

JULY 18, 2002 SUPERVISORS' MEETING:

The Mount Joy Township Supervisors met this date in regularly scheduled session at 7:00 p.m. in the Township Municipal Building, 902 Hoffman Home Road, Gettysburg, PA, with Chairman James Waybright presiding. Others in attendance were: Supervisors George Scott, Will Rogers and Bill Chantelau; Solicitor Walton V. Davis; News Reporter Alex Gayhart (*The Gettysburg Times*); and Secretary Brenda Constable.

Citizens in attendance were: Jacqueline and LeRoy Basehoar; Millard Basehoar; Beverly Boyd; Gerald and Janice Althoff; Eileen Holmes; Elsie Morey; Harold Kirschner; Nancy Brown and Doug Ridenour of Gettysburg Village Factory Stores; Carol Newhart; Jerry Maloney; Jack McLatchy; Bob Sharrah and Rick Klein of The Links At Gettysburg; John McAlister; and Ivan Lufriu.

Chairman Waybright led everyone with the Pledge to the Flag.

Minutes:

Chantelau moved, seconded by Rogers, to approve the minutes of the June 20, 2002 meeting as presented. Motion carried unanimously.

Chairman's Statement:

Chairman Waybright thanked everyone who had extended their help and sympathy to him and his family over the past few weeks during the death of his son Andrew.

Public Comment:

1. Beverly Boyd requested that the Board provide more information on TDRs (Transfer of Development Rights) prior to adoption of the Comprehensive Plan. George Scott stated that he had already spoken with Charlie Schmehl, URDC, and he will provide more information.
2. Eileen Holmes complimented the Supervisors on the recent road improvements on White Church and Solomon Roads.
3. Jerry Maloney asked if the Township Treasurer could provide a 6-month budget to date comparison. It was noted that the Treasurer already does this and a copy was given to Mr. Maloney.

Treasurer's Report:

Chantelau moved, seconded by Rogers, to approve the Treasurer's Report for June and July as presented. Motion carried unanimously.

Scott moved, seconded by Chantelau, to approve the bills to be paid for June and July as presented. Motion carried unanimously.

Subdivision/Land Development Plans:

1. Basehoar, LeRoy & Millard: subdivision of three (3) lots consisting of 34.246 total acres along Plunkert Road. Planning Commission recommends approval as a preliminary plan with conditions, per HRG's

letter dated July 9, 2002 - Agricultural Disclaimer needs to be added to the plan; address the Township's road crew concern of narrow road at stone wall/fences. Basehoars are to provide to the supervisors, in writing, suggested solution to address this issue (Commission agreed that there is a potential problem and would like to see it resolved now rather than later); recommend favorably a waiver for HRG comments #1 and 3; #2 comment has already been addressed; recommend the supervisors to require a letter from applicant regarding Conservation District response to plan; HRG's Comment #5 is not enforceable; HRG's Comment #6.a. is not enforceable; 6.b. need for further backup site on Lot 2 or the applicant must provide evidence from the SEO that it is not needed, or show it on the plan.

The Supervisors noted that a subsequent letter from HRG, dated July 15, 2002, had been received and listed additional comments after their field view of the area. Discussion was held with regard to Comment #4, recommending that the Township consider requiring road frontage widening due to the narrow width of the cartway along the property frontage and the existence of a stone wall.

Per the Planning Commission's instructions, the Supervisors asked Beverly Boyd, representing the Basehoars, if they had any suggestions/solutions to this issue. Ms. Boyd stated that on the opposite side of the road of the stonewall, is a high-tension fence, a pasture fence, utility poles and a windmill, which would be easier to move so that the road could be shifted over rather than remove the stonewall for road widening.

Chairman Waybright noted that the Township needs to look at the future and if any improvements to the road are needed, now is the time to do this for the public safety, health and welfare of the citizens. He felt that the road should be widened versus moving it, adding that the cost to move it would be much higher than widening it.

