

**Meeting Agenda**  
**State College Borough Planning Commission**  
**January 8, 2020**  
**Room 304 / Noon**

- I. Call To Order**
- II. Roll Call**
- III. Election Of Officers**
- IV. Approval Of Minutes**
- V. Chair Report**
- VI. Public Hour - Hearing Of Citizens**
- VII. Community Planning**
  - A. Proposed Glennland-McAllister Certified Redevelopment Area
- VIII. 2020 Work Program**
- IX. Official Reports And Correspondence**
- X. Upcoming Meetings**
- XI. Adjournment**

*Documents:*

[Complete Planning Commission Agenda - January 8, 2020.pdf](#)

**Meeting Agenda  
State College Borough Planning Commission  
January 8, 2020  
Room 304 / Noon**

**I. Call to Order**

**II. Roll Call**

Zoe Boniface  
Scott Dutt  
Jon Eich  
Anita Genger  
Mary Madden  
Ron Madrid  
Mallory Meehan

**III. Election of Officers**

**IV. Approval of Minutes - December 4, 2019**

**V. Chair Report**

**VI. Public Hour - Hearing of Citizens**

**VII. Community Planning**

A. Proposed Glennland-McAllister Certified Redevelopment Area

The Planning Department is proposing a site for a new Certified Redevelopment Area (CRA) in downtown State College. The area is bounded by Calder Way, Beaver Avenue, Humes Alley, and McAllister Street, and is currently being referred to by staff as the "Glennland-McAllister District." Staff proposes that the focus of this CRA should be on enhancing pedestrian-centered infrastructure, particularly along Calder Way and its intersecting alleyways. Staff will provide a brief introductory presentation to the proposal.

**Planning Commission Action:** The Planning Commission should receive the presentation and provide initial feedback to staff on the CRA proposal.

**VIII. 2020 Work Program**

Each year the Planning Commission is asked to develop an annual work program for Borough Council's review and approval. Staff is asking for input on a draft 2020 Work Program, which is attached on **pages 9-10**.

The Commission is asked to review the work program and recommend any changes to staff, if desired. The final adoption of the work program will come from Borough Council at a future meeting.

**Planning Commission Action:** Review, modify, and consider recommending adoption of the 2020 work program.

## **IX. Official Reports and Correspondence**

### A. Borough Council (BC)

### B. Zoning Hearing Board (ZHB)

#### 1. Variance - Foxdale Village

On November 26, 2019, the ZHB heard a request for a variance to allow paving, curbing, sidewalks, and plantings within a utility easement area on property Foxdale Village intends to purchase. Per Ch. XIX, Section 2001(b)(7) of the zoning ordinance, structures and other obstructions are prohibited within utility easements. The variance was granted at the December 10, 2019 ZHB meeting.

#### 2. Appeal of Zoning Officer's Determination - 704 McKee Street

On December 10, 2019 the ZHB heard an appeal of the Zoning Officer's determination. The Zoning Officer has determined that a recently constructed fence has a slight encroachment into the public right-of-way. A decision is expected at the January 14, 2020 ZHB meeting.

### C. Upcoming Land Development Plans

1. Final - 706 and 708 South Atherton Apartments (formerly 430 W. Irvin Avenue)
2. Final – Pennsylvania State University (PSU) West Campus Substation
3. Preliminary - PSU West 2 Building

### D. Staff Updates

### E. Centre Regional Planning Commission

### F. Revised 2020 Meeting Calendar

### G. 2020 Conflict of Interest Memorandum & Policy

## **X. Upcoming Meetings**

Thursday, January 23, 2020 at 7 p.m.  
Wednesday, February 5, 2020 at Noon

## **XI. Adjournment**

**Meeting Minutes  
State College Borough Planning Commission  
December 4, 2019**

The State College Borough Planning Commission (PC) met on Wednesday, December 4, 2019 at the Municipal Building, 243 South Allen Street. Zoe Boniface, Chair, called the meeting to order at Noon.

