

MIDDLETOWN TOWNSHIP
DELAWARE COUNTY, PENNSYLVANIA
August 24, 2015

Minutes of the Regular Meeting of Township Council Held on, August 24, 2015 at 7:00 P.M., in the Township Administration Building located at 27 North Pennell Road

Present: M. Amoroso, L. Bradshaw, R. Carlson, S. Galloway, M. Kirchgasser, C. Quinn, and N. Shropshire

B. Clark, E. Janetka, Engineer, and J. Damico, Esquire

1. OPENING

Chairman Mr. Kirchgasser called the meeting of the Council to order at 7:06 P.M., and led recitation of the Pledge of Allegiance to the Flag.

2. APPROVAL OF MINUTE

Mr. Galloway moved to approve the minutes from the June 22, 2015 regular agenda meeting. Ms. Amoroso seconded this motion and Council approved unanimously with a vote of 6-0 (Mr. Shropshire abstained due to his absence at that meeting).

Mr. Galloway moved to approve the minutes from the July 13, 2015 regular agenda meeting. Ms. Amoroso seconded this motion and Council approved unanimously with a vote of 6-0 (Mr. Shropshire abstained due to his absence at that meeting).

3. COMMENTS FROM THE PUBLIC

None

4. REPORTS

A. CHAIRMAN

Mr. Kirchgasser noted that an executive session took place prior to the meeting to discuss legal matters for the 2 hearings and a real estate issue

B. MANAGER

Mr. Clark reported that the annual golf outing will take place at Edgmont Country Club on October 6th. This outing is to raise funds to offset Recreation and Open Space costs.

Mr. Galloway moved to amend the agenda. Ms. Bradshaw seconded this motion and Council approved unanimously with a vote of 7-0.

Mr. Shropshire reported that the Township has been in negotiations with Roosevelt Elementary School to purchase the 5 ½ acre property. The Township feels this land would be invaluable as a space for recreational use, the library, and or a senior citizen center. Mr. Shropshire explained the plan is for the Township to purchase the property for future use. He stated that there are not many properties like this left in the Township and he recommended moving forward with the purchase to secure this space for future, valuable use. He commented that it has great historical value, borders the Middletown Fire Company and PADOT, and is located in the First District.

Mr. Shropshire motioned to introduce an ordinance to authorize purchase of the former Roosevelt Elementary School property. Mr. Galloway seconded this motion and Council approved unanimously with a vote of 7-0. Mr. Galloway thanked Mr. Shropshire for taking the lead on this endeavor and spending as much time as he did on the negotiations.

5. PUBLIC HEARING

- A. Proposed amendment of the Zoning Ordinance to add a definition for “Pad Lot” and to add a new Article XXIII.A entitled Mall Conversion Overlay (MCO) District which shall govern the demalling or other conversion of a mall developed in accordance with provisions of the B-2 Major Shopping Center District. (Tabled from August 10, 2015 Regular Council Meeting)
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Mr. Galloway motioned to reopen the continued hearing. Ms. Amoroso seconded this motion and Council approved unanimously with a vote of 7-0.

Joe Riper, attorney for the applicant, noted that an ordinance was introduced to amend the zoning ordinance on June 22, 2015. There are three notable changes: an increase in the height requirement to 70 feet; including a minimum aisle width for the apartment parking garages; and changing the signage regulations to allow banner and sandwich signs since they will be included within the property and regulated through the design guidelines.

Mr. Riper noted the Township advertised a public notice of the changes, the County Planning Commission did not issue any comments, and it has been more than 30 days so they are able to move forward. He also reported that the applicant appeared in front of the Township Planning Commission on July 14th and received a recommendation for approval. He stated the only necessary documentation he did not know was whether or not the proof of publication was returned to the Township from the *Delaware County Daily Times*. Mr. Clark stated that he has not received it yet but confirmed it was advertised. He reported that he would add it to the exhibits once it was received.

Mr. Riper then requested that the hearing be continued until October 26, 2015. Mr. Galloway moved to continue the hearing to October 26, 2015. Ms. Bradshaw seconded this motion and Council approved unanimously with a vote of 7-0.

Mr. Kirchgasser asked if Council could expect a much more robust presentation at the October 26th meeting and Mr. Riper answered in the affirmative. He went on to report that the preliminary plan submission was almost complete and that he would like to designate the next submission as a preliminary/final plan in September, receive comments, and then ask for formal action on the final plan at the October 26th meeting. He also noted that the design guidelines are to plan and that he wishes to address all comments through mid-September and then be present at the September 26th meeting to discuss the guidelines.