Scott stated for the record that he was not impressed with the Township's engineer sending subsequent comments, after the Planning Commission had already made their recommendations, and not notifying the Basehoars about them. Rogers agreed that the late comments were not in order. He suggested that the Supervisors follow the July 9 comments. Sam Dayhoff stated that the road crew had informed the engineer of this and that is why the comments were received late. Carol Newhart commented that, on behalf of the residents on Plunkert Road, they were happy with what the Basehoars are proposing and that they addressed the residents concerns by reducing the number of proposed lots. They are okay with the way the road is and does not feel that it needs to be widened. Scott further added that if the stonewall were to come down for widening purposes, then the road would be closer to the house. Chantelau stated that he would like to see a diagram of how the road would look if it were to be moved over. Scott also added that the Supervisors could possibly consider an arrangement as was done with T. Creutzer, where he paid the Township "X" amount of dollars as he sold each lot. This also required right-of-way dedications to the Township.

Further discussion was held with regard to Lot 1, a small portion of it being across Plunkert Road. Ms. Boyd explained that the boundary between Lot 1 and Lot 4 was following a watershed boundary and they have no intentions of building on that portion, it was not perked, and they wish to keep it in agriculture.

Scott moved, seconded by Chantelau, to table action on this plan until next month and instruct HRG to provide sketches of what the road should look like if it were to be moved, if the applicant were to do this. HRG is to also provide cost estimates of both options – shifting versus widening. This information is to be provided prior to the August 14 Planning Commission Meeting so that they could review this further and give a recommendation to the Supervisors for their meeting on August 15, 2002. With no further discussion, the motion carried unanimously.

2. English Gettysburg Congregation of Jehovah's Witnesses: proposed land development plan for construction of a building and parking lot in the Blue & Grey Development along Highland Avenue Road. This organization has requested an extension due to a change of surveyors. Planning

Commission recommends granting the extension for 90 days to November 12, 2002. Solicitor Davis suggested that the 90-day extension coincide with the Supervisors' Meeting rather than the Planning Commission Meeting.

Scott moved, seconded by Chantelau, to grant an extension from September 12, 2002 to November 21, 2002. Motion carried unanimously.

Road Report:

Scott moved, seconded by Chantelau, to approve the Road Report as presented. Motion carried unanimously. Chantelau noted that the recent roadwork in the Township was completed with the help of Penn DOT through the Agility Program, which was a nice cost savings to the Township.

A request by Kelly Rash of 400 Miller Road, for reimbursement of an oak tree was discussed. Anthony Graham, Road Superintendent, noted that it was planted close to the Township's right-of-way and was mowed down by accident. Ms. Rash stated that she paid \$64+ dollars plus tax for the tree last fall. Chantelau moved, seconded by Rogers, to reimburse Ms. Rash \$66.00. Motion carried unanimously.

Building Permit/Zoning Officer's Report:

No report was submitted this month due to the Zoning Officer's recent absence due to illness. A July report will be submitted with the August Report.

Building & Grounds Report:

Chantelau moved, seconded by Rogers, to approve the Building & Grounds Report as presented. Motion carried unanimously.

Salt Storage Shed - Contract Agreement:

Chantelau moved, seconded by Scott, to approve and authorize Chairman Waybright and Secretary Constable to sign the contract agreement between the Township and Roger Flickinger & Sons in the amount of Ninety-Four Thousand Eight Hundred Eighty-Eight Dollars (\$94,880.00) for the concrete work on the Salt Storage Shed. Motion carried unanimously.

Township Parking Lot Paving:

It was noted that the parking lot was originally scheduled to be paved in June. However, Penn DOT is behind schedule and the paving may not happen now until September or October. If it is not paved at that time, the project would be postponed until next year unless the Supervisors chose to have Dayhoff, Coordinator, obtain quotes from private companies. It was the consensus of the Board to wait until Penn DOT is ready.

Mud College Schoolhouse:

The Supervisors noted that the 2002 Open House for Mud College Schoolhouse will be on Saturday, August 17 and Sunday, August 18. Sunday will be geared towards a day for the alumni.

