of offers of proof,’ ” and the HAB was tasked with “grant[ing] deference to a zoning board’s findings . . . when ‘[there was] evidence in the record upon which the zoning board could have reasonably based its findings,’ ” relying on “an abutter’s conclusory opinion that [was] based upon vague concerns rather than objective facts” wasn’t warranted.

Here, the HAB found, and the court agreed, that the record didn’t “support the ZBA’s finding concerning the diminishing property value factor.” “The official minutes from the two public hearings before the ZBA in November 2021 provided[d] no comments from abutters referencing diminished values,” the court noted. “The abutters addressed concerns about privacy and water runoff but did not link those concerns to any claims that property values would diminish.”

Also, the HAB could “consider evidence that the zoning board did not find compelling because that [was] a ‘proper balancing of the probabilities based upon the evidence before the ZBA.’ ” The record supported the HAB’s consideration of facts showing that “a licensed land surveyor prepared the . . . application for the variance, in which the surveyor stated that the variance would not diminish property values and, instead, they would likely increase.”

Case Note:
While the court affirmed the HAB’s decision, it declined to address the HAB’s analysis concerning “the spirit of the ordinance factor” and whether it had conducted an improper de novo review of the remaining three variance factors because these issues hadn’t been preserved for appeal.

Jurisdiction

Did ZBA have jurisdiction to decide request concerning use of property historically used seasonally?

Citation: Maidstone WJM Corp. v. Zoning Board of Appeals of Town of East Hampton, 2023 WL 6613558 (N.Y. App. Div. 2d Dep’t 2023)

A parcel of property in the Town of East Hampton, New York had been used as a motel since the 1950s. In 1971, the town’s zoning board of appeals (ZBA) granted a variance to allow the property owner’s predecessors-in-interest to expand the structures on the property only if the structures remained seasonal rental units and weren’t used for year-round occupancy. In addition, the variance was granted with the understanding that no heating would be installed in the structures.

Per the 1971 determination, the property continued as a motel and didn’t convert to an apartment under the town’s zoning code.

Per the 1971 determination, the property continued as a motel and didn’t convert to an apartment under the town’s zoning code.

In 2019, the current property owner filed an application requesting modification of the 1971 determination. They wanted the conditions barring year-round occupancy and the installation of heating equipment on the property removed and alleged that since the 1970s the property’s use had changed from that of a motel (seasonal rentals) to year-round housing for working families and individuals in the town.

A public hearing ensued, and the ZBA considered a memorandum the town attorney drafted, which addressed the legal issue of whether the ZBA had jurisdiction to grant the property owner’s application. The ZBA adopted the town attorney’s findings and issued a resolution denying the application on the ground that the property had undergone a conversion from use as a motel to another use, and the ZBA didn’t have jurisdiction to authorize the conversion.

Then, the property owner filed a “CPLR article 78” action seeking court review of the ZBA’s determination. The court denied the review request, and they appealed.
DECISION: Affirmed.

The property owner’s characterization of the application as one for relief pursuant to the ZBA’s authority was incorrect.

The applicable section of the town code stated that the ZBA had jurisdiction to hear applications aggrieved persons would bring concerning the building inspector’s interpretations or “other orders, requirements, decisions or determinations made by [that inspector].”’” In addition, the ZBA could hear applications for one or more use or area variances.

The court explained that when someone sought to have a building inspector’s decision reviewed, the ZBA acted with appellate jurisdiction, “‘and in the absence of an administrative determination to review, [it] was without power to grant a variance or render a de novo determination with respect to an issue not determined by an administrative official.’”

When an application was made before the ZBA, it had “‘broad discretion” to consider area variances. In other words, a court could only “set aside a zoning board determination . . . where the record reveal[ed] that the board acted illegally or arbitrarily, or abused its discretion, or that it merely succumbed to generalized community pressure.’”

To determining if a zoning board’s decision should be sustained, a court looked to see if it had “‘a rational basis and [whether] the record contain[ed] sufficient evidence to support the rationality of the determination.’”

In this case, the property owner wasn’t seeking to review a building inspector’s determination. They were asking the ZBA to modify a variance; thus, they sought relief pursuant to the ZBA’s authority under the town code.

The bottom line: Contrary to the property owner’s contention, “the ZBA properly interpreted the provisions of its own zoning ordinance as part of its determination of the [application] . . . and its determination had a rational basis and was supported by sufficient evidence in the record.”

Practically Speaking:
The property owner’s contention that they should be allowed to rebut the legal advice the town attorney provided to the ZBA was meritless “because the advice did not contain any new factual allegations and the [town attorney] lacked a vested interest in the decision.”

