

PLANNING COMMISSION REGULAR MEETING

Minutes

March 7, 2022

Time: 7:00 pm

Location: Clinton Twp Municipal Building, 711 Saxonburg Blvd., Saxonburg, PA

Call to Order:

Chairman Kevin Corace called the meeting to order at 7:00 PM.

Pledge of Allegiance:

Roll Call:

Kevin Corace, Chairman
Pat Hebda, Vice Chairperson
Barb Bartley, Secretary
Marty Micko
Bill Duncan
Brian Snyder
David McRoberts
Judy Wagner, Alternate

Staff in Attendance:

Kathy Allen, Planning Commission Liaison from the Board of Supervisors
Tom Hartwig, Township Manager/Engineer

Public in Attendance:

Todd Pfeifer representing II-VI
Josh Halin representing II-VI
Markay Pfeifer
Steven Graff representing Glenn Burd and Roenigk Family Trust

Public Comments on Agenda Items:

No members of the Public in attendance had comments on posted Agenda items.

Approval of the Minutes from the February 7, 2022 Regular Meeting:

Chairman Kevin Corace asked if Planning Commission Members had any revisions to make to the Minutes for the February 7, 2022 Regular Meeting. With no revisions suggested, Chairman Kevin Corace asked for approval of the minutes.

A motion was made by Secretary Barbara Bartley approving the Minutes from the February 7, 2022 Planning Commission Meeting. The motion was seconded by William Duncan. The motion carried unanimously.

Correspondence:

- Butler County Planning Commission review letter on Roenigk Family Trust Subdivision.

Chairman Kevin Corace asked Manager Tom Hartwig to provide an explanation on the Township's receipt of this letter from the Butler County Planning Commission. Mr. Hartwig indicated that the County Planning Commission conducted their review of the Roenigk Family Trust Subdivision and offered no comment and issued the letter to Buffalo Township. Upon receiving a copy, Mr. Hartwig indicated that he requested that Graff Surveying contact the County Planning Commission and reissue the letter with Clinton Township copied since part of the property subdivided is situated in Clinton Township.

- Solicitor's Opinion on the Glenn Burd Plan 2 and Glen Burd Plan 3

Chairman Kevin Corace asked Manager Tom Hartwig to provide an explanation on the written opinion provided by Solicitor. Mr. Hartwig indicated that there were several unusual circumstances with these proposed subdivisions that required some expert legal research and opinion. One was whether or not the subdivisions should be linked to the original subdivisions of the Durci property that occurred back in 1994, 1995, and 2008 or should stand on their own. The other opinion sought was related to the applicability of Section 185-52 of the Zoning Ordinance to the two subdivisions prior to being amended by Ordinance 2021-07. Brian Snyder questioned Mr. Hartwig as to who requested the in depth research and legal opinion as he indicated the Planning Commission only sought an opinion on whether the subdivisions were to be considered major or minor. Mr. Hartwig responded that in discussions with the Supervisors, that matter of legal research into the previous property subdivisions came up and an opinion was sought.

Chairman Kevin Corace asked that the legal opinion offered by the Solicitor be made part of the minutes of this meeting.

Plan Reviews:

- Revised submittal of the Fuel Cell Energy Project by II-VI with a short presentation by

Todd Pfeifer and Josh Halin of II-VI were in attendance at the meeting to make a presentation on the proposed fuel cell energy project being proposed by II-VI. Mr. Pfeifer indicated that he received the Planning Commission's comments from their workshop last Monday evening and discussed the same with Township Manager Tom Hartwig. Accordingly, revised project drawings were distributed to Planning Commission members for review.

Mr. Pfeifer reported that II-VI has maximized all available power from the current West Penn Power feed from Tower Road substation and needed to find an alternative power source. After much research, they settled on fuel cell technology due to its reliability,

Planning Commission Regular Meeting
Minutes For March 7, 2022

cost effectiveness, and compatibility with Company green initiatives. II-VI selected Bloom Energy to implement the project. A fuel cell is a device that uses natural gas and an electrochemical reaction to generate electricity. The only byproducts are water vapor and heat. Natural gas is used to generate the electrochemical reactions. The location of the fuel cells will be at the front of the building facing Saxonburg Boulevard, with fuel cells being close to the existing main building.