**Members Present**

Zoe Boniface, Chair; Anita Genger, Vice-Chair; Scott Dutt; Jon Eich; Richard Kalin; Mary Madden; and Ron Madrid

**Others Present**

Ed LeClear, Planning Director; Greg Garthe, Planner/Zoning Officer; Isabel Storey, Planner; Terry Williams, Borough Solicitor; Barry Gordon, OGP Architects; Jeff Zelisko, Core Spaces; Joe Cornaia, Crawford Architects; Tom Flynn, Pennsylvania State University (PSU); Mark Haefner, Stahl Sheaffer Engineering; and Denise L. Rhoads, Administrative Assistant

**Approval of Minutes**

A motion was made by Mr. Madrid and seconded by Mr. Dutt to approve the November 21, 2019 meeting minutes as amended. The vote was unanimously in favor.

**Chair Report**

Ms. Boniface, Chair, had nothing to report.

**Public Hour**

No comments or concerns were heard during the public hour.

**Community Planning**

Vacation of North Gill Street between Railroad Avenue and PSU's West Campus

Mr. LeClear introduced Terry Williams, Borough Solicitor, who was in attendance to answer any questions regarding legal status with the proposal.

Mr. LeClear also noted this particular property was never maintained by the Borough after it was ordained and after 21 years the Borough lost the right to use it as a right-of-way (ROW). He also noted, to move forward with the bicycle/pedestrian connection, the vacation needed to occur. Council asked the PC to review and make comments.

Mr. Williams' overview included:

- He discussed adverse possession and stated in order to avoid to adverse possession, a municipality used the roadway. He noted losing a property over adverse possession was a much greater risk now than it was five months ago, and that component must be looked at extensively.

Mr. LeClear asked Mr. Williams to clarify that the Borough could not put an easement on the property until a vacation went through.

PC's comments

- Mr. Eich asked if the Borough had any options left for an easement. Mr. Williams stated they did not.
- Mr. Kalin asked, if the Borough planned to vacate, what would be the plan to get the bicycle path back. Mr. Williams stated there were numerous meetings to try to accomplish this. He noted documents had been prepared but not agreed upon by the land owners. He noted PSU did the design work and modified it so it would straddle the center line of both properties.
- Ms. Genger asked if there were any legal rights to an established ROW. Mr. Williams stated if a piece of property was used by the public for 21 years, the adjoining property owner would be unable to close it. Mr. Williams also noted, one of the reasons the Borough wanted to be part of this process was to help qualify the land title.
- Ms. Genger asked who owned the property and Mr. Williams stated a private owner.
- Ms. Boniface asked if there was a precedent for pedestrians, and if the ownership was private, what would need to be done legally. Mr. Williams stated the ownership started when the vacation was done. The public use was a separate matter. The property owner could not do much with it legally until it was vacated. The property owner could file adverse possession but stated they would have to have a clear legal title to it. Mr. Williams stated the Borough did not adversely possess the property.
- Mr. Kalin asked if the Borough could open it as a public street. Mr. Williams stated no because the property would have to be condemned.
- Mr. Eich noted a dog leg in the path on PSU property and asked if it could be eliminated to place the easement on the west side of the property. Mr. Williams stated it would be very unfair to place all this on that particular property owner.
- Mr. Kalin pointed out all of the parking spaces in the area. Mr. Flynn stated PSU was willing to compromise with these spaces and it worked from a utility standpoint. Mr. Flynn noted there was a large West Penn Power utility along the length of this road.
- Mr. Kalin stated the draft ordinance did not have a "verb". Mr. LeClear stated staff would correct the language with the Borough Solicitor.

A motion was made to recommend approval of the vacation by Mr. Eich and seconded by Mr. Madrid. The vote was unanimously in favor.

Petition to Vacate Fox Alley between 420 and 448 East Prospect Avenue

Mr. Garthe's brief review included:

- A petition was submitted by the owner of 448 East Prospect Avenue to vacate Fox Alley between East Prospect Avenue and the rear property line of the applicant's property.
- The standard process required the signatures of all abutting property owners. However, the applicant reached out to the owners of the neighboring 420 East Prospect Avenue and was informed the owner did not wish to vacate the alley.

PC's comments:

- Mr. Kalin asked if the Borough could still vacate even though one of the owners did not want to. Mr. Williams stated Council would have to review that separately. Mr. Kalin

stated, from a Planning prospective, the PC should decide whether they want to recommend to Council to vacate half of the property or the whole.

David D'Agostino of 440 East Prospect Avenue stated he had maintained the alley for a long time. He noted he spoke with the other owner and they were not interested in vacating.