Site Plan Approvals

Residents challenges ZBA’s approval of preliminary and final site plans, variances


The Borough of Belmar, New Jersey’s zoning board of appeals (ZBA) granted Down to Earth Construction LLC’s (DTE) applications for preliminary and final site plan approval and use and other variances. When several property owners challenged the decision, the ZBA upheld it, so those individuals appealed to court.

DECISION: Affirmed.
The residents argument failed.

A CLOSER LOOK

The subject property was located at Block 10, Lot 1, zoned R-75, which permitted only single-family residential homes. A vacant, non-functioning 34-room boarding house was currently on the property as a pre-existing non-conforming use.

This boarding house was also described as a rooming house or hotel. DTE, a potential purchaser of the property, applied to the ZBA for approval to demolish the existing structure and build a two-building, six-unit townhome project. The application sought approval for the preliminary and final site plan, height and other bulk (c) variances, and use and floor area ratio (d) variances.

The owners of the two adjacent properties formally objected to the application. The ZBA held several hearings on the applications and considered testimony from both sides before granting DTE’s applications for the preliminary and final site plans and both variances.

The property owners sought to reverse the ZBA’s decision on the grounds that DTE’s applications hadn’t accurately provided notice of the matter being discussed during the public hearings. They also contended that the ZBA had improperly granted the variances because DTE had failed to meet the “positive” criteria required by state law and the “negative” criteria pursuant to the case of Medici v. BPR Co.

The judge rejected the property owners’ arguments. Here’s a brief discussion on why each argument failed.

Notice—Concerning the notice issue, which specifically concerned N.J.S.A. 40:55D-11, the judge found the notice to be accurate. It identified the property by street address or lot and block number and gave the location and times. Further, pertinent maps and documents were available.

The property owners claimed the notice regarding the “nature of the matter to be considered” was inadequate because it indicated the application was to raze the existing structure “and build six fee simple townhomes.” In their view, this description wasn’t accurate because DTE wasn’t seeking to subdivide the property into six lots; instead, it intended to build two buildings containing three townhomes each.

DTE countered that the description was accurate because each townhome owner would have a fee simple interest in the townhome along with an undivided interest in the common facilities as a tenant in common with the other owners.

The judge found the notice was adequate because the term “fee simple townhomes” accurately described the nature of the matters to be considered. In the judge’s view, the “critical element” of notice was an accurate description in layperson’s plain language—not technical zoning terms—so the general public could understand what the property would be used for. Here, the notice stated DTE sought variances to permit the construction of six residential townhomes, which the court found accurately described the application to be considered by the ZBA.

Spot zoning—The property owners claimed the ZBA’s decision constituted impermissible spot zoning—in other words, a re-zoning for DTE’s benefit that wasn’t compatible
with surrounding uses and that ran counter to the town’s zoning plan.

The ZBA had addressed this issue in its resolution, finding 1) the townhomes weren’t incompatible with the surrounding residential uses, 2) the demolition of the existing structure and abandonment of its use promoted the purpose of the zoning plan, and 3) the townhomes were a better zoning alternative than the pre-existing, non-conforming rooming house.

The judge found that granting a use variance involved approving an application to develop a property for a use other than was permitted in its zone. The judge noted that the ZBA’s resolution stated that within a few blocks’ radius, there were many condominium projects and apartment complexes with much higher densities than DTE’s proposed project. Therefore, the ZBA had found that the project was compatible with surrounding uses, particularly more so than the existing rooming house.

The bottom line, according to the judge and the reviewing court: The ZBA had acted within its discretion and hadn’t engaged in spot zoning by granting DTE’s requests.

Positive and negative criteria—The property owners contended that DTE had failed to provide enough evidence to meet the positive and negative criteria. The judge disagreed, finding the ZBA’s 108-page resolution contained an “exhaustive analysis of the evidence presented” and not a “conclusory” decision as they had alleged. Also, the judge had found that the preexisting, nonconforming use wasn’t a permitted use and that the proposed townhouse condo units were “significantly more suitable/more compatible for the site than the existing [34]-[unit] [rooming] [house].”

And, the approval for the condo project would mean that the preexisting non-conforming use would be abandoned and that “[n]o one . . . in the future [would] be able to operate a hotel/rooming house on the site, unless a new use variance [was] . . . granted.” Also, the project would “provide a lower number of dwelling units on the site than the preexisting hotel use, and . . . result[] in a lower density than the preexisting hotel use and would result in a lower impact on emergency services providers in the Borough.”

THE BOTTOM LINE

The ZBA’s decision that the application approval would not “cause a substantial detriment to the public good” was supported by an “‘ample factual basis,’” as the judge had found. In the end, the ZBA’s decision wasn’t “arbitrary, capricious or unreasonable and was amply supported by the record.”