Mr. Damico stated that the requests for waivers should go on the record and be put in writing.

Ms. Bradshaw motioned to close the hearing. Mr. Quinn seconded the motion and Council approved unanimously with a vote of 7-0.

Mr. Galloway asked for more information about what would be covered at the next meeting. Mr. Riper stated the design guidelines are critical and wants to get them as far along as possible and then pursue Council approval. Mr. Galloway asked what needed to be done in order for the developer to begin demolition of the mall. Mr. Riper stated the developer would like the plan approved and the zoning in place prior to the start of demolition. Michael Markman, BET Investments, agreed and stated that if everything moves according to plan, then demolition would start in November or December of 2015 and be completed around February. Construction of apartments would begin in March 2016 and the grand opening for the stores would be around March 2017. Mr. Markman noted that applications for demolition permits will all be submitted prior to the demolition taking place.

Mr. Kirchgasser asked if there was an update on the possible filming of a movie at the mall prior to demolition. Mr. Markman stated there was a problem during negotiations, and explained that the film producer requested him to delay development plans by 2 months. As a result, Mr. Markman was not sure if the filming would take place at Granite Run Mall at stated there was a "50/50 chance" at this point.

Mr. Quinn motioned to amend the agenda and move to item 6F. Ms. Bradshaw seconded this motion and Council approved unanimously with a vote of 7-0.

6. NEW BUSINESS

- F. Consideration for Adoption—An Ordinance amending the Code of Ordinances of the Township of Middletown, Delaware County, Pennsylvania, Chapter 275, Zoning; amending Article II, Terminology, Section 275-8 by deleting and replacing the existing language for the terms “New Construction,” “Structure” and “Substantial Improvement”; Amending Article XXIX, Floodplain Conservation District; by amending Section 275-170.B(1) Subsections (a), (b), and (c), by amending Section 275-170.C., by amending Section 275-171.A(3), by amending Section 275-172.C(3)(C)[3], by amending Section 275-172.F(3), by amending Section 275-172.G(2)(g), by amending Section 275-173.B, by amending Section 275-173.D Subsections (4) AND (5), by amending Section 275-173.E(2), by amending Section 275-174.B(2)(a), by amending Section 275-174.C(1)(b)[2][a], by amending Section 275-176.D(2), and by adding a new Section 275-177, the purpose of the amendments being to comply with current requirements of the Federal Emergency Management Agency (FEMA) and to maintain the Township's eligibility in the National Flood Insurance Program (NFIP).
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Mr. Clark explained that a review and update to the zoning ordinance for flood plain control was required of the Township by the State. Because the modifications were quite technical, a consultant was hired by the State to assist with the changes. He reported that an ordinance was introduced previously and it was reviewed by the County Planning Commission and Township Planning Commission. Mr. Clark stated the County Planning Commission deferred to the State and there were no comments from the Township Planning Commission. He further noted that the Zoning Officer and Mr. Damico reviewed the proposed amended ordinance.

Mr. Quinn asked Mr. Clark to confirm this was a change to the ordinance only and not the flood plain. Mr. Clark stated this was correct and commented that most of the changes were to language and did not impact anything. Mr. Clark also reported that this matter was publicly advertised and that Kelly & Close reviewed the proposed amended ordinance and had no further comments or recommendations for further changes.

Ms. Bradshaw motioned to approve the amendment to the ordinance. Mr. Carlson seconded this motion and Council approved Ordinance 758 unanimously with a vote of 7-0.

G. Acceptance of Certificate of Total Completion – Baxter Builders – 42 N. Pennell Road

Mr. Clark explained that Baxter Builders did a small land development that began 7 or 8 years ago and that the work is officially completed. The Township engineer has signed off on the Certificate of Total Completion and the escrow will be returned to the applicant if Council accepts it.

Mr. Galloway motioned to approve the acceptance of the Certificate of Total Completion. Ms. Bradshaw seconded this motion and Council approved Resolution 2015-71 unanimously with a vote of 7-0.

H. Approval of Bill List

Mr. Kirchgasser read aloud the bill list presented for Council's consideration for approval for payment.

