

**BOROUGH OF GREEN TREE  
COUNCIL MEETING  
AUGUST 22, 2016**

**Call to Order / Silence for Meditation / Pledge of Allegiance**

Green Tree Borough Council met on Monday, August 22, 2016 at 7:30 p.m. in the Green Tree Municipal Center, 10 West Manilla Avenue, Pittsburgh, Pennsylvania.

**ROLL CALL**

**Members Present:**

Mayor Edward A. Schenck  
Arthur J. Tintori, Vice President of Council  
Rino Lindsey  
David Lorenzini  
John Novak  
Ron Panza  
David Rea

**Also Present:**

W. David Montz, Borough Manager  
Peter Molinaro, Jr., Borough Solicitor  
Colin Cleary, Chief of Police  
Deborah N. Gawryla, Stenographer

**Absent:**

Mark Sampogna

**PUBLIC HEARING - CU-02-16**

**Applicant, Boos Development, LLC, requesting conditional use approval from Council regarding the construction of a Burger King restaurant located at 2379 Noblestown Road.**

Mr. Tintori opened the Public Hearing. Mr. Irving Firman, Attorney, from Tucker Arensberg, Mr. John Frydrych from R.A. Smith National, Mr. Terry Maliga from Boos Development Group, Inc., and Mr. Michael J. Haberman, P.E., PTOE, from Gateway Engineers were present and representing the applicant.

Mr. Firman said that Boos Development is seeking to build a Burger King restaurant and drive-thru on Noblestown Road, which is a conditional use in Green Tree. He stated that this proposed development had a number of variances that had been granted by the Zoning Hearing Board.

Mr. Frydrych stated he was a licensed civil engineering professional, licensed in Pennsylvania for the last 21 years. He said the proposed development consisted of two parcels, with both parcels creating 1.6 acres total. The location of the site is at the intersection of Noblestown Road and School Street and is the current home of the former Reed Sports building, Italian Bread Place, and a laundromat. The Reed Sports building is approximately 6,900 square feet, the laundromat is approximately 1,800 square feet, and the Italian Bread Place is approximately 3,200 square feet. All three buildings will be razed and the site will be redeveloped to accommodate the proposed Burger King. Mr. Frydrych presented a drawing of the site for Council to review.

Mr. Frydrych said the plan proposes a 28-seat Burger King quick-serve restaurant with a drive-thru lane. The parking provided meets the borough's code based on the seating and servicing area. The building will have a footprint of approximately 2,000 square feet.

Mr. Frydrych said the applicants had gone before the Zoning Hearing Board in May with four specific variances. Three had been granted and one was denied. The variance requesting a dual drive-thru lane was the variance that had been denied by the Zoning Hearing Board and the current plans represent one, single drive-thru lane with one single, drive-thru, pick-up window.

The other variances that had been granted by the Zoning Hearing Board were:

- (1) Encroachment into the 100-foot setback into residential properties to the north.
- (2) Additional building signage allowing two (2) Burger King "button" emblems, and a Burger King logo above the front door frame reading "Flame Grilling Since 1954."
- (3) Utilization of the existing dual-faced pylon sign on the property that will have the Burger King "button" emblem on both sides at the intersection of Noblestown Road and School Street.

Mr. Frydrych said the plans had been presented to the Planning Commission in July for conditional use recommendation and site plan approval. Planning Commission recommended conditional use approval to Council and also gave approval to the site plan.

Mr. Lorenzini asked how much encroachment would take place on the required 100-foot setback. Mr. Frydrych replied that the encroachment into the 100-foot setback was relative to the use of the drive-thru lane and the setback with one drive-thru lane would create a 96-foot setback.

Mr. Lorenzini asked about Boos Development's appeal to the variance that had been denied by the Zoning Hearing Board. Mr. Firman replied that the applicant is appealing that decision and it is currently pending. Mr. Lorenzini asked how the plans would change if Boos Development would win the appeal and a dual drive-thru is permitted. Mr. Firman replied that if the appeal was successful, the applicant would go through the approval process again with revised plans. The approval the applicant is seeking this evening is for plans with a single drive-thru lane.