Noise emanating from the installation is forecasted to be less than 70 dbA at a distance of six feet from the units. The units will be 334 feet from Saxonburg Boulevard. II-VI is willing to update the sound study they completed approximately one year ago when the project is completed. The installation will be surrounded by a 7-foot tall privacy fence with green slats on three sides of the installation. No additional lighting will be installed, and no DEP permits will be needed for emissions. Mr. Pfeifer stated that II-VI would submit the proper applications with DEP regarding air quality. Groundwater and any precipitation runoff will be directed to the northeast and allowed to infiltrate into the soil and a nearby catch basin.

Member Dave McRoberts asked Mr. Pfeifer and Mr. Halin to explain how a fuel cell works. Mr. Pfeifer stated that natural gas is used to stimulate an electrochemical reaction to produce electricity. Mr. McRoberts was concerned about the volume of natural gas required for the operation. Mr. Pfeifer stated that the draw by II-VI will not impact surrounding natural gas residential or commercial customers according to Peoples Gas.

Chairman Corace asked whether the cable trough is bolted down. Mr. Pfeifer stated that it was bolted down.

Mr. Micko wanted verification that there is no runoff or discharge of process water from the electrochemical process reaction. Mr. Halin said there was no water runoff or discharge.

Mr. Micko asked about the emission of heat from the process. Mr. Halin reported that a fair amount of heat would be emitted into the atmosphere from the fuel cell installation.

Mrs. Wagner questioned height limitations and if the II-VI facility in New Jersey used Bloom Energy for their installation. Mr. Pfeifer reported that the New Jersey facility did use Bloom Energy due to their expertise in this field and that the units were low profile in height with the 7 foot privacy fence being adequate to conceal them from public view.

Mr. Duncan asked about the life expectancy of a cell. Both Mr. Pfeifer and Mr. Halin reported the life cycle is 3 to 5 years, with replacement provided by Bloom Energy on a regulated contracted basis based upon run-hours logged for each unit.

Mr. Duncan asked about the startup time. Mr. Pfeifer did not know how long the official startup operation would take and promised to report back to the Manager with that answer.

Planning Commission Regular Meeting
Minutes For March 7, 2022

Mrs. Allen, Liaison from the Board of Supervisors, asked if there were any other installations in Pennsylvania. Both Mr. Halin and Mr. Pfeifer answered that there were none. This would be the first installation in Pennsylvania.

Mr. Micko asked if II-VI would keep the fuel cells in use after West Penn Power is able to complete the new 138KV transmission feed to II-VI? Mr. Pfeifer reported that II-VI has signed a fifteen-year agreement with Bloom Energy for these fuel cells and would indeed keep them but may ultimately try to relocate them if not needed at this Saxonburg facility.

Secretary Barbara Bartley asked if the Volunteer Fire Department would be given training on these fuel cells in the event of an accident of fire. Mr. Pfeifer said that the Health and Safety Department of II-VI would set this training and educational session up with the fire department.

Mr. Snyder expressed concern over the potential for fuel cell leakage and why no containment was provided. Mr. Pfeifer opined that there was no need for containment per Pennsylvania regulations for these types of installations. Mr. Halin further suggested that there was nothing within the fuel cells that would leak.

Mrs. Wagner asked if there would be protection of the fuel cell installation from parking areas. Mr. Pfeifer stated that bollards would be installed to protect the installation from parking areas and moving vehicles that perhaps leave paved parking areas. Mr. Halin stated that a rip rap buffer would be installed between the units and grass areas to keep lawn mowers away from the units.

Chairman Kevin Corace concluded by thanking Mr. Pfeifer and Mr. Halin for attending and that the Board would review the resubmitted drawings and possibly take action at the April meeting.