Mr. Shropshire moved that payments under the August 24, 2015 Bill List be authorized for payment by the Finance Department:

GENERAL FUND

A.J. Blosenski, Inc.	July Recycling & Yard Waste	\$17,656.00
Aqua Pennsylvania, Inc.	July Hydrant Bills	\$11,432.25
Chili's Inspection Services	July Contracted Ser. Bldg. Permits	\$6,325.00
Kelly & Close Engineers	Professional Services 6/13-7/17/15	\$6,058.27
	Total General Fund	<u>\$41,471.52</u>

RECREATIONAL ENTERPRISE FUND

Touriffic Travel	Mackinac Island & Hudson Valley	<u>\$15,318.00</u>
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CAPITAL RESERVE

The Bank of New York Mellon	GOB Series of 2011 - Interest Pmt.	\$11,906.25
	GOB Series of 2011 - Interest Pmt.	\$5,601.25
	GOB Series of 2011 - Interest Pmt.	\$14,450.00
		<u>\$31,957.50</u>

Ms. Amoroso seconded this motion and Council approved Resolution 2015-72 unanimously with a vote of 7-0.

5. PUBLIC HEARING

- B. Conditional Use Application of Pennsylvania State University to add two buildings consisting of a residence hall and student union/dining hall on the college campus located at 25 Yearsley Mill Road pursuant to Sections 275-276.B(2) and (C)1 of the Zoning Ordinance providing for permitted accessory uses to post-secondary schools

as a conditional use within the I-2 Institutional District. (Tabled from August 10, 2015 Regular Council Meeting)

Ms. Amoroso motioned to reopen the hearing. Mr. Quinn seconded this motion and Council approved unanimously with a vote of 7-0.

Mr. Kirchgasser noted that Mr. Matson of McCormick & Taylor was present as acting engineer for the Township for this matter. In addition, Al Federico of McCormick & Taylor was also present on behalf of Council as the traffic consultant.

Timothy Sullivan, legal representation for Pennsylvania State University Brandywine Campus (PSU), noted that he sent Mr. Clark a letter on August 12, 2015 that granted the Township an extension to September 15, 2015 for this matter. He also provided an updated list of exhibits to Mr. Damico and Mr. Flandreau. This amended list included the environmental impact assessment, traffic and parking study (submitted after August 10th meeting), and comments from the Township's consultants and Township Sewer Authority along with their responses.

Mr. Damico noted that Exhibit A-13 was submitted at the last meeting. He then went over the additional exhibits and amendments to current exhibits:

A-5 (amended): revised as of August 14, 2015

A-14: Environmental Impact Assessment

A-15: County Planning Department Review

A-16: Township Engineer Consultant Review

A-17: Zoning Officer (Meredith Merino) Review

A-18: Township Landscaping Consultant Review

A-19: Fire Marshal Review

A-20: Applicant's Landscaping Consultant Response to Township Landscaping Review

A-21: Applicant's Engineering Consultant Response to Township Engineer Review

A-22: Bradford Engineering Review

A-23: Township Landscaping Consultant Comments to Environmental Impact Assessment (EIA)

A-25: Environmental Review Response to Township Landscaping Consultant Comments

Mr. Flandreau noted that he was in attendance on behalf of the Township to present the testimony of Township witnesses. He stated Tom Comitta would present information on the EIA. Mr. Comitta was sworn in by the court reporter. Through questioning by Mr. Flandreau, Mr. Comitta testified that he reviewed the EIA and made comments. He also inspected the site several times. While he did review the stormwater management plan and stated he was familiar with the stormwater on this property since he worked on the installation of the university's tennis courts in the 1990s, he deferred comments to McCormick & Taylor (Mr. Flandreau noted he would have Mr. Comitta comment on the stormwater management after Mr. Matson of McCormick & Taylor testified).

Through questioning by Mr. Flandreau, Mr. Comitta went on to report that additional screening and buffering was reviewed but noted he did not see the new data that was presented on August 10th, which was collected on August 5th. He also noted that the EIA stated that PSU installed 3 buffer areas along West Forge Road and Autumn Wood Lane in June 2015 and that PSU presented photos. He requested a copy of the photos. Mr. Flandreau provided this to him. Upon reviewing this information, Mr. Comitta stated that he went back to the site on Saturday. Based on all the provided information and what he saw during his most recent site visit, he felt the only location where additional plantings could be warranted was the "Honors Garden," north of the maintenance building. He noted he made reference to this in his August 6th review and that the PSU response indicated that the photos show that it would not be necessary because it is already obstructed. At this point, Mr. Comitta could not say for sure if this area would or would not be visually exposed if additional plantings were not added. He recommended that Council make a contingency that if the current plantings do not buffer sufficiently at the conclusion of construction, then additional planting could be added. Mr. Flandreau asked if coniferous and deciduous trees in place would buffer sufficiently in the winter months. Mr. Comitta stated that a review of the area should probably be conducted in the fall.

