

MINUTES

LOWER SWATARA TOWNSHIP PLANNING COMMISSION

**REGULAR MEETING
FEBRUARY 28, 2019 7:00 P.M.**

Meeting was called to order by Chauncey Knopp at 7:00 P.M. with the following present:

Chauncey Knopp, Chairman
Eric Breon, Vice Chairman
Kimber Latsha
Dennis Fausey
James Young
Peter Henninger, LST Solicitor
Andrew Kenworthy, HRG
Ann Hursh, LST Planning & Zoning Coordinator
Tonya Condran, Recording Secretary

Others in attendance:

Jason Gutshall, Navarro & Wright
Lawrence Dimeler IV, New Thing UM Community

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF MINUTES:

Mr. Knopp asked if there was a motion to approve the January 24, 2019 meeting minutes. Motion was made by Mr. Fausey to approve the minutes and seconded by Mr. Latsha. All were in favor. Minutes were approved.

OLD BUSINESS:

a. **File #PC2018-03, Revised Preliminary/Final Subdivision/Land Development Plan for Star Barn Duplex Units**, with a timeline deadline of April 18, 2019. Located on Nissley Drive, south of I-283, one lot, 3.67 acres, 12 duplex units, zoned Residential Urban, owned by Star Barn Townhomes, LP, submitted by Navarro & Wright Consulting Engineers, Inc.

Jason Gutshall of Navarro & Wright Consulting Engineers, Inc., came to the microphone to explain the revisions to the Star Barn Duplex Units Plan. This plan has been in twice and there were concerns from the Fire Chief as well as what to do with the existing pond. Since Mr. Gutshall was here last, he has had one site meeting with DEP and several phone calls to discuss what could be done and what should be done. DEP informed Mr. Gutshall that the wetlands that are in the pond now are jurisdictional wetlands, so any disturbance of those is not permitted.

They were considering repairing the pond, but with that the wetlands would be submerged and damaged, thereby they would be gone. So through their discussion, DEP's head of Dam Safety and Mr. Gutshall looked to see if this was considered a dam because at one point they considered using it for stormwater. He needed their interpretation before they could move forward with that. There are three criteria for a dam: the depth, the height of the embankment (which this does not meet because it is less than 15 feet), the total water impounded (which is less than that, as well). They did not meet those criteria. Mr. Gutshall went on to inform that it is not really a pond anymore, it is a wetland. However, anything over 100 acres kicks you into the dam permit. If Route 283 was a cut-off, it would be less than 100 acres, but Curt Kreider (who was the head of Dam Safety) got ahold of PennDOT and got Rte. 283 improvement plans that showed where all the pipes come across. There are several up through the area that make it over 100 acres. It comes to this wetland now.

Mr. Henninger asked if it follows the stormwater easement down there.

Mr. Gutshall said it does. He walked down from the baseball field and there were lots of berms and streams that were running along Route 283.

Mr. Henninger then added that the drainage basin is over 100 acres, so that is now considered a dam, even without the 15 feet criterion, and it is jurisdictional wetlands. Which means you cannot touch that.

Mr. Gutshall said "exactly".

Mr. Gutshall then went on to discuss the other concern: truck turning and access for fire apparatus. He said they increased the private lane width from 20 to 24 feet, which is the width of the smallest township street. Then they added a bulb turnaround at the end that requires only one back-up of a firetruck (they used the 43 foot ladder truck since it was the largest vehicle). He showed where the turning templates were on the plans showing the wheel paths of the vehicles. He also showed on the plan where they still maintained the snow removal area. The stormwater basin was reconfigured and moved to make room for that turnaround.

Mr. Breon asked where the garbage dumpster is now going to be.

Mr. Gutshall said they do not have a dumpster, it will all be individual pick-ups, as far as he knows.

Mr. Gutshall continued. They have a sidewalk and a trail along a wider paved shoulder for pedestrians.

He met with the owner and he was assured that the owners were sensitive to the sound coming from Route 283 so they will be using building materials that are sound-dampening for the construction of the units.

Mr. Henninger added that the 283 construction does not provide any sound barriers there.

Mr. Gutshall said that the retaining wall that is behind the units will have a fence on it as well.

Mr. Knopp asked for clarification if it is a wall or a fence.

Mr. Gutshall answered that it will be a retaining wall with a fence on top, it will not be a sound wall.

Mr. Gutshall also added that they submitted the NPDES permit to Dauphin County Conservation District, with the new design of the wider street.

Mr. Knopp asked if the residents were going to be allowed to park in the street.