Mr. Lorenzini asked what the encroachment into the setback would be with a dual drive-thru. Mr. Frydrych said that with a dual drive-thru the encroachment would be 26 feet for the drive-thrus with 74 feet of setback. Mr. Frydrych continued to review the zoning codes that applied to the proposed construction and noted that they had been met. Review of the drawings continued.

Mayor Schenck asked if the curb cut on Noblestown Road was an existing curb cut or if it would be expanded. Mr. Frydrych said both driveways to the parcel would be maintained in their current proximity and would be used based on their current geometry. There would be a slight adjustment regarding the opening on School Street around Noblestown to meet PennDOT's criteria.

Mr. Frydrych said there would be pedestrian walkways, stop bars, and stop signs on the property. He proceeded to review the various distances, requirements, lighting, performance standards, and landscaping that have been met by showing them on the drawings. He said that the plan meets all the conditional use requirements. When asked, Mr. Frydrych said there was a 55-foot elevation differential between the property and the abutting residential property.

Mr. Rea asked what would be the Burger King's hours of operation. Mr. Maliga said the Burger King would open around 5:00 or 6:00 a.m. and close around midnight or 1:00 p.m. Hours vary from site to site depending upon volume and staffing. The exact hours of operation would be decided closer to the opening of the restaurant. Mr. Montz said that the borough limits its operation between the hours of 5:30 a.m. to 2:00 a.m.

Mr. Lorenzini asked about the greenspace between the Burger King and the residential area behind it. Mr. Frydrych said that there would be greenspace in addition to the difference in elevation to buffer between the two properties. There would be some trimming of the natural growth near School Street to provide adequate sight distance for cars exiting the Burger King and cars coming down School Street, but except for that trimming, the natural growth that is already there would be kept as it is.

Mr. Montz said that the site currently has a limited amount of greenspace. Mr. Frydrych said that a considerable amount of greenspace would be added when the site is developed. Areas adjacent to the site, or offset from the curb line, will become additional greenspace. Provisions have been made on the plan for the addition of two rain gardens in the front to assist with stormwater management. The landscaping will add to the greenspace and provide an aesthetic improvement. Greenspace will separate the Burger King from the gasoline station next door. Discussion continued regarding the various plantings and where they would be located on the property.

Mr. Frydrych noted that the development would provide Green Tree with a relatively substantial improvement of the property. The proposed building footprint is less than 2,000 square feet where there is currently over 10,000 square feet of building space in that same parcel today. Discussion continued regarding some of the details on the drawings.

Mr. Lindsey asked where the entrance from School Street would be located compared to where the entrance is currently located. Mr. Frydrych said that the existing entrance off of School Street is about 40 feet and it is not clearly defined. A vehicle can enter the property at almost any point from School Street. The proposed opening from School Street would be approximately 24 feet and would be clearly defined with curbing and landscaping. Mr. Lindsey said he was concerned about the School Street entrance being a blind corner. Mr. Frydrych said the entrance would be pushed closer to Noblestown and the existing greenery would be trimmed back to allow improved sight distance. When asked, Mr. Frydrych did not feel there was any way to eliminate the School Street entrance and maintain good traffic flow on the property.

Mr. Montz asked if a note could be added to the drawing confirming that the property owner would be responsible for the maintenance and trimming of the shrubbery near School Street to make certain that the necessary sight distance would be maintained. Mr. Frydrych said that a note was on the plan stating that the area being trimmed to allow better sight distance would be maintained to a mowable condition. Mr. Molinaro said that a more specific maintenance condition could be made, contingent upon conditional use approval, requiring a specific degree of clear sight maintenance on School Street. Mr. Firman said that would not be a problem. Mr. Montz said that "mowable" could mean different things to different people. He suggested that a height of no more than six inches should be added as a specific requirement. Mr. Montz said that a note should also be placed on the drawing requiring that the entire natural buffer in the rear of the property should remain in its natural state. Mr. Firman said he had no problem with adding this statement as well. Mr. Montz said that these specific requirements would help prevent the area from being cut down at a later time should the ownership of the property change. Discussion continued regarding the entrance on School Street.