Mr. Sullivan asked if the area in question was to the north or east side of the maintenance building, based on the photo shown. Mr. Comitta stated it should be considered the east side. Mr. Sullivan showed Mr. Comitta the panoramic view of the location in question and asked him to point out the area he is commenting on. Mr. Comitta did so.

Mr. Comitta noted that he cannot do a study to determine the effectiveness of the plantings on acting as a sound barrier but that he felt this should not be a problem based on the distance anyway. Mr. Flandreau noted sound would be discussed later. Based on further questioning by Mr. Flandreau, Mr. Comitta testified that his general concern regarded tree protection. If Council approved the ordinance, he would recommend trees be preserved by the loading dock, student union and library. He felt that existing trees could be saved instead of the applicant planting new ones and that additional tree protection could take place by fencing being placed around the trees by the library, student union and west of the residence hall. He assumed the revised plans would reflect these comments.

Through questioning by Mr. Flandreau, Mr. Comitta reported that he reviewed the lighting plan. He felt all were achievable but noted he could not review this fully until the building wall lights were installed and he would review it at that point. He also stated that the language for full cut off versus low cut off still needs to be resolved. Mr. Comitta went on to report that he found the proposed lighting levels to meet IES recommended practices with one exception that he felt was fixable. This was that the applicant did not provide the method for the on/off control.

Mr. Comitta testified that how the proposed lighting would be sensitive to the surrounding area was still a concern but that this should be resolved once full cut off is defined. He stated that all lights should be face-down. When asked if light pollution was resolved, he stated there would be an increase in light pollution but nothing that was concerning. Mr. Comitta stated he had no other concerns regarding lighting.

Through questioning by Mr. Flandreau, Mr. Comitta reviewed his comments regarding steep slope protection. While he deferred to the Township engineer for some of these, he stated that the zoning ordinance has a series of safeguards in place. Based on the testimony at the previous hearing, he believes the applicant has done a good job with fitting the dormitory into the hill but felt the plan should describe how this would be accomplished.

Mr. Comitta moved on to comment on student behavior. He stated that he and his son are both graduates of Pennsylvania State University and that he feels that what PSU does for dormitories is good. The only thing he noted was the presumption that university documentation already indicates best practices and guidelines. He stated the Chancellor already testified about this on August 10th but he thought it would be satisfactory to have written affirmations from the Resident Advisors.

Mr. Comitta stated his reviews were completed on May 29, 2015 and August 6, 2015 and that he received responses from the applicant. Most of these responses were "will comply." He is awaiting receipt of plan revisions and items related to specific responses.

Mr. Comitta reported that he also received comments back from his August 6th review of the EIA. All items responded to were satisfactory with the exception of 6B regarding campus lighting. He stated there was a typographical error that the applicant was looking into. He stated that 5,700K may be incorrect. Mr. Stewart noted this was in fact a typo and that it would be revised to read 4,000K.

Mr. Comitta went on to report that noise from idling SEPTA busses may or may not be a problem and that he could not be certain at present.

Lastly, Mr. Comitta stated that he would recommend that once construction is complete and if a problem or complaint is brought in front of the Township, it should be brought to the attention of PSU to resolve.

There were no questions for Mr. Comitta from Council or the audience.

Kevin Matson, consulting Township Engineer from McCormick & Taylor, was sworn in by the court reporter. Through questioning by Mr. Flandreau, he stated that he reviewed the stormwater management plan and heard all related testimony. He testified that he concurs with Mr. Close that the applicant is compliant with all requirements and that the plan goes above and beyond regulations by having a

holistic approach with a variety of stormwater systems. He also stated the stormwater management plan is compliant with Code.