CASE NOTE

The property owners also claimed the ZBA should have considered the application in light of its intended conforming use—a single-family residence. But the judge properly analyzed the issue “consistent with controlling case law.” The state’s supreme court had “rejected the argument that a board must demonstrate a property cannot be developed as a conforming use before it can approve variances.”


Stop-work Orders

City tells billboard owner to halt repair work because it resulted in relocation of sign

Citation: Noblesville, Indiana Board of Zoning Appeals v. FMG Indianapolis, LLC, 217 N.E.3d 510 (Ind. 2023)

The City of Noblesville, Indiana issued a stop-work order and notice of violation to Reagan Outdoor Advertising (ROA), which owned billboards in the city. The city’s board of zoning appeals (BZA) affirmed those decisions.

On appeal, a court reversed the BZA’s findings, and it appealed.

DECISION: Affirmed.

The ordinance governing nonconforming signs was ambiguous as to the meaning of the term “relocate,” and thus the term should have been construed in favor of ROA as the pole sign owner.

BILLBOARD CLASSIFICATION AT ISSUE

The city classified billboards as pole signs—signs affixed to poles or other uprights installed in the ground. An ordinance now banned pole signs, but signs like those that ROA had, which pre-dated the new ordinance, could remain as a legal nonconforming use if kept in good repair and not “relocated.”

Following a storm, ROA discovered that one of its billboard support beams had been damaged. It tried to repair it by removing the sign’s display, cutting off the broken posts at ground level, and installing new posts a few feet from the posts’ existing holes.

But before ROA could reattach the sign’s display to the new posts, the city issued a stop-work order. It concluded that ROA had “relocated” the sign, which meant that it had lost its legal nonconforming status.

THE COURT’S RULING

“At first blush, the ordinance’s ban against ‘relocating’ a sign would seem to ban any ‘movement’ at all, including the de minimis movement of the disputed support posts here. But based on the different ways the ordinance uses ‘relocate’ and ‘move,’ we conclude that ‘relocate’ is ambiguous and, consistent with our interpretive canons, must be resolved in [ROA’s] favor,” the reviewing court wrote.

The bottom line, according to the court: ROA didn’t relocate the sign, so the lower court’s decision to grant it judgment stood.

Practically Speaking:

The court noted that it was unclear under the ordinance whether the term “relocate” encompassed “the de minimis movement of a sign undertaken to repair the damaged support posts.” “Consistent with our interpretive canons, we resolve this ambiguity in [ROA’s] favor,” and it was entitled to declaratory relief.
Zoning News Around The Nation

Missouri
Landlords challenge Kansas City's STR ordinance

A court recently dismissed a lawsuit against Kansas City, Missouri, which enacted a short-term rental (STR) ordinance that many landlords challenged. The court found that the landlords hadn’t exhausted their administrative remedies.

The court ruled the applicable section of the city’s zoning and development code authorized the local zoning board to controversies alleging an error had occurred in an “order, requirement, decision, or determination” concerning that code.

The case cited is MDKC, LLC v. City of Kansas City, 2023 WL 6406403 (W.D. Mo. 2023).

New York
Kingston's form-based code guide contains information on zoning-related priorities and more

The city of Kingston, New York recently released its form-based code, which regulates the use of structures and land and discusses location, design, alteration, and occupancy. The code also outlines the city’s zoning-related priorities, which include to:

- diversify housing locations, prices, and types;
- introduce new mandates and incentives for affordable housing;
- design streets so they’re not just for vehicles;
- end minimum parking requirements at transacts;
- allow for the adaptive reuse of existing structures;
- legalize accessory dwelling units citywide and neighborhood businesses and mixed-use development; and
- ensure that new development contributes to the city’s urban form.

The code and regulating maps can be accessed through the city’s online zoning portal at kingston-ny.gov/files/storage/8399/8469/48370/Kingston_Form_Based_Code_adopted.pdf.

Source: kingston-ny.gov

Wyoming
Teton County's planning and building services department releases draft zoning regulations for neighborhood plan

The Teton County Planning and Building Services Department recently released a public draft of the Northern South Park Neighborhood Plan implementation project.

Within the regulations are new sections of the county's land-development regulations (LDRs), which describe mandates on the development process and design standards for housing programs in the area.

As of print time, a public hearing on the draft regulations was scheduled for November 12, 2023. The hearing was expected to provide background information on the draft LDRs and allow for discussion. Members of the public were also invited to submit written comments.

A county press release indicated that following the planning commission’s review and formal recommendation, the proposal could go before the Teton County Board of County Commissioners for review in January 2024.

To view the proposed regulations, visit northernsouthpark.konveio.com/draft-implementation-zoning.

Source: tetoncountywy.gov