Chantelau announced that Elsie Morey has written a book on the Mud College Schoolhouse and has them for sale at \$10.00 per copy.

Correspondence:

Secretary Constable announced the following correspondence received:

- WRRMA minutes for May 2002
- Gettysburg Rec Department minutes for June 2002
- Gettysburg-Adams Chamber of Commerce Newsletter
- Wm. F. Hill & Assoc. letter regarding Lake Heritage applying to DEP for sea wall/dock improvements
- Notice from Penn DOT of highway improvement projects scheduled for 2005 – replacing the existing bridges on Fish & Game Road and Two Taverns on Route 97.

Committee Reports:

Personnel: Nothing to report.

Finance: Chantelau moved, seconded by Rogers, to renew the Waste Management contract for a 6-month period. Motion carried unanimously. Rogers noted that he would be attending a meeting on July 24, 2002 at the Gettysburg Borough Office with other municipalities with regard to municipal waste hauler joinder program.

Planning, Land Use & Zoning: Scott reported that the Public Meeting for the Comprehensive Plan was held on Monday, July 15, 2002 and on 17 citizens attended. He noted that a workshop would be held on Monday, August 19, 2002 at 7:00 to discuss/resolve any issues, followed by a public hearing by the Supervisors in September. Draft copies of the ordinances will be forwarded to County Planning & Development for their comments. County has 45 days to respond. Supervisors have no more than 90 days after the public hearing to act on the Plan.

Scott gave an overview of a cell tower seminar that was attended by Dick Owings and Roger Steele, of the Planning Commission.

Building & Grounds: Nothing to report.

Roads: Nothing to report.

Public Safety: Nothing to report.

Agricultural Land Preservation: Accepted the Formulation Committee Report and minutes of the July 8, 2002 meeting.

Other Business:

ASA (Agricultural Security Area) Seven Year Review Resolution:

Chantelau moved, seconded by Scott, to adopt the ASA Seven Year Review Resolution as presented. It was noted that a public hearing was held prior to this meeting and no public comment was given. With no further discussion, the motion carried unanimously.

Other Business continued:

Delancey Gettysburg Associates, L.P. Conditional Use Modification Decision:

Mr. Davis noted that he, the Supervisors, and Township engineer Mark Lewis reviewed the issues discussed at the Public Hearing and are ready to provide a decision tonight to the applicant. A draft of a decision was presented to the Supervisors and applicant, followed by an overview of it by Mr. Davis. He noted that if this decision is accepted, the restrictions that were put in place on Main Street, from the May 6, 1998 CU decision, would be eliminated. The terms of the April 19, 2001 decision would also terminate as of tonight if approved. The need for a Land Development Plan to construct a cul-de-sac as instructed in the decision, would be waived.

Chantelau moved, seconded by Scott, to adopt the following draft decision modifying of the Conditional Use Decision of May 6, 1998. Discussion: Scott noted that the one major area of concern is the general safety and welfare of all the people who shop at the outlet stores. The Supervisors would like to see this Village Outlet be successful. With no further discussion, the motion carried unanimously.

THE BOARD OF SUPERVISORS OF MOUNT JOY TOWNSHIP, ADAMS COUNTY,
PENNSYLVANIA

In re: Second Request for Modification of Conditional Use Decision, dated May 6, 1998, by
Delancey Gettysburg Associates, L.P.

No. 2002 – 1

I. BACKGROUND

An application was filed by Delancey Gettysburg Associates, L.P. (hereinafter “Applicant”) on April 18, 2002, seeking a change in the Conditional Use Decision of May 6, 1998 (rendered under the name of “The Boyle Group”, which is now Applicant), and in the decision entered in April, 2001, which addressed, in part, the same subject. The change sought is allowance of vehicular traffic on “Main Street” of the development on a year round basis, and no periods of pedestrian-only usage.

A hearing by the Board of Supervisors was held on June 5, 2002, beginning at 7:40 p.m. at the Township Building, 902 Hoffman Home Road, Gettysburg (Mount Joy Township), PA 17325. The hearing was duly advertised and the property was posted in accordance with law. The hearing was recorded and transcribed by Deborah Zepp, Court Reporter.