- Revised submittal of the Glenn Burd Plan 2 Subdivision by Graff Surveying.

Mr. Steve Graff of Graff Surveying was in attendance to present the revised G. Burd Plan 2 to the Planning Commission. He reported that all the revisions requested by the Planning Commission and conveyed through the Manager have been made, including but not limited to adding proposed driveway locations on the drawings. Mr. Hartwig added that no driveway permits have been applied for yet but would advise that they not be applied for until such time that Mr. Burd receives service confirmation from the electric provider.

Chairman Corace asked for approval to advance the Glenn Burd Plan 2 to the Board of Supervisors for consideration and action.

A motion was made by Marty Micko to advance the Glenn Burd Plan 2 to the Board of Supervisors for review and action. The motion was seconded by Vice Chairperson Pat Hebda. The motion carried unanimously.

- Revised submittal of the Glenn Burd Plan 3 Subdivision by Graff Surveying.

Mr. Steve Graff of Graff Surveying was in attendance to present the revised G. Burd Plan 3 to the Planning Commission. He reported that all the revisions requested by the Planning Commission and conveyed through the Manager have been made, including but not limited to adding proposed driveway locations on the drawings. Mr. Hartwig added that no driveway permits have been applied for yet but would advise that they not be applied for until such time that Mr. Burd receives service confirmation from the electric provider. Mr. Graff explained that in order to meet the Township Ordinance requirements for driveway spacing and site distances, a slight revision to the driveway locations and lot sizes for Lots 1 and 2 needed to be made. Now, Lot 1 will have 125 feet of frontage and Lot 2 will be a flag lot with a 50 foot wide pole to provide the driveway access.

Brian Snyder asked Mr. Graff if the proposed driveway would conflict with the proposed septic tank and leach field location. Mr. Graff indicated that it would not and there was at least a 50 foot separation distance between the driveway and proposed on-lot system area.

Chairman Corace asked for approval to advance the Glenn Burd Plan 3 to the Board of Supervisors for review and action by roll call vote.

A motion was made by Secretary Barbara Bartley to advance the Glenn Burd Plan 3 to the Board of Supervisors for review and action. The motion was seconded by Marty Micko. Mr. Micko – Yes; Mr. McRoberts – Yes; Mr. Snyder – Yes; Mrs. Bartley – Yes; Ms. Hebda – Yes; Mr. Duncan – Yes; and Mr. Corace – Yes. The motion carried unanimously.

- Revised submittal of the Roenigk Family Trust Subdivision

Mr. Steve Graff of Graff Surveying was in attendance to present the revised Roenigk Family Trust Plan to the Planning Commission. He reported that all the revisions requested by the Planning Commission and conveyed through the Manager have been made, and that Buffalo Township has already approved the proposed subdivision.

Chairman Corace asked for approval to advance the Roenigk Family Trust Plan to the Board of Supervisors for review and action.

A motion was made by Secretary Barbara Bartley to advance the Roenigk Family Trust Plan to the Board of Supervisors for review and action. The motion was seconded by Dave McRoberts.. The motion carried unanimously.

New Business:

There was no new business brought before the Board.

Old Business:

- Proposed Ordinance 2022-01 amending the Township's SALDO

Mr. Snyder felt that the Ordinance as drafted applied to all submittals to the Planning Commission, namely major subdivisions, minor subdivisions, and lot line revisions. He did not believe that was the original intent of the Commission when work began on the Ordinance. Mr. Snyder felt that it should only apply to major subdivisions. If it applied to all submittals, then he was not in favor of the Ordinance as drafted.

Visitor Steve Graff spoke briefly at this point about the standard dedication language contained in the new Butler County Subdivision and Land Development Ordinance and how several municipalities were not satisfied with that dedication language and planned to use their own or draft their own dedication language. Chairman Corace thanked Mr. Graff for his comments and the information but indicated that this was not relevant to the vote to be taken on Ordinance 2022-01.

Chairman Corace asked for approval to advance Ordinance 2022-01 to the Board of Supervisors for review and action by roll call vote.

