

JESSUP BOROUGH COUNCIL
MARCH 28, 2024
SPECIAL MEETING

AGENDA

1. MEETING CALLED TO ORDER

2. ANNOUNCEMENT

Pledge of Allegiance

Executive Session(s) held

Roll Call

Gregg Betti	Tom Fiorelli
Curt Camoni	Joe Mellado
Jeffrey Castellani	Roberta Galati
Jerry Crinella	

3. PUBLIC COMMENT

Public Comment period is for oral comments regarding any action item(s) listed on this meeting agenda or any comments in general. No deliberations will be entered into by Council at this time. For an accurate public record, citizens are asked to approach the podium, state their name and address. Comment is limited to 5 minutes.

4. ADDITIONS TO THE COUNCIL MEETING AGENDA

Act 65 of 2021, if a matter is not on the Agenda, Council may not take official action on it with the following exceptions: Council can act on matter relating to potential or real emergencies. Council may add a matter of agency business to its agenda through a majority vote. The council must state why the action item is being added to the Agenda. Council may vote to add action item(s) to the agenda.

5. OLD OR UNFINISHED BUSINESS

6. NEW BUSINESS

- Approve Conditional Use Application Proposed Findings and Conclusions: **Action by Council**
- Appoint Parks and Recreation Committee Members: **Action by Council**
- Advertise for Summer Youth Program Counselors: **Action by Council**

7. REPORTS

Reports are to be submitted in writing for inclusion in the council meeting materials. Reports may include draft meeting minutes, notes, memos, quotes, estimates, etc. No verbal report is to be given unless there is a question regarding the report. If council action is required, please clearly indicate it, including the wording, so that it can be stated on the council meeting agenda.

8. MOTIONS

- A. Motion to approve the conditional use application of PNK P3 as set forth in the proposed Findings of Fact and Conclusions of Law.

Gregg Betti	Yea ___	Nay ___
Curt Camoni	Yea ___	Nay ___
Jeffrey Castellani	Yea ___	Nay ___
Jerry Crinella	Yea ___	Nay ___
Tom Fiorelli	Yea ___	Nay ___
Joe Mellado	Yea ___	Nay ___
Roberta Galati	Yea ___	Nay ___

- B. Motion to appoint _____, _____ and _____ to the Parks and Recreation Committee.

Gregg Betti	Yea ___	Nay ___
Curt Camoni	Yea ___	Nay ___
Jeffrey Castellani	Yea ___	Nay ___
Jerry Crinella	Yea ___	Nay ___
Tom Fiorelli	Yea ___	Nay ___
Joe Mellado	Yea ___	Nay ___
Roberta Galati	Yea ___	Nay ___

- C. Motion to advertise for Summer Youth Program Counselors and Junior Counselors.

Gregg Betti	Yea ___	Nay ___
Curt Camoni	Yea ___	Nay ___
Jeffrey Castellani	Yea ___	Nay ___
Jerry Crinella	Yea ___	Nay ___
Tom Fiorelli	Yea ___	Nay ___
Joe Mellado	Yea ___	Nay ___
Roberta Galati	Yea ___	Nay ___

9. ADJOURN

IN RE: : BOROUGH OF JESSUP
: :
APPLICATION OF PNK P3, LLC : CONDITIONAL USE APPLICATION

JESSUP BOROUGH COUNCIL WRITTEN DECISION AND FINDINGS OF FACT AND CONCLUSIONS OF LAW ON THE APPLICATION OF PNK P3, LLC FOR A CONDITIONAL USE

DECISION

The Conditional Use Application submitted by PNK P3, LLC to construct a 162,907 sq. ft. warehouse/distribution center located at Lot 11 of the Valley View Business Park along Valley View Drive in accordance with its application and representations at the public hearing is GRANTED with the following conditions:

1. The Applicant must obtain a favorable land development recommendation from the Jessup Planning Commission for any building and improvement on the site.
2. The Applicant is to obtain any and all necessary governmental approvals and permits and comply with all Borough Ordinances, including, but not limited to the Borough's Stormwater Ordinance and Subdivision and Land Development Ordinance.
3. The Applicant shall be responsible for reimbursing the Borough of Jessup for the cost of any appropriate directional signage to the site.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. PNK P3, LLC (hereinafter "Applicant") submitted a Conditional Use Application to the Borough of Jessup on or about November 28, 2023.
2. The application consisted of the following items:
 - a. An Application for Conditional Use Hearing; and
 - b. A cover letter outlining the Applicant's position relative to the relief requested.

