

**WEST LAMPETER TOWNSHIP
BOARD OF SUPERVISORS
MEETING OF AUGUST 14, 2023**

Supervisor Barry Hershey called the Regular Meeting of the West Lampeter Township Board of Supervisors to order at 7:00 p.m. with the Pledge to the Flag. Those in attendance were Supervisors Randy Moyer, Geoffrey Beers, and Randall Andrews. J. Richard Breneman arrived at 7:52 p.m. Township Manager Dee Dee McGuire, Police Chief Brian Wiczkowski, Township Engineer Charles Haley ELA Group, Inc., Planning/Zoning Officers Michele Neckermann and Kim Yepremian, Township Solicitor Robert Sisko, and Recording Secretary Nancy Mellinger were also present. Absent was Public Works Supervisor Sean Alexander.

CEREMONIAL OATH OF OFFICE ADMINISTERED-Officer Paul H. Hossler III

Oath of Office was administered to Officer Paul H. Hossler III by Judge William Benner. Chief Wiczkowski remarked that Officer Hossler has a Bachelor of Science degree in Criminology from Penn State University. Officer Hossler put himself through the Police Academy. He comes to the Township with experience from the Lancaster County Sheriff's Office and Christiana Borough. Officer Hossler underwent an extensive hiring process before being selected.

PUBLIC COMMENT

None.

MINUTES

Supervisor Beers made a **MOTION**, seconded by Supervisor Moyer, to approve the Minutes of the Regular Meeting of July 10, 2023 and the Work Session of August 2, 2023 as presented. The motion was approved, 4 in favor, 0 against.

PLANNING MATTERS

1. Text Amendment Hearing WL2023-TZA-001 SouthPointe

Ordinance 269-AN ORDINANCE AMENDING CHAPTER 285 OF THE CODE OF ORDINANCES OF WEST LAMPETER TOWNSHIP, LANCASTER COUNTY, PENNSYLVANIA AMENDING SECTION 285-42.A.29.J TO PERMIT A MAXIMUM BUILDING HEIGHT FOR A MEDICAL RESIDENTIAL CAMPUS (MRC) OF 60 FEET IN THE R-1 RESIDENTIAL ZONING DISTRICT.

Applicant: Willow Valley Communities

Project Description: The Applicant proposes a text amendment that would allow an increase in building height in the R-1 zoning district of a Medical Residential Campus.

The applicant was given the option to present their case or to wait until Supervisor Breneman was present. Applicant was informed that Supervisor Moyer would recuse himself from the hearing. Applicant elected to hold the hearing instead of waiting. Solicitor Sisko clarified that of a five-member board, only three Supervisors were participating in the hearing, as one has recused himself due to professional conflict. If two members approve and one member opposes, the decision would actually be a denial based upon the second-class township code which requires a majority of the entire board, not of the quorum. Applicant stated they did not have any objection to the absent board member participating in the vote as the information which will be presented was contained in the application. Applicant again elected to continue.

Rob Lewis Esq., Kaplin Stewart, represented the applicant, Willow Valley Communities, which has before the Board a petition for a Text Amendment. Willow Valley owns approximately 138 acres, with several sub components making up a medical residential campus (MRC). The majority of land is in the R-3 zoning district. The Southpointe portion of forty-six acres is in the R-1 residential district. The petition this evening seeks to provide consistency between the R-1 and R-3 in regards to building height. The current ordinance allows a building in the R-3 district in an MRC to have a maximum height of 60 feet subject to certain setback limitations; where as in the R-1 district, the maximum height is 35-feet within the same campus. The petition is seeking consistency of 60 feet for both R-3 and R-1

districts except the text amendment would propose substantial additional setbacks in the R-1 district.