- Mr. Kalin suggested vacating the entire alley. Mr. Eich stated he agreed with Mr. Kalin.

A motion was made to recommend approval of the vacation for entire road by Mr. Kalin and it was seconded by Ms. Genger. The vote was unanimously in favor.

Mr. Eich asked a question regarding the recent Foxdale Village petition to vacate Norma Street that was discussed at the previous meeting and asked if the Borough had an easement for an existing vehicle turnaround area at the end of East Doris Avenue. Mr. Williams stated they did not, and the turnaround was not maintained by the Borough.

### **Land Development Plans**

Preliminary Land Development Plan - PSU Field Hockey Stadium; UPD Zoning District; PSU, Owner; Stahl Sheaffer Engineering, Engineer; Crawford Architects, Architect

Mr. Garthe's overview included:

- The plan proposed development of a new field hockey stadium behind PSU's Wagner Building near the corner of University Drive and Curtin Road.
- Demolition of the existing bleachers along the south side of the field, sidewalks, and landscaping would occur.
- Construction included a new south side bleacher seating area, concourse, press box, ticket window, restrooms, concessions, home and visiting team facilities, and other site improvements to include new sidewalks and landscaping.
- There would be approximately 1,200 to 1,500 seats.
- Materials would be brick and metal panels. The field would not be remodeled.

DRB comments: Mr. Garthe reported the DRB wanted to make sure the Borough Arborist had time to review the landscaping plan. Mr. Cornaia stated they would be screening any mechanical systems.

### PC's comments

- Mr. Kalin asked what the projected increased of carbon footprint would be. Mr. Cornaia stated he did not know at this time.
- Ms. Madden asked if the seating capacity would double. Mr. Cornaia stated it would be a little less than double.

Ms. Boniface stated the members comments would be incorporated into the review letter.

Preliminary Plan/Conditional Use Permit Application - Core Signature Development at State College; Core Spaces, Developer; CID Zoning District, Signature Development Area; PennTerra Engineering, Engineer; Antunovich Associates and OGP Architects, Architect

Mr. Kalin recused himself due to a conflict of interest.

Mr. Garthe's overview included:

- Core Spaces proposed to consolidate three parcels and build a 12-story mixed-use building at the corner of East College Avenue and Hetzel Street. The plan included underground parking, two floors of non-residential use, and 10 floors of multi-family housing containing a total of 135 units (532 bedrooms). The building would be 330,000 square feet.
- The applicant chose to satisfy the inclusionary housing requirement with a fee-in-lieu payment.
- The project was also within the area designated to allow "Signature Developments" as a Conditional Use within the Commercial Incentive District (CID) zoning district. Signature Developments were those that included one or more mixed-use buildings on a site with a total gross floor area of at least 150,000 square feet. The conditional use process required review against specific criteria in the zoning ordinance for Signature Developments.
- The property would be bordered by Calder Way, Hetzel Street and College Avenue.
- There would be additional setbacks, and it would add to the parking reductions.
- Main access would be off of Hetzel Street to maintain the primary retailers.
- Business end would be off of Calder Way with vehicular access and loading areas.
- Street trees would be maple and honey locust and would add landscaping to the rear of the building.
- Proposed space for amenities and additional retail.
- Three levels of parking with two below grade with a total of 172 spaces.
- The second floor had potential for office space, residential and additional retail.
- One, three, four, and five bedrooms would be available for a total of 453 beds.
- There would be a pool terrace set back from the edges of the building.
- Basic LEED certification sought.
- Core Spaces designed buildings that would be indigenous to where they would be located.

PC's comments

- Mr. Eich asked if the developers would be cutting into the sidewalk for outdoor seating because he was concerned about the level of traffic and pedestrian safety. Mr. Zelisko stated they would work with the Borough regarding this item.
- Ms. Madden commented the building was an industrial aesthetic and State College did not have any buildings like this.
- Ms. Genger asked if parking would be reserved for commercial shoppers. Mr. Zelisko stated yes.
- Mr. Eich suggested more accessibility to public parking, add electric charging stations, and bicycle parking, drop-off/pickup space, space for Uber or FedEx, etc., suggested the pool be enclosed to be used year-round, applauded the number of parking spaces, and for LEED certification.
- Mr. Madrid asked what the start date for construction was and Mr. Zelisko stated July 2020. Mr. Madrid asked if the Borough would consider turning Hetzel Street into one way. Mr. LeClear stated there were always options.
- Ms. Boniface asked if the building would be sold off after it was built. Mr. Haefner stated he could not make a definitive statement.