At the beginning of the hearing, anyone seeking to participate as a party was requested to enter an appearance. There was one response to the call for appearances by those seeking party status. The responder failed to garner a majority vote for recognition and he was not so recognized. The Applicant was represented by Carl S. Primavera, Esquire. Witnesses testifying on behalf of Applicant were: Robert A. Sharrah, land planning consultant; Frederick E. Gorove, traffic engineer; Nancy Brown, General Manager of the project; and Michael Wachs, officer of the general partner of the Applicant limited partnership.

Members of the public who addressed the Board on the application were Speros Marinos and Elsie Morey.

Exhibits were formally presented for admission, and are appended to the transcript. The receipt of the following were also noted (N.T. 103-104): the zoning officer’s report on the application; comments on the application from the Adams County Office of Planning and Development; and, the report of the Mount Joy Township Planning Commission on the application.

II. FINDINGS OF FACT

1. The hearing was properly advertised and held.
2. The Applicant is the owner of the Gettysburg Village Outlet Center, also known as Gettysburg Village Outlet Stores.
3. No persons other than Applicant were parties to the application.
4. It is the desire of the Applicant's tenants and their customers, Applicant believes, to have "Main Street" open all year, without restriction, to vehicular traffic and parking. N.T. 36, 37, 68, 71.
5. Currently, approximately 15% of all vehicles coming to the Applicant's project site travel "Main Street". N.T. 40.
6. The typical traffic pattern for those traveling on Main Street is to enter from the north and travel to the southern terminus, where they often make a U-turn and travel from south to north on Main Street, or they travel to an exterior parking lot and turn around for a return trip on Main Street from south to north. N.T. 44, 93.
7. Currently, a U-turn made at the southern terminus of Main Street requires the turn to be made in the ring road, which is supposed to be kept clear at the request of the Barlow Fire Company. N.T. 79.
8. There are currently no facilities provided for a U-turn at the southern end of Main Street, although such a turn around is planned for the future southern end if and when Phase II of the project is built.
9. The construction of a cul-de-sac at the southern end of Main Street may encourage increased traffic flow on Main Street, which flow is desired by the tenants and their customers. Finding of Fact # 4, N.T. 51-52.
10. The Applicant's traffic engineer does not find any significant pedestrian safety hazard if Main Street were open to vehicular traffic all year. N.T. 61.
11. The only effective way to prohibit U-turns at the southern terminus of Main Street would be to construct "channelization" barriers. Regulatory signage is usually ineffective and generally unenforceable. The applicant has elected to discontinue enforcement of regulatory signage by staff, and entrusted matters to the discretion of the customers. N.T. 53, 66, 70.
12. There is nothing located at the southern end of Main Street, on the southern side of the ring road, which would interfere with the construction and use of a cul-de-sac until such time as Phase II is pursued. N.T. 79.

III. CONCLUSIONS OF LAW

1. The Applicant has standing to seek the modifications requested.
2. The hearing was duly held in accordance with law.
3. No safety issues appear to be raised by the Applicant's proposal to modify the existing Conditional Use Decisions to allow "Main Street" to be open to vehicular traffic and parking all year, except for the propensity of drivers to make a U-turn at the southern end of the thoroughfare in order to make a return trip from south to north on "Main Street".
4. Since regulatory signage is not effective nor able to be enforced by Applicant, the health, safety and welfare of vehicular traffic would be protected by enabling those desiring to make U-turns at the southern end of "Main Street" to do so with safety in a facility designed for that purpose.
5. Without there being a facility which aids U-turns at the southern end of "Main Street", the allowance of additional traffic, during the times of the year when vehicular is now prohibited, will increase traffic hazards and increase a threat to safety.