Craig Smith, RGS Associates, presented a site plan to illustrate the proposed changes in the text amendment. He pointed out the hearing was for the text amendment and not the plan being shown. There will be a future conditional use hearing for the revision to the plan. The south portion of the campus is about forty-six acres. R-3 is on the north side and R-1 is on the south side. The text amendment is under the Medical Residential Campus section of the Ordinance. It is not across all R-1 districts, just R-1 in an MRC. Originally five apartment buildings, cottages, a memory care center, and development of a portion of Peach Bottom Road were proposed. The cottages have been constructed and are occupied. The memory care center, apartments, and the section by Peach Bottom Road will be part of the Conditional Use hearing coming up. Two of the apartment buildings have been constructed. Three other locations for apartment buildings were proposed. Willow Valley hopes to eliminate one of the three buildings. Efficiency of construction and the maintenance of one less building are reasons for the proposal. Increasing the height and removal of a building will also give additional green space. The text amendment proposes a setback of 300 feet from adjacent residentially zoned parcels, which effectively doubles the current setback of 150 feet. Alternatively, for every 1-foot of building height that exceeds 35 feet, there will be 3 feet of additional setback required from all other zoning district boundaries in the R-1 district of an MRC. A cross section concept plan was presented showing the elevations along the tops of the buildings looking from Wynwood Drive north across Southpointe. There is a 24-to-25-foot elevation drop across the site. Looking north from Wynwood Drive, all you should see are the existing cottages due to the significant elevation difference. The Planning Commission unanimously recommended approval of the Text Amendment.

Rob Lewis noted a review letter dated July 14, 2023 was received; it requested a change in verbiage to make clear how the additional three feet of horizontal per one foot of vertical would be implemented, which is per each foot of building height between 35 and 60 feet.

Supervisor Beers questioned if there were other locations where this could be applied. Ms. Yepremian replied a tract of 25 acres would be necessary, with a Conditional Use approval for a Medical Residential Campus, in an R-1 district adjacent to an R-3 district. Supervisor Beers confirmed the adjacent districts. Attorney Lewis emphasized the 300-foot setback would still apply along the permitter.

Supervisor Hershey noted that approval for the original plan had been previously granted, not long afterwards the applicant wanted to change the number and height of the buildings. Mr. Smith explained the purpose of the change was to be relatively identical to the building height that already occurs directly adjacent to the property. The memory care is undergoing redesign and will be part of the Conditional Use application. The redesign will impact the apartments. Holistically, they feel that removing a building and enlarging the green space is the better option. Marketing perspective, efficiency of construction, refinement of what was once the Witmer property, and possible realignment of Cultural Center Drive, all contribute to the design changes.

Supervisors Hershey and Beers confirmed with Craig Smith that from Wynwood Drive, only the cottages would be seen. Applicant affirmed that generally, the cottages would be visible, rather than the apartment buildings, due to the significant grade difference.

Supervisor Andrews asked for clarification on the height of the memory care building. Mr. Smith replied that they were working with an architect to develop the plan. Supervisor Andrews asked if the 300-foot setback should also apply to the Agricultural district on the eastern boundary, because you never know what will be built there. Mr. Smith responded that the proposed setback is consistent with the Spring Run buildings to the north. He also stated they (dwelling units) are subject to a 75-foot setback from an agricultural parcel plus 3-feet for every 1-foot over 35-feet of building height. A 60-foot-high building would have a setback of 150-foot from the Agricultural parcel to the east.

Mr. Smith reminded the Board that the plan revisions would be before them in a Conditional Use hearing and also as a Land Development plan.

Supervisor Hershey questioned if once the decision is made, is that how the plans are intended to stay? Mr. Smith replied many factors affect the plan, such as marketing and occupancy, and he could not answer the question.

Supervisor Beers stated when he considers a text amendment he looks two things: how the amendment applies to other areas in the Township and the impact on residents around it. Looking at the zoning map, he does not see other areas in the Township where the text amendment would apply. According to the diagram presented, the residents on Wynwood Drive would not be able to see the buildings.

Solicitor Sisko noted the Board received a memorandum from the Planning and Zoning Department. Ms. Yepremian reiterated the Manor Campus is located in the R-3 zoning district where the 60-foot height is in place and so is the northern portion of the Lakes campus. She confirmed that Southpointe at Lakes does appear to be the only place currently in the R-1 district that this would affect.

PUBLIC COMMENT

Jim Whitehead, Willow Valley Southpointe, Gordon Drive, stated he knows Willow Valley intends to develop the Witmer and adjacent properties which have now been placed within the 350-foot buffer limiting them to single family houses which he suspects makes it uneconomic to develop those properties. He asked if the three properties be excluded from that zoning. Solicitor Sisko replied that text amendment would apply to all properties that would fit within the designation. It is not possible to carve out those three properties. It was clarified that the 300-foot setback involves the proposed building height. The 150-foot setback currently in place for single and duplex dwellings is still applicable.