DRB comments: Mr. Garthe stated the DRB suggested running conduit for electric charging stations, discussed the pickup and drop-off areas, suggested providing a mail room, interested in bicycle parking, suggested recycling facilitates and using sliding doors along the streetscape areas, using ivy plants on Hetzel Street where the sloping sidewalk would be, and also suggested working with the Borough Arborist for the landscaping. Mr. Garthe noted the overall consensus from the DRB was they liked the color and style of the building and did suggest larger kitchens in each unit.

Borough Staff comments: Mr. Garthe stated a summary of significant plan review comments would be provided. He noted there would be a Traffic Impact Study, staff was checking the Floor Area Ratio calculations, and new addresses for the 10 spaces. He stated the developer needed to provide a lot consolidation plan, and the plan was still being reviewed.

Mr. Eich suggested including, as part of the motion, the following conditional use comments: 1) more accessibility to public parking, 2) electric charging stations, 3) bicycle parking, 4) drop-off/pickup space, 5) space for Uber/FedEx, etc., 6) suggested the pool be enclosed to be used year-round, 7) applauded the number of parking spaces, and for LEED certified, and 8) to include the DRB comments.

Mr. Garthe stated the proposal would be presented to Council on January 13, 2020.

A motion to recommend approval of the preliminary plan and the façade design as it was related to the requirements for the conditional use with the PC and DRB member comments included was made by Mr. Eich and seconded by Ms. Genger. The vote was unanimously in favor.

Ms. Boniface stated PSU released an enrollment report of a minor increase of one percent and noted the developers were paying attention to this information.

### **Election of a Centre Regional Planning Commission (CRPC) Liaison**

A motion to nominate Mr. Eich to the CRPC, on the condition he was reappointed to the Planning Commission, was made by Mr. Dutt and seconded by Ms. Madden. The vote was unanimously in favor.

### **Official Reports and Correspondence**

Borough Council (BC): Mr. LeClear report BC had a public hearing on the budget and there were no comments. The vote would be on January 16, 2020. He also stated the Gill Street vacation would be reviewed on January 16, 2020. Mr. Garthe noted Council approved the Cat Café.

Zoning Hearing Board (ZHB): Mr. Garthe reported on the following:

- Variance - Foxdale Village

On November 26, 2019, the ZHB heard a request for a variance to allow paving, curbing, sidewalks, and plantings within a utility easement area on property Foxdale Village intended to purchase. Per Ch. XIX, Section 2001(b)(7) of the zoning ordinance, structures and other obstructions were prohibited within utility easements. A decision was expected at the December 10, 2019 meeting.

- Appeal of Zoning Officer's Determination - 704 McKee Street  
On December 10, 2019, the ZHB would hear an appeal of the Zoning Officer's determination. The Zoning Officer had determined that a recently constructed fence had a slight encroachment into the public ROW.

Upcoming Land Development Plans: Mr. Garthe had nothing to report.

Staff Updates: Mr. LeClear stated there would be a need to have the December 19, 2019 PC meeting.

Centre Regional Planning Commission (CRPC): Mr. Eich stated the CRPC would meet tomorrow night and the following items were discussed:

- The Norma and Gill Street vacation;
- College Township amendments to their portion of University Planned District;
- Halfmoon Township zoning ordinance rewrite;
- "Transportation Futures" current projects to occur over the next several years such as the \$44 million dollar interchange on I80 to replace the existing Bellefonte interchange, the Route 26 improvements and the high speed interchange (approximately \$175 million), the change in plans discussed during the MPO meeting regarding the existing Bellefonte interchange remaining open during construction of the high speed interchange so the traffic would not be shifted over to the narrow portion of Route 26 (Jacksonville Road);
- Received \$20 million for the State College connector;
- In trying to fit many projects into the \$44 million, the following projects would be included:  
1) Route 45 intersection going towards Pine Grove Mills, 2) Route 26 and 550 for safety improvements, and 3) the Valley Vista shared used bike path.

## **Upcoming Meetings**

The next scheduled meeting would be Thursday, December 19, 2019 at 7 p.m.

