

MINUTES

LOWER SWATARA TOWNSHIP
PLANNING COMMISSION

REGULAR MEETING
DECEMBER 19, 2013, 7:00 P.M.

Meeting was called to order by Chauncey D. Knopp at 7:10 P.M. with the following present:

Chauncey D. Knopp, Chairman
Eric A. Breon, Vice Chairman
Kimber Latsha
Christopher DeHart
Leah Pearlman-Storch, Dauphin County Planning Commission
Peter R. Henninger, Solicitor
Erin Letavic, Herbert Rowland & Grubic, Inc., Township Engineer
Angela Yealy, Recording Secretary

Excused:

Paul Wagner

Others in Attendance:

Paul Bruder, Susquehanna Area Regional Airport Authority, (SARAA)
Peter Fleszar, P.E., Glace Associates
Dave Spaulding, SARAA
Scott Snoke, SARAA
Chuck Hess, Forino Company, L.P., Campus Heights Associates I., L.P.
Ambrose Heinz, Stevens & Lee, Campus Heights Associates I., L.P.
Tim Sipe, Campus Heights Associates I., L.P.
Tom Mehaffie, Township Commissioner
Jon Wilt, Commissioner

Residents:

Sonja Miller
Peggy Ginnovan
Ken Stover
Michael & Jason Fasnacht
Roy Honeycutt

MINUTES

A motion was made by Mr. Latsha and seconded by Mr. Breon to approve the Minutes of the October 24, 2013 meeting.

Motion unanimously approved.

CAMPUS HEIGHTS ASSOCIATES I., L.P.
REVISED LAND DEVELOPMENT PLAN

The Planning Commission reviewed the Revised Land Development Plan for Campus Heights Village-Wood Street Access, submitted for Campus Heights Associates I., L.P., and prepared by Forino Company, L.P. Three waivers were previously recommended for approval.

As requested by the applicant, the Revised Land Development Plan remained tabled.

MIDDLETOWN HOME
PRELIMINARY / FINAL LAND DEVELOPMENT

The Planning Commission Reviewed the Preliminary/Final Land Development Plan for the Middletown Home Access Driveways/Parking Revisions as prepared by Schlouch, Inc. The applicant has requested that the plan be tabled.

As requested by the applicant, the Preliminary/Final Land Development Plan remained tabled.

MIDDLETOWN AREA SCHOOL DISTRICT
PRELIMINARY / FINAL LAND DEVELOPMENT

The Planning Commission Reviewed the Preliminary/Final Land Development Plan for the New Middletown High School for the Middletown Area School District submitted by Raudenbush Engineering, Inc. Four waivers have been requested. The applicant has requested that the plan be tabled.

As requested by the applicant, the Preliminary/ Final Land Development Plan remained tabled.

SUSQUEHANNA AREA REGIONAL AIRPORT AUTHORITY (SARAA)
NORTH 29 AREA HIA SEWAGE PLANNING MODULE

The Planning Commission reviewed the North 29 Area HIA Sewage Planning Module submitted for Susquehanna Area Regional Airport Authority, and prepared by Glace Associates, Inc.

Dave Spaulding, the Deputy Director of Engineering and Planning with SARAA, introduced himself and the other individuals representing the plan tonight. They are requesting conditional approval of the Act 537 Planning Module for their sewage facility. This would be a modification to the Act 537 Plan submitted on October 28, 2013 and a meeting was held with the Township Zoning Officer and Code Enforcement Officer prior to the submittal. The construction of Meade Avenue over on the western piece of their property adjacent to the Linden Center, has created opportunities for development both at

the Linden Center and the property owned by SARAA on the North side of SR 230, known as the North 29. SARAA has been working with Sheetz to place a convenience store on a portion of the North 29. They have submitted a Land Development Plan for this property and their plan has their sewage flows going to the Lower Swatara Municipal Authority collection and conveyance system and then to the Middletown Borough for treatment. They are aware that the Lower Swatara Municipal Authority has recommended disapproval of their Module based on some sections on the Intermunicipal Agreement between the Middletown Borough and the Lower Swatara Township Authority. They intend to address the issues with both municipalities, and they are seeking conditional approval until those issues are resolved.

Mr. Breon questioned Mr. Henninger on whether the Planning Commission could do this.