Solicitor Sisko clarified the Board could make a decision now or they could wait until the next meeting to render a decision which would allow Supervisor Rick Breneman to participate. Attorney Lewis was given the option of receiving a decision immediately or waiting until next month. Attorney Lewis acknowledged in the past, the Board's desire to contemplate their decision and he is satisfied waiting until the next meeting.

Supervisor Beers made a **MOTION**, seconded by Supervisor Andrews, to close the testimony for the Text Amendment hearing. The motion was approved, 3 in favor, 0 against, and 1 abstention (Moyer, professional conflict).

2. Conditional Use Decision-WL2023-CU-001 Lampeter Meadows

Derrick Dissinger, Barley Snyder, attorney for the Applicant, was present for the decision.

Supervisor Beers made a **MOTION**, seconded by Supervisor Andrews, to approve WL2023-CU-001 Lampeter Meadows Conditional Use Decision conditioned upon the outlined conditions. Solicitor Sisko read the following twenty-four conditions:

1. Except to address conditions set forth herein, the Community shall be developed in compliance with and without any material deviation or modification from the concept plan identified as Applicant's Exhibit No. 3, the Application, and the other materials presented to the Board, including but not limited to the character and layout of the Community and the architectural elevations and floorplans as shown on Applicant's Exhibits. Compliance with the Application, the Plans and other materials, including Applicant's Exhibits, is an integral part of this approval, and any revisions are subject to the requirements of Chapter 285 of the West Lampeter Township Code of Ordinances and these Conditions.

2. Applicant shall not utilize the boulevard entrance concept.

3. Applicant shall redesign the internal street system, as shown on Applicant's Exhibit No. 3, to fully comply with the street and access drive design standards as set forth in Section 240-25 of the West Lampeter Township Subdivision and Land Development Ordinance. Without limiting the foregoing, the turn radii shall be brought into compliance with such requirements and must safely accommodate emergency fire apparatus.

4. Applicant shall redesign the emergency drive such that:

(i) the drive is a separate standalone macadam drive to be owned and maintained by the Community homeowners' association (and not an easement over adjacent building lots);

(ii) the drive shall be 25 feet in width;

(iii) swing gates shall be installed at each end of the drive, the design of which must be acceptable to the Township.

5. Applicant shall provide complete information concerning the design of the storm water management facilities and other improvements, including, but not limited to, sewer design and grading, at the time of submission of the final plan for the Community.

6. By way of formation of a planned community association, Applicant shall provide for the long-term maintenance of all storm water management facilities to be installed within the Community outside the public right-of-way, as well as the emergency access drive. Applicant enter into a storm water management agreement and declaration of easement with the Township in a form and content acceptable to the Township to ensure long-term maintenance of the storm water management facilities.

7. Applicant shall enter into a land development agreement with the Township prior to the recording of the final plan for the development setting forth the responsibilities for the development of the Property and listing required improvements, lands to be dedicated, and contributions to be made to the Township as identified in these Conditions.

8. The Township and the Township Park Board must approve all proposed open space, public parkland area, or fees in lieu of open space during the subdivision/land development process.

9. Applicant shall provide visible barricades at the cartway termination of the stub street.

10. Applicant shall install slant curbs, grass strips and sidewalks to the satisfaction of the Township.

11. Applicant shall extend the stub street right-of-way to the property line so that, should the adjoining properties be developed, the street system may be extended into the adjoining properties.

12. Applicant shall maintain the streets during development and until the streets are formally accepted by the Township or other long-term provisions satisfactory to the Township are made for maintenance. Such maintenance shall include, but not be limited to, the removal of snow and ice.

13. Applicant shall either prepare all required documentation at Applicant's expense and pay all costs or reimburse the Township for all reasonable fees and costs associated with the acceptance of dedication of the streets and shall post maintenance security to secure the structural integrity and proper functioning of the streets in accordance with the requirements of the MPC.

14. Applicant shall require all contractors to keep existing Township and state roads free of construction debris, silt, trash, litter, and other impacts of the construction of the Property. If the Township provides Applicant with written notice that Applicant's contractors are not in compliance with this Condition and Applicant fails to immediately require its contractors to comply with this Condition, the Township may, at the Township's option, withhold permits for

additional construction until Applicant presents the Township with adequate assurances that Applicant's contractors will comply with this Condition.

15. Applicant, and its successors and assigns, shall install buffer plantings/ landscape buffers to the satisfaction of the Township.