## **Adjournment**

With no further business to discuss, Mr. Madrid adjourned the meeting at 1:44 p.m.

Respectfully submitted,

Denise L. Rhoads  
Administrative Assistant

**STATE COLLEGE PLANNING COMMISSION WORK PROGRAM FOR 2020**

Approved by Planning Commission on: \_\_\_\_\_

Approved by Borough Council on : \_\_\_\_\_

Key: I= Initiate Planning, IP= In Progress

BC=Refer to Council, R=Required

C=Complete

<u>Routine Activities</u>	Priority	Council Goals	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Comments		
1	R	These activities vary greatly in their scope and support the 2009 Strategic Plan Goals	All routine items take place on an as needed basis.						Sign ordinance, Inclusionary Housing, Fraternity & Tourist Home amendments
2	R								
3	R								
4	R								
5	H								
6	H								
7	R			BC		BC			
8	M						Fairmount & Glennland-McAllister Redevelopment Areas		
9	H				C		C		
<u>Zoning Ordinance Comprehensive Update</u>	Priority	Council Goals	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Comments		
9	H		IP				<p><b>This project is the highest priority for the year and other priorities may be minimized in order to focus time and resources on this project.</b> In addition: possible joint West End/Terrace Streetscape ordinance development in coordination with Ferguson Township.</p>		

<b><u>Downtown Plan Implementation</u></b>								Priority	Council Goals	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Comments
10	Assist with implementation activities as identified in the Downtown Master Plan Implementation Program	M	These activities vary greatly in their scope and support the 2019 Strategic Plan Goals	IP	→			Implementation of priority recommendations/items and identification of partnerships/resources needed. <b>2020 priorities: Kickoff Calder Way Design &amp; Engineering and develop Certified Redevelopment Areas for Fairmount and Glennland-McAllister Areas.</b>						
11	Participate in joint meetings with Borough, University, and Regional municipal officials regarding potential partnerships and implementation of Plan's recommendations.	L	Goal 5: Continue to improve community infrastructure	As needed										
<b><u>Neighborhood Plan Implementation</u></b>								Priority	Council Goals	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Comments
12	Assist with implementation activities as identified in the Neighborhood Plan Implementation Program	H	Goal 1: Maintain safe, stable and attractive neighborhoods	IP	→			Implementation of priority recommendations/items and identification of partnerships/resources needed. <b>2020 priorities are to 1) address zoning issues raised by the Commonwealth Court holding on fraternity zoning, 2) revize zoning regulations regarding Tourist Homes as a result of the 2019 PA Supreme Court holding.</b>						
13	Participate in joint meetings with Borough, University, neighborhood and community representatives regarding ongoing/upcoming projects, potential partnerships, and implementation of Plan's recommendations	M		As needed				Coordinate with PSU regarding any updates to the Five-Year Capital Plan, Parking/Transportation Demand Management Study, as well as College of Engineering Master Plan.						

# 2020 Planning Commission (PC) Meeting Calendar-Approved

JANUARY						
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New Years/MLK Holiday

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President's Day

MARCH						
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PSU Spring Break

APRIL						
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MAY						
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31	Memorial Day					

JUNE						
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JULY						
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Independence Day/ Arts Fest

AUGUST						
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SEPTEMBER						
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Labor Day

OCTOBER						
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NOVEMBER						
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Veteran's Day/Thanksgiving

DECEMBER						
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Winter Holiday

 - Holiday  - Arts Fest  
 PSU Spring Break

 Noon PC  
 7PM PC

## Borough of State College MEMORANDUM

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**to:** All Borough Employees

**from:** Ed LeClear, Director of Planning and Community Development

**re:** Drug-Free Workplace Requirements for the Community Development Block Grant and HOME Programs

**date:** November 26, 2019

A Conflict of Interest Policy and Code of Conduct with Regard to HUD Programs was adopted by the State College Borough Council in 2005. This attached policy will be distributed annually to Borough employees. Please review the policy. If you have questions or comments, please contact me.

The State College Borough Community Development Department is mandated by the Department of Housing and Urban Development to notify all employees who are engaged in the performance of the Community Development Block Grant program and the HOME program of the status of drugs in the workplace.