Mr. Gutshall guessed that they probably would be allowed to park on one side of the street.

Mr. Knopp asked how they would control that.

Mr. Henninger reminded that this would not be the Township's responsibility since it is a private road.

Mr. Gutshall added that each unit has two off-street parking spaces.

Mr. Henninger asked for confirmation that a Home Owner's Association would be taking care of that land.

Mr. Gutshall confirmed that.

Mr. Henninger then added that the HOA would then have to handle the parking issues as well as any other property issue.

Mr. Henninger asked Mr. Gutshall to confirm that there was no possibility of looping that road down around the wetlands so there would be another way out.

Mr. Gutshall said no, there is not a possibility of that because they would have to cross the wetlands and grade into it, plus there would be nowhere to put the stormwater if the road continued down that way.

Mr. Breon asked if the stormwater could be put into the wetland.

Mr. Gutshall said no, that was not allowed per DEP. Stormwater is not permitted to be put in there, however part of the designation of the dam is its drainage area, which is stormwater.

Mrs. Hursh added that the township had asked them to fix the structure of that pond. Because when the structure is not there, it causes flooding downstream.

Mr. Gutshall said that he met with Curt Kreider (DEP) and he explained to him that there were flooding concerns. The Township Staff alerted them that it had changed but Mr. Kreider didn't think it was providing flood storage. Mr. Gutshall felt that in looking at the older aerial photos, the water was to the very top. So in situations like that, the water is going in and out, and there wasn't an outlet structure that would allow a stormwater pond to go up and down.

Mr. Henninger asked if there wasn't a spillway on the end.

Mr. Gutshall said there was a concrete structure with an opening on the top.

Mr. Breon said that is a spillway.

Mr. Gutshall responded that was an outlet structure but it is not there anymore. He added that if there was a better spillway, it might still be there.

Mr. Breon feels that it was a 1940's version of a spillway.

Mr. Henninger added that it was left to deteriorate, it became a wetlands, and now you cannot touch it or use it for stormwater. If it had been maintained over the years, it could've been used as stormwater.

Mr. Gutshall said that if they looked at anything on there, they would have to run a 100-year storm into that and model the breach that is there already, and if the water level came up more than a foot, they would want the breach expanded. So yes, it could be done, but it would be very extensive and involved.

Mr. Henninger reiterated that a road cannot loop out through there then.

Mr. Breon asked if the Township could just say no.

Mr. Henninger said there is no part of the Ordinance that it does not meet.

Mrs. Hursh also confirmed that there is no part of the Ordinance that it does not meet.

Mr. Henninger informed that if the terms of the Ordinance are met, the Planning Commission's hands are tied. The only way the plan could be rejected is if they had a number of waivers that would be rejected.

Mr. Breon expressed his reservations about this plan.

Mr. Young agreed but acknowledged the fact that since it meets Ordinance requirements, there is really nothing we can do to stop it.

Mr. Gutshall added that when they were originally looking at that pond, they floated the idea of a new outlet structure but it just couldn't be worked out.

Mrs. Hursh said she had one comment to add to her comments and that was that a building permit will be required for the retaining wall if it is over 3 feet in height.

Mr. Gutshall accepted that instruction.

Mr. Knopp asked Mr. Kenworthy for any comments/questions from HRG.

Mr. Kenworthy said that HRG was unable to produce a memo for tonight's meeting but they did have the comments from before and he addressed those. So he said that if there is any recommendation, he would say it would be based on addressing outstanding comments on HRG's memo.

Mr. Gutshall believed that the more serious comments were the ones from the Fire Chief and the technical issues were addressed.

Mr. Knopp asked Mr. Henninger for any comments/questions.

Mr. Henninger had no further comments or questions. He was just hoping that somehow they could have found a way to have that road come back out (instead of a cul-de-sac). But it is more of a safety issue than a legal issue.

Mr. Knopp asked for any questions/comments from the Planning Commission.

Mr. Fausey asked about the waiver of the curb requirement. He said there is a sidewalk going down Nissley Drive, so why not put a curb there.

Mr. Gutshall replied that it is mainly because they went from a private driveway approach in the beginning and it helps stormwater for them to not have any curbing.

Mr. Breon asked how that works.

Mr. Henninger said the reasoning is that it allows it to collect into the swale more; there will be more absorption rather than getting it into a pipe.

Mr. Kenworthy agreed with that statement.

Mr. Knopp asked if there was curbing already on Nissley Drive.