16. Applicant shall address the recommendations and comments set forth in Township Engineer's review letter, dated June 29, 2023, to the satisfaction of the Township.

17. To the extent not otherwise provided in these Conditions, Applicant shall furnish financial security of the type, in the amount, and at the times required by the MPC.

18. Applicant, its successors, and assigns shall at all times comply with and adhere to the evidence presented to the Board of Supervisors at the hearing held on July 10, 2023, except to the extent modified by the Conditions imposed herein.

19. Applicant shall obtain all permits and approvals required by the Zoning Ordinance, the Subdivision and Land Development Ordinance, and all other applicable Township ordinances, regulations and specifications and by all county, state and federal laws and regulations relating to the development of the Property, as and when required.

20. Nothing contained in this Decision shall be deemed to relieve Applicant from complying with all other applicable local, county, state and federal laws and regulations.

21. Applicant shall reference these Conditions or include recording information if these conditions are recorded as a separate document as General Notes on all final subdivision and/or land development plans for the Property.

22. Any violation of the Conditions contained in this Decision shall be considered a violation of the Zoning Ordinance and shall be subject to the penalties and remedies contained in the MPC and in the Zoning Ordinance. In addition, the Township may refuse to issue any permit or grant any approval necessary to further improve or develop the Property in the event of the violation of or failure to comply with any Condition contained in this Decision.

23. The Conditions set forth in this Decision shall be binding upon the Applicant, its successors and assigns, and any other entity having an interest in the Property now or at any time in the future.

24. Applicant shall obtain preliminary subdivision and land development approval required by the Township Subdivision and Land Development Ordinance within one (1) year from the date of this Decision. In the event Applicant fails to obtain such preliminary subdivision and land development approval within said time period, the approvals granted herein shall automatically become void.

The motion was approved, 3 in favor, 0 against, and 1 abstention (Moyer, professional conflict). Supervisor Breneman was not present for the motion. Applicant was provided with a signed copy of the Conditional Use Decision.

3. Final Plan- Dustin Martin

Dustin Martin presented a change to the approved storm water plan. Mr. Martin proposed the Riparian Forestry Buffer be replaced with a Riparian Corridor Easement which allows the current recreation area to remain. This change will involve additional escrow and agreements for the plan. Chuck Haley, Township Engineer, had no objections to the plan.

Supervisor Andrews made a **MOTION**, seconded by Supervisor Moyer, to approve the request for a waiver of Section 230-36.H of the Storm Water Ordinance and request the record reflect the Board acknowledging the riparian buffer change on the plans approved on April 10, 2023. The motion was approved unanimously, 5 in favor, 0 against.

4. ADU Agreement-1128 Willow Street Pike

Kim Yepremian reviewed the agreement for 1128 Willow Street Pike. The current detached structure will be demolished and rebuilt for a parent to occupy. The approval is valid for as long as the parent lives there. When the property is sold, the habitable space must be removed. The Township requires the owner to yearly verify the person listed on the agreement is currently living in the unit.

Supervisor Beers made a **MOTION**, seconded by Supervisor Moyer, to move that the Chairman be authorized to execute the Accessory Dwelling Unit for 1128 Willow Street Pike according to the Zoning Hearing Decision. The motion was approved unanimously, 5 in favor, 0 against.

5. Letter of Credit Release-Sheetz

Kim Yepremian presented the ELA letter recommending release of \$517,395.00 leaving a remaining balance of \$40,000.00 to complete the project.

Supervisor Moyer made a **MOTION**, seconded by Supervisor Breneman, to move that the Chairman be authorized to execute Annex A to release five hundred seventeen thousand three hundred ninety-five dollars (\$517,395.00) from the Sheetz letter of credit. The motion was approved unanimously, 5 in favor, 0 against.

6. On Lot Discussion

Michele Neckermann discussed possible improvements to the On Lot System and future Ordinance revision. There are 575 parcels with on lot systems. A proposed change would be sending a 'pump year' notification instead of the current specific 3-year anniversary due date notification. Homeowners would then receive a reminder in June if they have not had their system pumped. Neighboring townships notify residents by pump year. Our current return rate is about 55% for being completed within the specified time. Current Township holding tank requirements are not consistent with state mandates. Staff recommends having pumper guidelines and collecting data for properties. It is suggested that next year be a trial year. The solicitor will review the proposed ordinance changes before they are presented to the Board. There has been an increase of septic issues being addressed by the SEO.