Mr. Matson stated that he was aware of concerns after major rain events and that he coordinated a meeting to come up with alternatives. He labeled the July 7, 2015 storm as a "freak storm" and expressed that it was not close to normal rain conditions. He noted that multiple studies have been completed at this site. In discussions, he felt looking at the entire watershed was warranted as the water from major rain events is not only picked up from PSU but other places too. Some possible ideas he recommended was that the University be required to provide an easement in the event the Township decides to create a regional improvement facility in order for the Township to address future issues or to plan on doing an impact study and have PSU pay a portion of the study. He stated it was hard to determine what the most critical element of the tributary area is and that without doing a more detailed study, it was beyond the scope of this hearing. Mr. Matson stated it would also be helpful to assure the gabion wall is performing correctly as no changes for modifying the wall have been presented by PSU at this time. He felt an impact study of the gabion wall was necessary in order to safeguard the properties downstream.

Mr. Matson also testified that he considered the Darlington Road Bridge and that it is difficult to determine how it is impacted by water from PSU or other areas of the tributary. He noted that it is smaller than the Old Forge Road Bridge and that if fixed, it could shift the stormwater burden to other properties. He stated that he could not provide a more certain answer without further study. He also stated that when the Old Forge Road Bridge was constructed, there was no net increase in height to the surface elevation.

Mr. Matson stated that at the last conditional use hearing, he considered making recommendations to PSU; however, after further review and additional meetings, it is his opinion that the entire watershed needs to be studied further to see if a more tangible solution could be determined. In his opinion, it was not just a PSU problem.

Based on questioning by Mr. Flandreau, Mr. Matson reviewed his 3 possible recommendations: PSU granting an easement for a Township regional improvement facility; an impact study being completed of the entire watershed area with PSU providing a portion of the fee; and PSU completing a study of the gabion wall.

Mr. Matson went on to state that he reviewed information available through the State and that he reviewed the watersheds, roads, etc. Based on this information, he reported that PSU makes up only 8-10% of the total watershed. This is why he feels the entire watershed needs to be considered further.

Ms. Bradshaw asked Mr. Matson if he was proposing an easement to take care of the Penn State issue. Mr. Matson responded that there is a confluence point on PSU property where two creeks come together and that there is an opportunity at that location to make an improvement. The study would be for the entire watershed and

not just the PSU property though. Mr. Matson stated that the ordinance states that if there are known downstream issues, the applicant has the right to show they do not affect it. Therefore, the language allows for a portion or the entire study fee to be paid by PSU. He noted that within the limits of disturbance though, the applicant is reducing the impervious coverage and there should be less water as a result. Ms. Bradshaw asked if this were the case, then why should the Township require PSU to do the study. Mr. Matson explained it was advisable because the overall findings were still inconclusive.

Ms. Bradshaw noted that somebody previously testified about the condition of the gabion wall. Mr. Close responded that he was questioned about the gabion wall and that he testified it was functioning properly. He stated that he reviewed previous related calculations and walked the site. His opinion is that the gabion wall is working as it was designed. While he noted that Mr. Matson may be correct in thinking further study is needed, Mr. Close stated that he believed the gabion wall is operating as intended. He also noted that the gabion wall was originally put in as a method for stormwater management when the athletic building was constructed and that it was later raised an additional 3 feet when the tennis courts and other buildings were constructed.

Mr. Matson responded that based on the information presented, the information provided for this report did not address the wall; however, through the conditional use process, he felt it was worth looking at further. Ms. Amoroso asked if Mr. Close agreed with Mr. Matson's opinion, noting she'd be concerned if she was a neighbor. Mr. Matson went on to state that within the 6 acres, the applicant is compliant and there would be a reduction in flow because of what they are doing. This application would therefore have a positive impact. That said, Mr. Matson felt that because it was a conditional use application, it allowed the Township to look at how it can make the area better by considering the recommendations he made.

Mr. Close responded that PSU is only 112 acres of a 1,400 acre watershed, which is only about 8-10% of the total watershed. It is his opinion that PSU is a minor contributor to the issues related to the Rocky Run Tributary and that if PSU did not flow into Rocky Run during the July 7th storm, he felt that the issues still would have taken place. Mr. Close stated that the proposed PSU project would reduce water runoff. In regards to the gabion wall, there are two levels of control. He testified that he examined the wall 4 days after the storm and there was evidence in the form of debris buildup that indicated water did not top over the control box.

Mr. Kirchgasser asked if the storm was considered a 25 year or 100 year event. Mr. Close responded that it was hard to label, stating that a 100 year storm is over the course of a day and around 8 inches of rain in 24 hours. He felt that this storm was unique because of how much rain came down in the course of only an hour. In addition, June had a lot of rainfall in this area, even without the July storm. A lot of conditions played a role in why the July 7th storm was so detrimental. Ms. Bradshaw

inquired if the gabion wall functioned properly even with all these noted terrible conditions, and Mr. Close answered in the affirmative.

