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University Warns Borough Against Transit Proposal

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Princeton University attorneys threatened legal action against the Borough, if the Council were to pass an ordinance that specifies that the area around the Dinky train station - known as Lot 39 - can only be developed for

transit purposes or retail related to transit.

At Tuesday night's meeting, the Borough Council voted 5-0 to recommend such an ordinance to the Planning Board. This could affect the implementation of the terms of a Memorandum of Understanding signed last month by the municipalities, agreeing to let the University move the Dinky train station in exchange for certain concessions.

"If you go forward, you need to go forward with the understanding that you are incurring potential legal liability," said University Vice President Robert Durkee. "We don't think it will hold up." "To take somebody's private land and zone it for only a single use," said Robert Goldman, an attorney for the University, "not only is that spot zoning - that is inverse condemnation."

Spot zoning and inverse condemnation are the main legal vulnerabilities of the Borough's proposed ordinance. Spot zoning occurs if the municipality's zoning

renders the land unusable by the private property owner, the University from building their Arts center as planned.

Goldman called the zoning ordinance “patently invalid,” as its main purpose seeks to burden the private university for the benefit the governmental body. Furthermore, this “taking” of private land for governmental use without proper compensation, says Goldman, is known as inverse condemnation.



Bruce Afran, the attorney for a plaintiff group suing to keep the Dinky where it is, says that he does not think that inverse condemnation is an issue.

“The courts in New Jersey have fully stated,” said Afran, “that there is no condemnation from zoning unless all economic use of the property is eliminated.” Afran said that as long as the option for transit remains, the land still has economic use for the private property owner.

Attorney and Chairman of the Lambertville Planning Board Timothy Korzun gave his opinion that the Borough had sufficient evidence to argue their ordinance was not spot zoning, on the basis that the ordinance benefits the public need for transit. Borough Council invited Korzun to advise them during the meeting on their concerns.

The main concern for Council members Jenny Crumiller and Barbara Trelstad was “preserving the right of way” for the citizens of Princeton by keeping transit where it is.

Other council members, including Roger Martindell, expressed the reservation that the University would be stubborn and move the Transit district anyway, and the ordinance would seem like a hostile taking of the University’s land to prevent the building of the Art center. “That sounds to me like war,” Martindell said.

The pending consolidation of the Borough and Township gave the Council a sense of urgency. While the Township has agreed to let the University move the Dinky, the Borough Council remains vigilant.

“For one more year at least, we still have to govern this municipality,” said Trelstad. “I think that 50 years from now, people are going to look at this and say, ‘You moved the train station for an academic building?’ It’s going to look like a bad decision.”

About the Author »



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Vivienne Chen is a student at Princeton University majoring in English. She recently moved to Princeton from Pleasanton, California.

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