Mr. Montz said the borough's traffic engineer had indicated that the borough had not received any data regarding the speed conditions on School Street. Mr. Haberman, from Gateway Engineers, a professional engineer in Pennsylvania and a certified professional traffic operations engineer, said he has been doing traffic studies for about 16 years. Mr. Haberman said that this area had been reviewed based on the posted speed limit, the grade of the road, and the stopping sight distance to determine if a vehicle coming down School Street would be able to stop in time if another vehicle was pulling out of the Burger King. The current situation is deficient because of the overgrown vegetation. Using the same statistics, it was determined that conditions could be improved to meet the safe and acceptable sight distance conditions by trimming the vegetation to a height of no higher than 3-1/2 feet. Wooster & Associates, the borough's traffic engineering firm, had been concerned about the speed of vehicles on School Street, so they conducted a spot speed study and found that the 85th percentile speed was a little higher, at about 29 miles per hour. Using

29 mph in the same formula they felt it should be cut to a maximum height of 2-1/2 feet. With the trimming of the shrubs and natural brush the blind curve on School Street will be eliminated. Mr. Haberman said the most traffic on School Street was 30 cars in an hour in the morning. Discussion continued regarding the trimming and the location of the property's entrance continued while reviewing the drawings.

Mr. Lindsey asked if the exit onto School Street could be a right-hand turn only towards Noblestown. Mr. Lorenzini was opposed to a mirror being placed on a pole across from the exit to allow cars see further up School Street. Additional review of the drawings took place regarding how to make the School Street exit safer. Mr. Montz suggested that an exact area be required indicating the size of the area to be maintained and the height of the greenery. He suggested that the height of the greenery in this area should not exceed six inches to make it easier to mow.

Mr. Lorenzini asked for a listing of items that Council wanted added to the plan. Mr. Montz said a measurement for the area to be cleared to provide safe sight distance on School Street should be added to the plans. A note should also be added to the plans stating that the hillside area should be preserved in its natural vegetative state to provide buffering between the Burger King and the residential district. Mr. Montz suggested that approval should be contingent upon the issuance of a highway occupancy permit from PennDOT.

Mr. Tintori asked about the timeframe for the development. Mr. Maliga anticipated the demolition of the existing buildings in the fall and winter, followed by the development of the property in the spring, with the restaurant opening sometime in summer 2017. Mr. Maliga said this Burger King restaurant would be a franchise held by an operator that runs about 150 other stores, so they are very well established. Burger King no longer has corporate stores.

Mr. Montz asked if Council wanted to further consider a mirror, a no right-hand turn on School Street, or a sign on School Street indicating that there is a driveway ahead. Mr. Lindsey said he did not feel that a mirror was a good idea, and although he liked the idea of the signs he did not feel it needed to be contingent upon approval. He felt it had been discussed and it could be something that the borough could add on its own if it is needed once the restaurant opens.

Mr. Tintori stated that Planning Commission had reviewed this conditional use application at its July 13 and 27, 2016 meetings and had sent Council a letter, dated August 8, 2016, recommending it to Council for approval, contingent upon the changes indicated in the review letter from the Borough Engineer, dated July 21, 2016. Planning Commission had also reviewed and approved the site plan for this development at its July 13 and 27, 2016 meetings and provided an approval letter dated August 8, 2016, contingent upon the changes indicated in the Borough Engineer's review letter dated July 21, 2016. Mr. Montz stated that this public hearing had been advertised according to the requirements of the MPC.

There was no more discussion or comments, so Mr. Tintori closed the public hearing.

#### **HEARING OF THE CITIZENS**

There was no one present who wished to be heard.

#### **MAYOR'S REPORT - Mayor Schenck**

Mayor Schenck had nothing to report at this time.