Mr. Galloway asked Mr. Close what calculations he reviewed in addition to his walk through. Mr. Close stated a 1986 stormwater report. He was also aware the wall was raised in 1992. Mr. Galloway asked Mr. Close his opinion of the wall in relation to the application. Mr. Close stated he understood Mr. Matson's suggestion but he was skeptical if an analysis of the gabion wall would help with the Rocky Run Tributary situation. Ms. Bradshaw noted that runoff would be down 50% after construction, which would be an improvement. Mr. Close agreed, commenting that the University has a high standard of stormwater management because it is a NPDES permit holder.

Mr. Sullivan asked how many times Mr. Close visited the gabion wall. Mr. Close stated three or four times with October 2013 being the first time.

Mr. Galloway noted that Mr. Matson discussed alternatives and asked him if the impact study could include the gabion wall and other areas outside of the PSU property. Mr. Matson answered in the affirmative. Mr. Galloway asked for a recommendation on how much the applicant should be expected to pay for the study if it was made a condition of approval. Mr. Matson stated that he was not prepared to address that question at present but could come up with a calculation before the September 14th meeting. Mr. Galloway then asked Mr. Matson to explain what impoundment meant and Mr. Matson stated it is something to hold back a volume of water, similar to a detention facility, which could be located on the PSU property near the confluence point.

Mr. Matson went on to state that in response to Mr. Close's opinion, he agreed that the July 7th storm was a freak storm but he thinks it is important to consider residential properties and the protection of life. Therefore, any measure to help reduce these concerns should be considered by the Township. Ms. Bradshaw asked Mr. Matson what additional information was needed for this consideration. Mr. Matson responded information on the routing of existing tributaries. He also noted the Township is relying on a 30 year study and a site walk for information. The gabion wall does not have an infiltration system so what goes into the wall comes out at some point. He stated there were a number of different engineering and mathematical techniques available to consider this problem further.

Ms. Amoroso asked if the gabion wall could be used more efficiently. Mr. Matson explained the wall could potentially be benefiting stormwater management but without a proper study done, this remains unknown. Ms. Bradshaw stated that this matter doesn't really have anything to do with the current PSU project. Mr. Matson agreed.

Mr. Flandreau asked if the easement area Mr. Matson proposed on the Davis tract is large enough of a space to allow for an impoundment system. Mr. Matson stated that he believed it was and that the scope of the easement should be around the confluence point.

Mr. Kirchgasser asked Mr. Stewart to pull up a diagram to act as a reference for this discussion. Mr. Sullivan asked if it was possible that more than 1 impoundment area would be needed. Mr. Matson responded that was possible. Mr. Sullivan stated that the applicant established that the criteria necessary to meet for conditional use was met. He noted that specifically Criteria #19 on utilization of effective stormwater management techniques for proposed site grading and land was met and that Mr. Matson was taking the matter beyond this scope. Mr. Matson agreed. Mr. Kirchgasser asked if Mr. Matson believed this was an opportune moment to improve stormwater management with this application and he answered in the affirmative.

The diagram was then brought up for those present to view. Mr. Close noted that the map shown was not an exhibit but a schematic prepared. Mr. Sullivan stated the document was actually provided in paper form as Exhibit A-25 Existing Feature Constraints—Davis Tract August 29, 2015. Mr. Close stated the map helps give an idea on existing constraints on the Davis Tract and shows the location of the Old Forge Road Bridge, Rocky Run Tributary, confluence, wetlands, pond, slopes and sewer easement to pump station are located. Ms. Amoroso asked for the location of the easement Mr. Matson recommended. Mr. Matson reiterated that there are a number of constraints as noted by Mr. Close, so the area may not be able to have an easement. However, ideally the easement would be located at the confluence point or right below. Ms. Amoroso asked where the best place would be. Mr. Matson stated it would be located somewhere north of the Old Forge Road Bridge.

Andrew Reilly, 207 Darlington Road and party to the hearing, noted that he received cooperation from PSU and that he is not against PSU's present application but very concerned about stormwater management. Mr. Reilly called Mr. Close to the front for further questioning.