Mr. Henninger replied that they could conditionally approve the Module subject to the Middletown Borough Authority granting an exception. They have an Intermunicipal Agreement, and North 29, under this agreement, is exclusive to Middletown. It was this way since the 1961 Agreement which remained this way in the 2009 Agreement, but the difference was that SARAA took over the ownership and operation of the airport and related land between 1961 – 1997. There was flow there at some time way back that went to SARAA's plant when PennDOT owned the airport and having two State agencies associated with the flow, it trumped any agreements between Middletown and Lower Swatara. They could service their own flow as a State Agency, and they were not subject to Lower Swatara and Middletown's agreement. Since SARAA has had ownership since 1998, there have not been any flows from their site. When the Module was submitted, they had to look into the Middletown agreement because it was their understanding that there was an exclusivity component there. Mr. Henninger has had conversations with Mr. Bruder regarding the difficulty of not being able to recommend that the Authority or Planning Commission approve the Module until an exception or waiver is received from the Middletown Borough Authority. Time is of the essence because there are four governing bodies that need to act on the Module, Lower Swatara Township Planning Commission, Lower Swatara Township Board of Commissioners, Lower Swatara Township Municipal Authority, and Middletown Borough Authority.

Mr. Breon questioned why time is of the essence.

Mr. Spaulding replied that one of the reasons is the development of Sheetz, and their inability to obtain a building permit due to unresolved issues with the flow going to Lower Swatara at the pump station at the southeast corner of CVS. Their purpose in putting this plan together is to put the infrastructure in place for future development of the North 29 Area. Their second purpose is that they have another pathway for Sheetz to direct their flow. They are flexible with this, and they are looking to get Sheetz up and running as quickly as possible.

Mr. Breon questioned why they are going through all of this for a convenience store.

Mr. Spaulding stated that Sheetz is an anchor tenant, so it is important to the management of the airport to start developing that area. They cannot get a building permit because of the unresolved sewage flow issue. They are looking to have a pump station up and running by October 2014.

Mr. Henninger stated that they would be replacing a pump station that existed years ago and is out of service. His opinion is that the Planning Commission can act on the plan tonight subject to the condition that Middletown grant the exception to the Intermunicipal Agreement which would cure the condition. With SARAA being an arm of the State, there are two ways to get this through. They could get Middletown to grant an exception. Another option is to prove that they do not need an exception as they are a Municipal Authority with the right to treat their own sewage regardless of the Intermunicipal Agreement. It can be conditionally approved as it needs to go through the Planning Commission, the Township Municipal Authority, the Board of Commissioners, and the Middletown Borough Municipal Authority. SARAA has received a sixty day extension on the Module until January 23, and there is not another Planning Commission meeting prior to this date.

Peter Fleszar, P.E., Glace Associates and engineer for SARAA, showed the location of the North 29 Area and the proposed Sheetz lot. He explained that Sheetz is on hold currently due to legal issues with the currently proposed sewer connection on the CVS property.

Mr. Breon questioned Mr. Henninger on the legal issues related to Sheetz connecting to the pump station on the CVS property.

Mr. Henninger replied that they do not have direct access to the pump station. Mr. Nardo owns the line and placed a dry line across the CVS parking lot. He created a condominium on the whole site under a very complex, unclear document. It is his understanding that Mr. Nardo wanted to be paid for the access when it was constructed, but SARAA was not interested in access at that time. Now SARAA is interested, but he does not have all of the details, and it has not been resolved.

Mr. Spaulding stated that they are working with Sheetz, but nothing has been resolved. He believes that part of the issue is that some or all of the sewage lines were not dedicated to the Authority by Mr. Nardo

Mr. Henninger stated that it is unclear which lines were to be dedicated to the Township.

Mr. Spaulding stated that the lines to the pump station needed to service the North 29 Area were not dedicated.

Mr. Henninger stated that it was not intended to be dedicated at the time it was to be constructed, because Mr. Nardo wanted to be paid in the future when someone wanted to connect to the line.

Mr. Breon questioned if a new pump station would cost less than paying Mr. Nardo to connect to the existing sewer line.

Mr. Spaulding stated that they would need the pump station regardless due to future development. This only offers them an opportunity to take Sheetz's flow if needed.

Mr. Fleszar showed where the pump station and stormwater basin will be located.

Mr. Breon questioned how they will put in the pump station with all of the stormwater management that is needed.

Mr. Fleszar replied that the pump station will be on the northeast side of the Sheetz lot. It will go around the stormwater basin, past the old building and through the utility corridor where there is an existing sewer force main. He described the technical aspects and locations of the proposed sewage lines and proposed pump station within the North 29 Area. Existing sewage lines will be replaced.

Mr. Breon questioned the proposal for the duplicative utility installation.