**REPORT OF BOROUGH COUNCIL COMMITTEES****A. STREETS & PUBLIC HEALTH - Mr. Novak****1. 2016 Paving - Awarding of bid and authorization of proper officers to execute the 2016 Paving Contract.**

Mr. Novak reported that the borough had received five (5) bids for this contract with the lowest bid from El Grande Industries, Inc.

**Motion:**

**Mr. Novak made a motion, seconded by Mr. Lindsey, to award the bid for the 2016 paving project to El Grande Industries, Inc. for a total amount of \$266,860.00, and to authorize the proper officers to execute the 2016 paving contract.**

Mr. Montz stated that the paving contract is within the budget and approximately 10,000 more square yards will be paved than had initially been considered at budget time. Mr. Montz estimated that the total amount would be slightly reduced since Ringold's paving would be reimbursed by the water company because of a new water line they had installed in the area.

Mr. Montz said that El Grande is the same company that did the borough's repaving project last year and they did an excellent job with no real disruptions with traffic.

**Motion carried unanimously.**

**B. RECREATION & COMMUNITY AFFAIRS - Mr. Panza**

1. Mr. Panza stated that Oktoberfest is less than one month away.

**C. PUBLIC PROPERTY & EQUIPMENT - Mr. Rea****1. Boiler Replacement - Awarding of bid and authorization of proper officers to execute the Municipal Center Boiler Replacement Contract.****Motion:**

**Mr. Rea made a motion, seconded by Mr. Novak, to award the bid for the boiler replacement in the Green Tree Municipal Center to R&B Mechanical, Inc. for \$49,900.00, and to authorize the proper officers to execute the boiler replacement contract.**

Mr. Rea said this bid was approximately \$20,000 under budget. Mr. Montz said that this would be a brand new unit and the distributor of this boiler is Herrmann & Associates on Noblestown Road in Green Tree. It is the same type of boiler that is at the swimming pool and the borough has been pleased with that boiler.

**Motion carried unanimously.**

**D. PLANNING & ZONING - Mr. Lorenzini****1. CU-01-16 - Applicant, Boos States Development, LLC, requesting conditional use approval from Council regarding the construction of a Burger King Restaurant located at 2379 Noblestown Road.**

Mr. Lorenzini said he was opposed to large companies coming into the borough and displacing small independents. The borough will be losing the Italian Bread Place, but it will be good that the borough will be getting rid of a vacant piece of property with Reed Sports. He thanked the applicants for their efforts thus far.

**Motion:**

Mr. Lorenzini made a motion, seconded by Mr. Panza, to approve the conditional use application of CU-01-16, applicant, Boos States Development, LLC, regarding the construction of a Burger King restaurant located at 2379 Noblestown Road, contingent upon the following:

- (1) An area 27 feet in width from the back of the curb running parallel to School Street starting at the area abutting the residential district will be landscaped, trimmed and maintained by the property owner in a landscaped form with a height not to exceed six (6) inches, and indicated on the site plan.
- (2) The hillside area located on the southerly side of the property, Lot & Block 39-S-250, and a portion of 39-L-314, shall remain in its natural vegetative state and shall be clearly indicated on the site plan.
- (3) Development permits will not be issued until an approved Highway Occupancy Permit is received from PennDOT for the entrance on Noblestown Road.

Items (1) and (2) have been clearly marked on the plans as an exhibit, and reviewed and agreed upon by both Council and the applicant.

**Roll Call Vote**

Mr. Rea	Yes
Mr. Lindsey	Yes
Mr. Lorenzini	No
Mr. Novak	Yes
Mr. Panza	Yes
Mr. Tintori	Yes

Motion carried, 5-1-0, with Mr. Lorenzini voting "No."

**E. PUBLIC SAFETY - Mr. Lindsey**

Mr. Lindsey had nothing to report at this time.

**F. FINANCE - Mr. Tintori**

Mr. Tintori had nothing to report at this time.

**ADJOURNMENT**

**Motion:**

Mr. Panza made a motion, seconded by Mr. Lindsey, to adjourn the meeting.

Motion carried unanimously.

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Mark Sampogna, President

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W. David Montz, Manager