Through questioning by Mr. Reilly, Mr. Close testified that he met Mr. Reilly at his property and looked at Rocky Run at the south point of the bridge. At this location, there was evidence of erosion. Mr. Close testified that he is familiar with the old bridge that was at this location previously and that it had a smaller cross sectional opening compared to the new bridge. This resulted in some water being held back, although the bridge was never meant to function as a water control measure. Mr. Reilly noted that the bridge may not have been designed to be a water control measure, but that it functioned in that manner.

Through questioning by Mr. Reilly, Mr. Close noted that the measurement of the Darlington Road Bridge opening is approximately 70 square feet and the Old Forge Road Bridge opening is 340 square feet, but may be closer to 290 square feet. He noted that the Old Forge Road Bridge has a larger opening on the PSU side and a smaller opening on Mr. Reilly's side. Mr. Close stated he inspected the culvert opening of the Darlington Road Bridge and has a sense of what it was like on both sides. He stated there is evidence that Rocky Run overtook the stream bank and road.

Mr. Reilly then moved on to question Mr. Close about the gabion wall. Through this questioning, Mr. Close stated that he has walked the PSU property and looked at the gabion wall previously. Mr. Reilly showed photographs to Mr. Close taken on July 19, 2015 and labeled them as Reilly 1-5. Mr. Close was able to identify the pictures of the gabion wall from the downstream side where the diameter is 54 inches. He noted that the shrubbery on the top of the gabion wall is in a spill over area. Mr. Reilly suggested that with the way the plantings are knocked down, it suggests a breach of the gabion wall. Mr. Close stated that this could not be determined just by looking at the photograph but noted the wall was designed to be breached in the event of a 100 year storm. The spillway itself is 21 feet and the depressed shrubbery could be due to the spillway in the basket.

Mr. Reilly then asked Mr. Close to describe the photograph he labeled as Reilly 6. Mr. Close stated it was the outlet box, which is a concrete structure measuring 6 feet by 6 feet. It is located east of the gabion wall. This area was covered during a previous visit to wall by vine material and leaves. The vines looked to have died though, so it may not necessarily have been due to stormwater.

Mr. Reilly then showed Mr. Close photographs labeled Reilly 7-10 and stated they were to show the condition of Rocky Run. Mr. Close testified the photos looked familiar but he could not say where they were taken for sure. Through further questioning by Mr. Reilly, Mr. Close stated the analysis for the PSU project shows an area of 6 acres of disturbance and that not all runoff was from the property. He reported the gabion wall was last raised in 1992. Mr. Reilly asked if that is when the Tomezsko Building was constructed but Mr. Close did not know.

Mr. Sullivan asked Mr. Close to look at Reilly 1 again. He stated this photo was of a 54 inch pipe and asked Mr. Close if he could see the 24 inch pipe in the back. Mr. Close answered in the affirmative and stated the pipe was always open.

Mr. Flandreau had no questions.

Mr. Reilly was sworn in by the court reporter to provide his own testimony. He stated that he was the owner of his property since 2005 and constructed his house. Since the

Old Forge Road Bridge was reconstructed, water has come in more rapidly and cleanup from any given storm could be over \$2,000. From his perspective, the old bridge acted as flood control. Mr. Reilly agreed that the July storm was a quick rain event, followed by extreme flooding. He stated the water ran along the creek at 60 feet wide and came within 20 feet of his home. He noted the flooding required the fire company to be called to do a rescue on Darlington Road.

Mr. Reilly reported that he engaged an engineer to meet with the Township and PSU. He explained that he is not looking for PSU to provide money for repairs but believes measures can be taken upstream on the PSU property to help this problem. He also felt the culverts downstream should be expanded. While less flow may come from the construction on PSU property, stormwater management is already a big problem; especially downstream.

There were no questions for Mr. Reilly. Mr. Sullivan did not provide a rebuttal. Mr. Reilly moved his exhibits, Photographs labeled Reilly 1-10 into evidence.

Mr. Kirchgasser noted he missed the last meeting and asked Mr. Sullivan if it would be okay for him to ask a few questions. Mr. Sullivan agreed.

Using Diagram SL-1, Mr. Kirchgasser asked Mr. Close how about the setback of the maintenance building and residence hall. Mr. Close stated the maintenance building had a setback of 100 feet and the residence hall would be 305 feet. Mr. Kirchgasser asked why the dormitories were to be constructed as close to private residences as possible. Mr. Close stated a lot of factors were considered. He studied the property for the master plan and this was determined to be the best location in order to preserve the campus quad and to not disturb the athletics field. They also looked to preserve as much of the wooded area as possible. In addition, this location was conducive to pedestrian walking. Mr. Close emphasized that the applicant is sensitive to the proximity to its neighbors, which is why so many resident meetings took place. He noted that while the setback is 305 feet, there is still an additional 100 foot buffer to the houses and that it would be very difficult to see the resident hall building from those houses.