Mr. Henninger stated that the point is that they have two options to work out the details to get into the Middletown Borough Authority system or due to the fact that the tract in the past had been sewered by SARAA's predecessor, PennDOT, which is an arm of the state, and the fact that Middletown Borough may grant an exception, they can treat their own sewage. All of the other sewage at the airport is treated by SARAA, and this is their property as well. They want to treat the sewage by their plant and not pay us to do it.

Mr. Fleszar stated that it will be a straight forward installation for directional drilling. With all of the other site development that will occur, this force main is trivial, and it is probably more difficult to physically construct the gravity crossing since the utility corridor is already in place. One comment from HRG stated that the plot plan should show the Township Municipal Authority's sewage facilities. Mr. Fleszar showed the force main from the other pump station, and concepts of future development. Sheetz would be an optional connection to the new system.

Mr. Breon questioned if the pump station and all of the sewer lines would not be dedicated to the Township.

Mr. Fleszar replied that they would not be dedicated to the Township, and they would all be owned and operated by SARAA. He continued by describing the conceptual land development sketch that has been used to determine the proposed flow from the site, the locations of the force main, pump station, and gravity lines. From a planning status,

SARAA has received Component 4B from the County indicating consistency with the Act 537 Plan. Clearance from the Pennsylvania Historical and Museum Commission has been received. Comments from the review engineer, HRG, have been received.

Ms. Letavic asked that they speak to the discussions that they have had with Lower Swatara Township Municipal Authority and the Middletown Borough Authority.

Mr. Spaulding stated that they have not appeared before the Lower Swatara Municipal Authority. They submitted their plan and met with the Zoning Officer and the Code Enforcement Officer. Until they received recommendation from the Township Sewer Authority, they did not realize there was a problem with the Intermunicipal Agreement, which they are not a part of. Between 2006 and 2009 when their sewage treatment facility was built, they were not aware of an Intermunicipal Agreement. It had not yet been formalized at the time that the Act 537 Planning Module was being reviewed. Once they realized there were issues they contacted the Director of Public Works at the Middletown Borough who works with the Middletown Borough Authority. They received a letter from the Borough referencing Section 8 of their Inter-municipal Agreement stating that this is the Borough's exclusive area. They will address this issue and they would like to go before the Board of Commissioners on January 15, 2014 with the resolution.

Mr. Breon questioned what they can do other than offer many comments.

Mr. Henninger replied that the applicant is requesting conditional approval conditioned on the granting of the exception, approval of the Board of Commissioners, and approval by the Township Authority. They need to go before the Planning Commission as part of the Act 537 review process.

Mr. Latsha questioned if the Intermunicipal Agreement currently prohibits SARAA from treating the sewer, because it has been reserved exclusively to the other municipalities.

Mr. Henninger stated that in the Agreement that lot location deems that it is to be treated exclusively by Middletown Borough. If this was a typical development proposal, the applicant would not be asking to treat their own sewage. Since SARAA is a Municipal Authority already in the sewage treatment business, with this area being their only piece of land not treated by their own facility, they are here tonight. Since they are within the Township, the Township and Township Authority will have to sign off.

Mr. Latsha questioned what the Township's Authority had to say in response to the request.

Mr. Henninger stated that the Township's Authority recommended rejecting the plan due to the conflict of the Intermunicipal Agreement. He believes that the Township's Authority is very open and would not have a problem if the exception could be worked out with Middletown Borough Authority.

Mr. Latsha questioned Mr. Henninger if he participated by giving advice on the decision of rejecting the plan.

Mr. Henninger replied that he did participate which is why it showed up in HRG's review and the recommended rejection due to the Agreement. This is not something that cannot be worked out. The conditional recommendation is necessary tonight because of the timing of the next municipal meetings and a decision needing to be rendered by the Planning Commission prior to the Board of Commissioners acting on the Module. They are looking for you to recommend approval of the Planning Module subject to either the granting of an exception of the Intermunicipal Agreement by the Middletown Borough, or proving that they are not bound legally by the Agreement because they are an Authority themselves.

Mr. Latsha questioned the process that SARAA would take to prove that they are exempt.

Paul Bruder, Attorney for SARAA, stated that the optimal solution would be negotiating with Middletown Borough Authority that SARAA is exempt from the Agreement based on the Authority's position as an agent of the State.

Mr. Latsha questioned how they can prove that they are not subject to that Agreement, if the Borough Authority does not grant the exception.

Mr. Bruder replied that the only way to prove this would be litigation. They would have to get a court to rule under the Municipal Authority's Act that SARAA is a Municipal Authority and trumps the Intermunicipal Agreement.

Mr. Latsha commented that the proposal contemplates litigation.

Mr. Bruder stated that he does not believe the proposal contemplates litigation as this is always a last resort.