A motion was made by Vice Chairperson Pat Hebda to advance Ordinance 2022-01 to the Board of Supervisors for review and action. The motion was seconded by Secretary Barbara Bartley.. Mr. Micko – Yes; Mr. McRoberts – Yes; Mr. Snyder – No; Mrs. Bartley – Yes; Ms. Hebda – Yes; Mr. Duncan – Yes; and Mr. Corace – Yes. The motion carried by majority vote of the Planning Commission, 6 ayes and 1 no.

Other Business:

There was no other business brought before the Board.

Previewers for March 2022:

Secretary Barbara Bartley and Vice Chairperson Pat Hebda volunteered to be previewers for the month of March 2022.

Public Comments on Non-Agenda Items.

No members of the Public in attendance had comments on Non-Agenda items.

Planning Commission Regular Meeting
Minutes For March 7, 2022

Upcoming Planning Commission Meetings:

Non-Voting Workshop Meeting on March 28, 2022 at 7:00 PM as needed.

Regular Voting Meeting on April 4, 2022 at 7:00 PM.

Next Workshop on April 4, 2022 at 6:00 PM

Adjourn Meeting:

A motion was made by Secretary Barbara Bartley to adjourn the Planning Commission Meeting at 8:02 PM. The motion was seconded by Dave McRoberts. The motion carried unanimously.

Time: 8:02 PM

Respectively Submitted


Barbara Bartley, Secretary

To: Clinton Township Planning Commission

From: Sarah G. Hancher, Esquire

Dated: February 14, 2022

Memorandum Re: G. Burd Plan No. 2 and G. Burd Plan No. 3

Background:

On November 22, 2021, Glenn and Melanie Burd (through Graff Surveying LLC) formally submitted for consideration the G. Burd Plan No. 2 and G. Burd Plan No. 3 Subdivisions for review and approval by the Clinton Township Planning Commission. This submittal was made in time for the December 2021 Planning Commission Meeting after several months of planning and consultation with the Township Manager and Administrative Assistant on interpretation of the Township's Zoning Ordinance.

The parcels in question and under review are situated along Sun Mine Road in the Agriculture Conservation District ("AC District"). Butler County tax parcel information is attached for your reference.

G. Burd Plan No. 2 is a subdivision of Parcel No. 100-1F161-14C which currently consists of 12.007 acres. This parcel is currently identified as Revised Lot 1. Revised Lot 1 was originally created from a subdivision of a tract consisting of 110 acres more or less, owned by Clement and Alice Durci in 1994 at Plan Book Volume 174, page 2 – see Lot 1-12.965 acres; subsequently revised by Burd/Durci in 1995 at Plan Book 185, page 11 – See Lot 1- 12.144 acres. Lot 1 was then subject to a lot line revision by Burd in 2020 – See Revised Lot 1 – 12.007 acres. These plans are available in the Township Manager's Office for your review and reference.

G. Burd Plan No. 2 proposes the subdivision of Revised Lot 1 into 3 parcels identified as Lot 10 (4.003 acres), Lot 11 (4.00 acres) and remaining Revised Lot 1 (4.004 acres).

G. Burd Plan No. 3 is a subdivision of Parcel No. 100-1F161-14D which currently consists of 12.05 acres. This parcel is currently identified as Revised Lot 3. Revised Lot 3 was originally created from a subdivision of a tract consisting of 110 acres, more or less, owned by Clement and Alice Durci in 1994 at Plan Book Volume 174, page 2 – see Lot 3 -12.334 acres; Subsequently revised by Burd/Durci in 1995 at Plan Book 185, page 11 – See Lot 3- 12.312 acres. Lot 3 was then subject to a lot line revision by Burd in 2008 – See Revised Lot 3 – 12.05 acres. These plans are available in the Manager's Office for your review and reference.

G. Burd Plan No. 3 proposes the subdivision of Revised Lot 3 into 3 parcels identified as Lot 8 (3.513 acres), Lot 9 (2.127 acres) and remaining Revised Lot 3 (5.888 acres).