Mr. Kirchgasser asked Ms. Woolever about the 2 professional staff who would be staying at the dormitory. She explained they would not be RAs but in addition to the RAs. These would be professional resident life staff members who live on premises. Mr. Kirchgasser then asked Ms. Woolever and Mr. Dambly about the possibility of a second dorm. Neither had any information on a possible second dorm. Mr. Sullivan noted that the applicant was asked about the master plan at the first hearing. The master plan was for 2010-2020 and called for four 100 bed dormitories. PSU is now only looking for one 250 bed dormitory. He stated this was as far as PSU has gotten

in regards to the master plan and that the PSU trustees have only approved what is presently before Council. He also noted the master plan was online and available to anyone.

Mr. Sullivan, Mr. Flandreau and Mr. Reilly reported they were finished providing witnesses.

Mr. Kirchgasser noted a decision would be made at the September 14th Council meeting. Council had no further questions.

John Bartholomew, E. Glen Circle, commented that if PSU is putting in measures to reduce run off, then it was his opinion that it would be ridiculous to ask PSU to agree to a regional study. He felt it was not their fault and what the engineer was proposing was not a simple study. He noted he did this sort of thing as a career with the Army Corps of Engineers and that the study was not simple, quick, nor cheap.

Gary Grove, 275 N. Darlington Road, stated he was worried about the watershed survey because of unintended consequences. He expressed that it sounded like the bridge was a big problem and that it should be a concern of the Township and not PSU. He questioned what would happen if the study was conducted and it was determined to be somebody else's problem.

Jennifer Hall, 400 Matrissa Ridge, expressed concern about the reverse subdivision application and asked if this meant PSU could increase their footprint in the future. She stated she hoped PSU succeeded but that she didn't see how their plans could end at this point. Would approval of a reverse subdivision mean a change in the use of the land? She also questioned if it would set precedence if approved by Council and then moved on to express concern about noise and traffic since drinking is not allowed on PSU property. While she felt the behavior correction program PSU representatives discussed sounded good, she was concerned because it would be new freshmen each year. She went on to express that she and her family like their quiet home and wished for it to stay that way. She requested PSU to commit to not building on the Davis Tract.

Mr. Shropshire responded that the PSU police officer testified that the wooded area would be patrolled. He went on to comment that PSU is a college and colleges have dormitories. Being a part of the college community is important and if the Township can allow this while keeping residents safe at the same time, then he thought it was good for the university as dormitories are in important part to a campus. He expressed that every possible element can't be controlled but PSU has assured that they would do their best to keep the neighbors happy.

Ms. Hall responded that she didn't mean to suggest that PSU is not a good neighbor, but she wanted it to be that she won't have to call with a problem. Mr. Shropshire understood that desire and stated Council didn't want her to have problems either, but there was simply no way to guarantee a situation won't arise at all. Ms. Hall stated the Davis tract was residential when she purchased her property. Mr. Close stated the Davis tract is zoned R-1A and not part of the application.

Jim Gastner, 14 Horseshoe Drive, stated he has been a resident since 1978 and bought his current home because he worked at PSU but previously moved because of traffic around Granite Run Mall and Franklin Mint. He expressed that PSU is a good neighbor, but it is also a college. He felt that if a resident moved to that area after PSU was constructed, then he or she should not be surprised the college is requesting dorms be allowed.

Mr. Damico asked Mr. Sullivan if he was prepared to close the hearing. Mr. Sullivan answered in the affirmative.

Mr. Galloway moved to close the hearing. Ms. Amoroso seconded the motion and Council approved unanimously with a vote of 7-0.

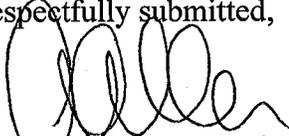
Mr. Kirchgasser reported that Council would be prepared to render a decision at the September 14, 2015 regular meeting.

Mr. Sullivan provided a paper copy of Exhibit A-25 to Mr. Damico.

6. ADJOURNMENT

Mr. Kirchgasser adjourned the meeting at 9:36 PM.

Respectfully submitted,



Amanda Allen, Recorder