IV. DISCUSSION

The Township is aware that the plans submitted by the Applicant in 1998 contemplated a much larger development than currently exists at the Gettysburg Village Factory Stores. The second phase of that development scheme shows a turn around so that traffic traveling on the main street can, at its fully built out southern terminus, turn around and re-travel that thoroughfare in the opposite direction. Observations by the Supervisors, who are all familiar with the development (and more familiar with it than Applicant's traffic engineer), verify that customers do desire to re-travel the main thoroughfare in the south to north direction.

The statement by the Applicant's counsel, as has been verified in a previous hearing, is correct that regulatory signs are not faithfully observed, and that enforcement of them is difficult (and not something which engenders repeat business). As a result, the idea of prohibiting the U-turns that are currently being made (by way of signs or 'trusting' customers [see N.T. 70]), and which will increase in number when the traffic volume and traffic time periods increase, is not realistic. If providing a turn around facility will increase safety, then such a facility must be pursued if a decision is made that is likely to increase the need for such a facility.

The Township is also aware that the application for a change in the "Main Street" traffic usage is being driven by the tenants' desire for increase exposure of their store fronts. It appears that the prior concept of a shopping area reserved for pedestrians during the heaviest shopping times is now being deemed a failure by the Applicant. Applicant wishes to pursue a concept that comports with what its tenants are demanding, which is more akin to any street in any small town. The underlying reason for such a change is not of much importance to a municipality, but the potential safety issues may be a concern. The reality of this application is that the merchants who do business in the development appear to believe that their profit potential may be increased if vehicular traffic is allowed to travel and park on "Main Street" on a year round basis. The corollary of that reality is that traffic that travels in one direction will often want to return on the same thoroughfare in the opposite direction. The Applicant's expert believes that if a turn around is built, the traffic will increase. For reasons unexplained, that expert said that an increase in the "Main Street" traffic was not desired. (One wonders if the tenants pushing the issue agree with that assessment.)

It seems to the Township that a half hearted measure which will increase traffic and parking on the main thoroughfare will cause endanger safety more than would a full concession to what Applicant thinks the customers and tenants really desire. Increased traffic flow on the main thoroughfare (in volume, when allowed during peak shopping periods) will cause a problem at the southern terminus of "Main Street" due to U-turns. The installation of a properly constructed cul-de-sac will alleviate those concerns, and might better serve the wishes and desires of the tenants and customers if the predicted increase in usage results from that facility. No other safety issues seem significant, according to Applicant's expert.

Without such a cul-de-sac, however, the Board believes that the increase in traffic on "Main Street" will negatively affect the health, safety and welfare of the public at the site due to a continuation of, and an increase in, the U-turns at the said southern terminus in the ring road. That is grounds for denial of the application.

V. DECISION

The application of Delancey Gettysburg Associates, L.P., is granted upon the following terms and conditions:

1. Applicant shall construct a cul-de-sac to be located on the southern end of "Main Street", on the southern side of the ring road. This cul-de-sac may be removed if and when Phase II is pursued and such Phase II has a facility for reversing the flow of vehicle traffic on "Main Street".

2. The cul-de-sac (see 1. above) shall be designed with a center island. The design must be approved by the Township's Engineer prior to construction; however, the submission of a land development plan for the cul-de-sac is waived;

3. The restrictions stated in the Conditional Use Decision dated May 6, 1998, on page 7, paragraph 12.a. are removed as of the effective date stated below;

4. The Decision dated April 19, 2001, filed to No. 2001-1, with respect to "A. Parking Limitation Modifications" is vacated as of this date (without prejudice to the Township to proceed with the enforcement of that Decision from April 19, 2001 to the present for violations thereof); and,

5. The grant of the change provided in paragraph 3. above shall be effective at the time that the cul-de-sac construction, as approved by the Township's inspection thereof, is opened for use.

The Applicant must signify its acceptance of the aforesaid conditions, and signify its commitment to those conditions, in writing without qualification within 15 days of the date of this Decision.