MONTHLY REPORTS

1. Community Development Department Report

Ms. Neckermann reviewed the planning matters update. The Zoning Hearing Board approved the smaller solar project on less than one acre. The decision for the solar project on Eshelman Mill Road will be issued next month. The Zoning Ordinance Amendment rough draft will be distributed later this month to be reviewed. Suggestions are needed before moving ahead in the process. Six-month SLSA comparison was provided. Kendig Square may be assessed additional EDU's. The department received 30 permits this month. Planning Commission will see five plans at their September meeting. Supervisors Hershey inquired about 1102 Willow Street Pike. Ms. Yepremian reported on three active phases: UCC compliance-the house has a placard and is condemned; the resident can be removed from the house; six citations are waiting for Judge Keller's office to serve-they are for property maintenance, specifically the house roof and chimney, weeds, and the out-building in back with a collapsed roof and tree growing in it.

2. Treasurer's Report

Revenues

Revenue for the period ending July 31, 2023 totaled \$5,164,613, an increase of \$382,179 from 2022.

Expenditures

Expenditures for the period ending July 31, 2023, totaled \$3,404,206, an increase of \$123,488 from 2022.

Surplus

The surplus at the end of July 2023, totaled \$1,760,407, an increase of \$28,691 from 2022.

Refuse and Recycling liens older than three years have been refiled with updated balances. Attorney, administrative and recording fees have been added to the accounts, along with annual interest. In July of 2018, cumulative lien balances totaled \$49,286. This balance has increase 78% to \$87,698 in July of 2023. Out of 52 accounts, 27 are over \$1000 and 10 are over \$3,000. Ms. McGuire will research options to recover these accounts.

Paying the Bills

Supervisor Beers made a **MOTION**, seconded by Supervisor Moyer, to accept the Treasurer's Report, and authorize the staff to satisfy the ordinary and routine obligations incurred by the township in order to take advantage of discount and allowances, and to avoid delinquent penalties and carrying charges. The motion was approved unanimously, 5 in favor, 0 against.

3. Public Works Report

Gypsy Hill Road and Long Rifle Road is not formally open yet. PennDOT gives conflicting information on completion date.

4. Police Report

Chief Wiczkowski stated an agreement in principle has been reached with the company supplying the school crossing guards. Through a grant with CCPD, a mental health worker will be assigned to the department. The worker would be out with an officer and able to provide services quickly.

5. Township Manager's Report

Ms. McGuire proposed the dates of Monday, October 16th and Wednesday, November 15th for the 2024 Budget workshops. December 11th is the Budget Open House. Meetings would begin at 6:00 p.m. Dates were approved. Ms. McGuire received an e-mail from a resident who was unhappy that Willow Street Fire Company was on standby for an incident in York County. If anyone is interested in the LCATS Summer Event please let her know.

TOWNSHIP ADMINISTRATION MATTERS

1. Resolution 13-2023 Waiving the Amusement/Mechanical Device Tax

This tax was waived two years ago. Staff recommended the tax continue to be waived as it is cumbersome to enforce. Income from the tax is minimal and must be split with the school district.

Supervisor Moyer made a **MOTION**, seconded by Supervisor Beers, to adopt Resolution 13-2023 waiving the Amusement/Mechanical Device Tax from January 1, 2024 to December 31, 2025. The motion was approved unanimously, 5 in favor, 0 against.

2. Resolution 14-2023 Appointment to UCC Board of Appeals

Steve Groff has served as the appointee to the UCC Board of Appeals and he is willing to serve another three-year term.

Supervisor Moyer made a **MOTION**, seconded by Supervisor Breneman, to adopt Resolution 14-2023, appointing Steve Groff to serve as the Township's Representative to the LIMC Central Lancaster County Uniform Construction Code Board of Appeals. The motion was approved unanimously, 5 in favor, 0 against.

OTHER BUSINESS

None.

EXECUTIVE SESSION

Supervisor Beers called for an Executive Session to discuss personnel matters. Chairman Hershey said no votes will be taken when the meeting reconvenes. Executive Session began 8:40 p.m.

ADJOURNMENT

The meeting reconvened and with no other business to be conducted, the meeting was adjourned at 9:10 p.m.

Respectfully Submitted,

Denielle L. McGuire, Assistant Township Secretary-Treasurer