Inquiry 1 – Minimum Lot Requirement:

The parcels in question are situated in the AC District. The prior zoning ordinance 2019-03 allowed for new lots of two acres or more with limits as to the exact number of newly created lots tied to the size of the parent tract and detailed in Table 185-52A of the prior Zoning Ordinance. On December 13, 2021, the Board of Supervisors adopted a revision to Section 185-52 of the zoning ordinance to modify the minimum lot requirement in the AC District to five (5) acres.

Glenn and Melanie Burd officially submitted their subdivision plan and paid all the requisites fees on November 22, 2021 *before* the adoption of the above referenced amendment.

Pursuant to Section 508(4) of the Municipalities Planning Code, a subdivision or land development plan is governed by the zoning ordinance actually in effect at the time of filing. While a land development application is pending, no change or amendment of the zoning shall adversely affect such application. So long as a land development application is pending, the applicant is entitled to a decision in accordance with the provision of the governing ordinance or plans as they stood at the time the application was duly filed.

In accordance with the above MPC provision, the Burd subdivisions should be governed by and reviewed based on the zoning ordinance in effect on the date of filing and therefore are not subject to the five (5) acre minimum lot requirement adopted after filing.

Inquiry 2 – Application of Section 185-52; Maximum Number of Lots/Subsequent Subdivisions:

Section 185-52(A)(1) of the Clinton Township Zoning Ordinance limits the number of new lots that can be created from a *parent tract* within the AC District. Pursuant to this provision, the maximum number of lots that can be created from a tract over 10 acres, but less than 20 acres is four (4). This provision also states that subsequent or additional subdivision of lots previously subdivided shall also be limited in the future, based upon the original parcel size in separate ownership *at the time of adoption of Ordinance No. 2009-01*.

Section 185-52(A)(2) further states in part, “The provisions of this section shall apply to all parent tracts *as of the effective date of Ordinance No. 2009-01*. Regardless of size, no parcel or lot subsequently subdivided from its parent tract shall qualify for additional lots pursuant to this Section. All subsequent owners of parcels of land subdivided from a parent tract shall be bound by the actions of the previous owners of the parent tracts...”

Because the parcels in question, Revised Lot 1 and Revised Lot 3, have been created through the process of previous subdivisions, the question has been raised as to whether Burd can proceed through the minor subdivision process.

The subdivisions that created Revised Lot 1 and Revised Lot 3 took place prior to the adoption of Ordinance No. 2009-01. Revised Lot 1 and Revised Lot 3 were parent tracts in existence at the time of the adoption of Ordinance 2009-01. Glenn Burd did a minor lot line revision of Lot 1 in 2020, but this simply modified lot lines and did not result in the creation of a separate tract or new parcel.

Because the prior subdivisions of these parcels occurred prior to the adoption of Ordinance No. 2009-01 and Revised Lot 1 and Revised Lot 3 were parent tracts in existence on the date of

Planning Commission Regular Meeting
Minutes For March 7, 2022

adoption, the Planning Commission cannot prevent Glenn Burd from utilization of this provision and minor subdivision process.

This section cannot be retroactively applied to subdivisions that occurred prior to the date of adoption of Ordinance No. 2009-01, i.e. the prior Durci-Burd subdivisions in 1994 and 1995.

Conclusion:

The Township Manager and Solicitor have spent significant time reviewing the G. Burd Plan No. 2 and G. Burd Plan No 3 in light of the Clinton Township Zoning Ordinance. Based on this research and review, they have reached the conclusions as set forth above: the plans are not subject to the 5 acre minimum requirement pursuant to the zoning ordinance adopted on December 13, 2021 but instead are subject to the number of lots specified for the size of the parent tract in Ordinance 2009-01 which was the Ordinance in effect on the date of official filing and can proceed pursuant to the minor subdivision process of Section 185-52.

Should you have any questions regarding the above information please contact the Township Manager or Solicitor for further discussion.