Mr. Gutshall believes there is curbing on Nissley up to the entrance for the Woodridge Development but it stops there (where the road turns into that development).

Mr. Knopp asked for any other questions/comments.

Mr. Breon asked if the owner of the property will also own the units.

Mr. Gutshall believed so but he wasn't 100% sure on how he was going to set that up.

Mr. Latsha asked if the units would be rentals or individually owned.

Mr. Gutshall believes the owner was going to sell them individually but again was not 100% sure.

Mr. Henninger said that they would need to see the HOA documents.

Mr. Breon asked if there was any way to require them to put on the deed (as a deed restriction) or on the HOA agreement that they are responsible for specific things.

Mr. Henninger answered that generally the deeds will state they are subject to the rules and regulations set forth in record. But then sometimes that disappears over time. But we could recommend that the deeds to the properties include that.

Mr. Breon said that he just didn't want there to be any surprises ten years down the road.

Mr. Henninger added that the title companies would tell the buyer about the special requirements in the deed, but they wouldn't necessarily tell them what is in it. But if they have a lawyer, the lawyer will tell them what is in it.

Mr. Knopp asked for any other questions/comments.

Mrs. Hursh asked that a snow dump sign be added so that there is no parking there. And also place "No Parking" signs on one side of the road. She feels this might help the access issues for emergency vehicles.

Mr. Knopp asked for the two waivers to be addressed.

- #1 - Preliminary Plan - Applicant is requesting that the Preliminary Plan requirement be waived and the plan be presented as a Preliminary/Final Land Development Plan.
 - Mr. Latsha made the motion to approve.
 - Mr. Young seconded.
 - All were in favor.
- #2 - Curbs - Applicant is requesting that the Township waive the curb requirement along Nissley Drive.
 - Mr. Henninger asked Mr. Gutshall if they would accept a deferral.
 - Mr. Breon felt that we should just disapprove this waiver request and have them put in curbs now when there are funds to do it, rather than down the line when it is not known if the funds will be available from the HOA.
 - Mr. Henninger asked if that might affect stormwater calculations.
 - It was determined that because of the sheet flow infiltration that was discussed earlier, it might affect it.
 - Mr. Latsha agreed with Mr. Breon that he doesn't think it should be deferred. [Discussions then ensued about whether curbing should be deferred or not.]
 - Mr. Breon asked if there was any curbing on Nissley that they were requesting to be waived.
 - Mr. Gutshall said there is no curbing on Nissley (past the Woodridge Development) now nor were they proposing to install curbing there. But he said he felt that part could be deferred. But he added that he is not sure what kind of benefit there would be by placing curbing there because of how the road was, and also then you would need inlets placed somewhere.
 - Mr. Breon said the inlets couldn't be directed into the wetlands.
 - Mr. Henninger added that you could sheet-flow it into the wetlands however.
 - Mr. Latsha reiterated that if there were curbs put in on Nissley, it would divert the water that flows into the area and that would have to be tied into the inlets that are

there now. So he feels it would alleviate some of the water issues that are there now.

- Mr. Breon added that it would still end up in Burd Run.
- Mr. Gutshall said that without the curbs, it just slows it down a little with the sheet flow.
- Mr. Henninger clarified that you would be taking water off the asphalt, down the curb, dumping it in an inlet, and then into the stream. If you do not have the curb, it will sheet over, you will get some infiltration that will not end up in Burd Run, it will go into the ground.
- Mr. Latsha asked if our main concern was Burd Run.
- Mr. Knopp affirmed that yes, we are concerned about the flooding down there.
- Mr. Young made the motion to approve the waiver of the curbing.
- Mr. Latsha seconded.
- All were in favor.

The waivers were both approved.

Mr. Knopp then asked for a motion to approved recommendation to the BOC on the revised plan for Star Barn Duplex Units.

- Mr. Latsha made the motion to approve with subject to outstanding comments and with the addition of a note to address that the deed should include declarations of restrictions.
- Mr. Young seconded.
- All were in favor.

The revised Preliminary/Final Subdivision/Land Development Plan for Star Barn Duplex Units was approved for recommendation to the Board of Commissioners.

NEW BUSINESS:

None

OTHER BUSINESS:

The next Planning Commission Meeting will be held on Thursday, March 28, 2019 at 7:00 P.M.

ADJOURN:

A motion was made by Mr. Latsha and seconded by Mr. Young to adjourn the meeting.
Motion unanimously approved.

Meeting adjourned at 7:49 P.M.

Respectfully Submitted,

Ann M. Hursh
Planning and Zoning Coordinator