If the Applicant refuses or fails to submit the written acceptance of conditions as specified above, then the application is DENIED as being in violation of the Mount Joy Township Code of Ordinances, Chapter 110 (Zoning), §§110-17.D.(2) and (3) in that the requested relief will create a traffic hazard and compound an existing traffic hazard at the southern terminus of "Main Street", and will create a hazardous condition by increasing the probability of vehicular conflict at the southern terminus of "Main Street" on the ring road where increased numbers of vehicles will attempt U-turns.

The foregoing is ADOPTED as the decision of the Mount Joy Township Board of Supervisors this 18th day of July, 2002.

Attest:

Its Secretary

_____/s/_____
Chairman

_____/s/_____
Supervisor

_____/s/_____
Supervisor

_____/s/_____
Supervisor

_____/s/_____
Supervisor

Solicitor Davis noted that Delancey Assoc. has fifteen (15) days to accept this decision, in writing. If they fail to do so, then the application is denied and all previous decisions are enforceable. Nancy Brown, General Manager of the Gettysburg Village Factory Stores (Delancey Assoc.) was present at the meeting and was handed a copy of the signed Decision.

It was also noted that Mark Lewis, Engineer of HRG, sent a "punch list" of items that have not been addressed by the Gettysburg Village Factory Stores, to Nancy Brown, urging compliance. Scott moved, seconded by Chantelau, to request that the Solicitor follow up with the items listed and to initiate enforcement as needed. Motion carried unanimously.

New Business:

Emergency Management Plan:

With recommendation from Anthony Graham, EMA Coordinator for the Township, Scott moved, seconded by Rogers, to adopt Resolution No. 4 of 2002 Authorizing and Directing the Emergency Succession of Municipal Officers and the Continuity of Municipal Government. Discussion: It was noted that this updates the Township's EMA plan for another two (2) years through July 18, 2004. Motion carried unanimously.

Proposed Zoning Ordinance Amendment – The Links:

Rick Klein, owner of The Links At Gettysburg, and Robert Sharrah, were present to request the Supervisors to consider holding a Public Hearing with regard to a proposed amendment to the Planned Golf Community (PGC) section of the Township's Zoning Ordinance, to add single family clustered residential lots. Klein noted that Solicitor Davis and Mark Lewis, Engineer, are already reviewing the proposed amendment.

Scott moved, seconded by Chantelau, to explore the proposed amendment, instruct Secretary Constable to send the proposed amendment to the Township and County Planning Commissions and to contact Attorney John R. White (representing Klein), Solicitor Davis, and Mark Lewis, Engineer, to set a date for a Public Hearing. Thirty days must be allowed after the draft is submitted to the planning agencies before the public hearing may be held. Motion carried unanimously.

The Links – Model:

Rick Klein noted that he has received permission to have a model home for his new community. He questioned if he would need a permit to pull in and place a trailer on the property temporarily, while showing the model. The Supervisors instructed him to check with Jay Little, Zoning Officer.

The Links – Neighborhood Improvement Tax:

Rick Klein noted that he is looking into the possibility of creating a "Neighborhood Improvement Tax" that would be collected only from the residents in the Planned Golf Community. To do this, he would need to do a bond financing and would need the local government, i.e. the Supervisors', approval. He stated that this law was just passed in Pennsylvania and has been successful in the state of Maryland. He further added that the Township would not be liable for anything related to this. Chantelau questioned why the Township is needed for the financing of his project. Klein responded that it is just part of the process, local government support is needed in order to initiate this. The tax would support the treatment plant, street maintenance, etc. This would be an annual tax for the life of the bond. The Supervisors asked for more detailed information on this and suggested that Klein give this information to Solicitor Davis so that he can research whatever is needed in order to give an overview to the Supervisors as to how this would work.

Final Comments:

Chairman Waybright noted that Mr. & Mrs. Bill Chantelau donated the new American Flag in the Township Meeting Room in memory of his son, Andrew Waybright.

Adjournment:

With no further business to come before the Board, Scott moved, seconded by Rogers, to adjourn the Supervisors' Meeting at 9:15 p.m. this date. Motion carried unanimously.

Respectfully submitted,

Brenda J. Constable
Secretary