It is unlawful to manufacture, distribute, dispense, possess or use a controlled substance in the workplace. Any employee who does manufacture, distribute, dispense, possess or use a controlled substance in the workplace shall be prosecuted under all applicable State and Federal laws, and shall face appropriate personnel action, up to and including termination; or the employee shall participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement or other appropriate agency.

Employees must notify the Borough in writing of their conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction. The State College Community Development Department is required to notify HUD, within ten calendar days after receiving notice from an employee or otherwise receiving actual notice of a conviction.

State College Borough has in place an Employee Assistance Plan designed to deal with drug and alcohol problems in the employee population. The telephone number for the Employee Assistance Plan is 1-800-252-4555; the website is [www.theEAP.com](http://www.theEAP.com).

If you have any questions or comments, please contact me at 234-7109.

## **BOROUGH OF STATE COLLEGE**

### **Conflict of Interest Policy and Code of Conduct With Regard to HUD Programs**

#### **SECTION 1 NON-PROCUREMENT CONFLICTS OF INTEREST**

##### **A. COVERED INDIVIDUALS:**

Any employee, agent, officer, elected official, appointed official or consultant of the Borough of State College (Participating Jurisdiction) or; any member of an employee's, agent's, officer's, elected official's or appointed official's immediate family; an employee's, agent's, officer's, elected official's or appointed official's partner; or an organization that employs or is about to employ any of the above.

##### **CONFLICTS PROHIBITED:**

No person(s) described in Paragraph 1 of section 1 who exercises or has exercised any functions or responsibilities with respect to activities assisted with HOME Investment Partnerships Program (HOME) or Community Development Block Grant (CDBG) or other U.S. Department of Housing and Urban Development (HUD) funds, or who is in a position to participate in a decision-making process or gain inside information with regard to these activities, may obtain a real or apparent financial interest or financial benefit from a HOME, CDBG, or other HUD-assisted activity, or has a real or apparent financial interest in any contract, subcontract, or agreement with respect to HOME, CDBG, or other HUD-assisted activity, or the proceeds from such activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter. Immediate family ties include (whether by blood, marriage or adoption) the spouse, parent (including a stepparent), child (including stepchild), brother, sister (including a stepbrother or stepsister), grandparent, grandchild and in-laws of a covered person. Occupancy of a HOME-assisted unit by a covered person constitutes a financial interest.

##### **EXCEPTIONS:**

Threshold Requirements – Upon the written request of the participating jurisdiction, the U.S. Housing and Urban Development (HUD) or its successor, may grant an exception to the provisions of the CONFLICTS PROHIBITED of section 1 on a case-by-case basis when it determines that the exception will serve to further the purpose of the HOME, CDBG or other HUD program and the effective and efficient administration of the Borough's program or project. An exception may be considered only after the participating jurisdiction has provided the following:

1. A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure\* of the conflict and a description of how the public disclosure was made; and
2. An opinion from the Borough's attorney that the interest for which the exception is sought would not violate state or local laws.

\*The requirements for public disclosure include publication in a local newspaper or disclosure during an advertised public hearing.

Factors to be considered for Exceptions – In determining whether to grant a requested exception after the participating jurisdiction has satisfactorily met the requirements of paragraphs a. and b. above, HUD, or its successors, will consider the cumulative affect of the following factors, where applicable:

1. Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available;
2. Whether the person affected is a member of a group or class of low-income persons intended to be the beneficiary of the assisted activity, and the exception will permit such person(s) to receive generally the same interests or benefits as are being made available or provided to the group or class;
3. Whether the affected person(s) has withdrawn from his/her functions or responsibilities or the decision-making process with respect to the specific assisted activity in question;
4. Whether the interest or benefit was present before the affected person was in a position as described in the COVERED PERSONS Paragraph of this section
5. Whether undue hardship will result either to the participating jurisdiction or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and
6. Any other relevant considerations.

#### B. OWNERS AND DEVELOPERS:

Any owner, developer or sponsor of a project assisted with HOME, CDBG or other HUD funds (or officer, employee, agent, elected or appointed official or consultant of the owner, developer or sponsor or immediate family member of an officer, employee, agent, elected or appointed official, or consultant of the owner, developer or sponsor) whether private, for-profit or non-profit (including a community development organization (CHDO) when acting as an owner, developer or sponsor)

#### CONFLICTS PROHIBITED:

No person(s) described in Paragraph 2.A of section 2 may occupy, or appear to occupy, a HOME, CDBG or other HUD-assisted affordable housing unit in a project during the required period of affordability specified in §92.252(e) or §92.254(a)(4). This provision does not apply to an individual who receives HOME, CDBG or other HUD funds to acquire or rehabilitate his or her principal residence or to an employee or agent to the owner or developer of a rental housing project who occupies a housing unit as the project manager or maintenance worker.