3. The Applicant is seeking conditional use approval to construct a 162,907 sq. ft. warehouse/distribution center located on Lot 11 in the Valley View Business Park on Valley View Drive. See, Applicant's Exhibit No. 1.
4. Pursuant to both the Jessup Borough Zoning Ordinance and the Municipalities Planning Code, Borough Council held a duly advertised public hearing on the Conditional Use Application on February 13, 2024 at 7:00 P.M. at the Jessup Borough Building.
5. Pursuant to both the Jessup Borough Zoning Ordinance and/or the Municipalities Planning Code, the Applicant and neighboring property owners were notified of the date and time of the public hearing and the property was posted at least one week prior to the hearing. See, Council Exhibits Nos. 1, 2, and 3.
6. The Applicant, through counsel, agreed in writing to the hearing being held beyond the sixty (60) day period as required by the Municipalities Planning Code. See, Council Exhibit No. 4.
7. At the hearing, the Applicant presented one witness, Scott Smith, P.E.
8. No person or persons made any request to become a party to the hearing as required by the Municipalities Planning Code and no written entry of appearances were received.
9. The hearing was held before Borough Council acting as the Board and the Borough Solicitor acted as Chairman for the hearing.
10. A stenographic record of the hearing was duly maintained.
11. Public comment was offered at the time of the hearing by Kevin Hennesey and Jeff Smith.
12. The Board put the following exhibits into evidence:

- a. Council Exhibit 1: The legal notice for the hearing that was published in the newspaper.
 - b. Council Exhibit 2: A letter from the Borough Solicitor to the Applicant notifying it of the date and time of the conditional use hearing and a letter from the Borough Solicitor to the neighboring property owners as defined by the Zoning Ordinance notifying them of the date and time of the conditional use hearing.
 - c. Council Exhibit 3: Photograph evidencing the property was posted at least one week prior to the scheduled hearing.
 - d. Council Exhibit 4: A letter from Applicant's counsel indicating that the Applicant waived the sixty (60) day time limit for the matter to be heard as set forth in the Municipalities Planning Code.
13. The Board accepted all of the exhibits presented by the Applicant.
14. The evidence submitted by the Applicant in support of its application showed that the Applicant met each and every criteria and condition set forth in the Jessup Borough Zoning Ordinance at Sections 602(60).
15. The entire Conditional Use Application dated November 28, 2023 as submitted by the Applicant, is incorporated herein by reference as if fully set forth at length herein.
16. The entire stenographic record of the proceedings as taken by the Court Reporter is incorporated herein by reference as if fully set forth at length herein.
17. The Board finds that it has jurisdiction to hear and render final adjudications regarding applications for conditional use pursuant to the Zoning Ordinance. See, Borough of Jessup Zoning Ordinance Section 1417(A).

18. A conditional use is nothing more than a special exception that falls within the jurisdiction of the municipal governing body rather than the zoning hearing board. In re AMA/Am. Mktg. Ass'n, 142 A.3d 923 (Pa. Cmwlth. 2016). As is the case for special exceptions, the uses that may be established or maintained as conditional uses are prescribed by the zoning ordinance and the standards to be applied to the grant or denial of those uses are set forth in the zoning ordinance. Id. A conditional use is not an exception to the zoning ordinance, but rather a use to which the applicant is entitled provided the specific standards are enumerated in the ordinance for the conditional use are met by the applicant. Id.
19. In order to demonstrate that the applicant is entitled to the conditional use, the applicant initially bears the burden of establishing that the application complies with the objective standards and criteria of the particular ordinance. In re Richboro CD Partners, L.P., 89 A.3d 742 (Pa. Cmwlth. 2014).
20. In granting a conditional use, the governing body may attach such reasonable conditions, in addition to those expressed in the ordinance, as it may deem necessary to implement the purposes in the zoning ordinance. See, 53 P.S. Section 10913.2(a). A board is permitted to impose reasonable conditions on the use of a property to mitigate any potential adverse impacts from the proposed use. Edgmont Township v. Springton Lake Montessori School, 622 A.2d 418 (Pa. Cmwlth. 1993). Reasonable conditions are those that advance a valid zoning interest and are supported by evidence of record. HHI Trucking & Supply, Inc. v. Borough Council of the Borough of Oakmont, 990 A.2d 152 (Pa. Cmwlth. 2010).

21. At the conclusion of the public hearing on February 13, 2024, Council voted to approve the Conditional Use Application as presented and based representations by the Applicant:

- a. The Applicant must obtain a favorable land development recommendation from the Jessup Planning Commission for any building and improvement on the site.
- b. The Applicant is to obtain any and all necessary governmental approvals and permits and comply with all Borough Ordinances, including, but not limited to the Borough's Stormwater Ordinance and Subdivision and Land Development Ordinance. See, Borough of Jessup Zoning Ordinance Section 1417(A) and Section 1416(C)(2).
- c. The Applicant shall be responsible for reimbursing the Borough of Jessup for the Cost of any appropriate directional signage to the site.

22. For all of the reasons stated herein and the substantial evidence of record, the Application for a Conditional Use Permit is granted and the conditions imposed as a condition precedent to the same are deemed reasonable and appropriate in order to protect the health, safety, and welfare of the citizens of the Borough of Jessup.

APPROVED BY THE JESSUP BOROUGH COUNCIL AT A DULY ADVERTISED PUBLIC HEARING HELD ON THE 13th DAY OF FEBRUARY, 2024 BY A VOTE OF 4 IN FAVOR, 0 AGAINST, and 0 ABSTENTIONS.

ATTEST:

BOROUGH OF JESSUP:

Thomas Wascura, Secretary

Roberta Galati,
Council President

Maura Armezzani Tunis, Esquire
Borough Solicitor