#### EXCEPTIONS:

Upon written request of a housing owner or developer, the Borough may grant an exception to the provisions of the above paragraph of this section on a case by case basis when it determines that the exception will serve to further the purposes of the HOME, CDBG or other HUD program and the effective and efficient administration of the owner's or developer's HOME, CDBG or other HUD-assisted project. In determining whether to grant a requested exception, the Borough shall consider the following factors:

1. Whether the person receiving the benefit is a member of a group or class of low-income persons intended to be the beneficiaries of the assisted housing, and the

- exception will permit such person to receive generally the same interest or benefits as are being made available or provided to the group or class:
2. Whether the person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted housing in question;
  3. Whether the tenant protection requirements of Sec. 92.253 are being observed;
  4. Whether the affirmative marketing requirements of Sec. 92.351 are being observed and followed; and
  5. Any other factor relevant to the Borough's determination, including the timing of the requested exception.

## SECTION 2 PROCUREMENT CONFLICT OF INTEREST

### COVERED INDIVIDUALS:

Any employee, officer, or agent of the Borough of State College (Participating Jurisdiction).

### CONFLICTS PROHIBITED:

The CDBG, HOME and other HUD Programs follow the procurement policy of the Borough of State College located in the Borough of State College Code of Ordinances, Chapter 1, Part N. If any provisions of 2 CFR 200.318, 24 CFR 570.611, and 24 CFR 92.356 are not included or conflict with the Borough's Procurement Policy, the provisions of 2 CFR 200.318, 24 CFR 570.611, and 24 CFR 92.356 shall supersede the Borough's Procurement Policy.

No Covered Individuals in section 2 may participate in the selection, award or administration of a contract supported by HOME, CDBG or other HUD Program if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when any of the following parties has a financial or other interest in the firm selected for award:

- employee, agents, or officer of the Borough of State College;
- any member of an employee's, agent's or officer's immediate family;
- an employee's, agent's or officer's partner; or
- an organization that employs or is about to employ any of the above

No employee, officer, or agent of the Borough or subrecipient may solicit or accept gratuities, favors or anything of monetary value from contractors, potential contractors or parties to subagreements.

### EXCEPTIONS:

There are no exceptions for real or apparent procurement conflicts of interest.

A request for a regulatory waiver can be submitted pursuant to 24 C.F.R. § 5.110

Upon determination of good cause, the Secretary may, subject to statutory limitations, waive any provision of this title and delegate this authority in accordance with section 106 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3535(q)).

SECTION 3 CODE OF CONDUCT:

Persons covered in section 2, paragraph 1, are expressly forbidden from soliciting or accepting money, gifts, gratuities, services, favors, or anything of monetary value (excepting unsolicited calendars, pens, or other items of nominal value used as an advertising medium) from any person, company, firm, or corporation to which any purchase order or contract is, or might, be awarded or from a party to any potential subcontract.

The Borough shall also take disciplinary action in accordance with the Borough Personnel Rules and Regulations against any covered persons in section 2 paragraph 1 who violate this conflict of interest policy.

Employees will receive a copy of the conflict of interest policy on an annual basis as a mailer included in a paycheck. Elected and appointed officials will receive a copy of the policy at a regular meeting of their respective council, authority, board or commission. Distribution of the policy will be noted in the minutes of the meeting. Members who are absent will receive a copy by mail. Consultants and agents will be provided a copy of the policy as part of their contracts.

SECTION 4 SUB-RECIPIENTS:

Applicable Conflict of Interest and Procurement Policies for the Borough's subrecipients are covered under CFR 200.318, 24 CFR 570.611 and 24 CFR 92.356. Each subrecipient has developed its own Conflict of Interest Policy and Procurement Policy in accordance with the applicable regulations.

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Summary of Revisions:

Adopted by the State College Borough Council on April 18, 2005.

Revised by staff on April 30, 2015.

Revised policy adopted by the State College Borough Council on November 6, 2017.