Mr. Latsha questioned who would be the arbiter of this.

Mr. Bruder stated that it would be either the Dauphin County Court of Pleas or the Commonwealth Court, probably the Commonwealth Court.

Mr. Latsha questioned what our position would be in response to that.

Mr. Henninger replied that this would be discussed with the Board of Commissioners, but it depends on what they have. If they can show him something that says that they are not subject to the Intermunicipal Agreement because they are an Authority, then he can change his opinion on whether the Board of Commissioners can sign off.

Mr. Breon questioned what the Staff recommends that the Planning Commission do at this time.

Mr. Henninger replied that it is recommended that they conditionally approve it upon receipt of an exception from the Middletown Borough Authority, or legal proof allowing them to sign off on the Sewage Planning Module.

Mr. Latsha questioned if anyone knows the Borough's position on this.

Mr. Henninger did not know the Borough's position.

Mr. Bruder stated that he spoke to the Borough Authority's Solicitor who was going to check with his client and get back to him. Mr. Bruder has not heard anything back at this time.

Mr. Breon questioned if it is fair to say that the Borough Authority has been restrictive on EDU's in the past.

Mr. Henninger replied that they have; but, our Township Authority and the Middletown Borough Authority are currently in as good of relations as they have been in about 40 years. They have an Agreement which the Township needs to honor, but if the Borough Authority is willing to grant an exception to the exclusivity clause, then that will take care of the issue in his opinion.

Mr. Knopp questioned Ms. Letavic if she had any comments or questions.

Ms. Letavic replied that she does not and that she believes it has been addressed well. She supports Mr. Henninger's recommendation to conditionally approve this tonight.

Mr. Henninger questioned if they are going to get rid of the old Sunburst building.

Mr. Spaulding stated that they are bidding out the demolition project this weekend as advertised in the Sunday Patriot. The bid opening is on February 11, 2014.

Mr. Latsha questioned if they were to get the Agreement, would their treatment plant have to capacity for the vision that they have for the North 29 Area development.

Mr. Spaulding stated that they have a lot of capacity and would not have a problem serving the area.

Mr. Knopp questioned Ms. Pearlman-Storch if she had any comments or questions.

Ms. Pearlman-Storch stated that they have completed the 4B Module, and there are no land use issues from that Module. They look forward to the Land Development Plan.

A motion was made by Mr. Latsha and seconded by Mr. Breon to conditionally approve the Sewage Planning Module subject to the granting of an exception by the Middletown Borough Authority of the Intermunicipal Agreement or legal proof of the inapplicability of said Agreement to SARAA due to their status as a Municipal Authority of the Commonwealth of Pennsylvania.

Motion unanimously approved with stipulations.

CAMPUS HEIGHTS ASSOCIATES, II, L.P.
FINAL LOT CONSOLIDATION AND LAND DEVELOPMENT PLAN

The Planning Commission reviewed the Final Lot Consolidation and Land Development Plan for Campus Heights Village II, submitted for Campus Heights Associates II, L.P., and prepared by Forino Company, L.P. One waiver has been previously approved by the Board of Commissioners for preliminary plan procedure. Two more waivers are now requested.

Chuck Hess, Forino Company, L.P. for Campus Heights Associates II, L.P., stated that they had conditional approval of their Land Development Plan as granted from the Township; however, Greenworks/Nittany Townhomes, LP decided that they did not want any part of the plan. Greenworks rescinded their indication that they would cooperate and sign off on the proposed intersection with Lawrence Street and Gina Lane at this point.

Mr. Latsha questioned if they had anything in writing or what they were relying on from GreenWorks.

Mr. Hess replied that his client had personal discussions with them and commitments but never received anything in writing. There was nothing other than a verbal contract with GreenWorks. With the time constraints of this project, they were probably moving too quickly. They were trying to settle on all of the properties to help the existing residents move on with their lives. They should have gotten this in writing, but now they cannot deliver this Plan as it was approved. Tonight, they are here to ask for two waivers related to a modification to their design. The majority of the site is identical to what was presented to the Planning Commission previously. Since they did not receive cooperation from GreenWorks, they had to shift the road over on the North side and kick it in a little to honor the property lines and some of the unopened private right-of-ways that they had initially agreed to allow them to cut through with the road. They were trying to push the road as far over to get as straight an alignment as possible. When they decided not to cooperate, that eliminated the developer from trying to cut across the small section on W. High Street. As a result of this, their plan has been revised and is now known as Option C. The Option was presented to the Board of Commissioners at last night's meeting, and the direction was to present the sketch to the Planning Commission for a recommendation on the waivers. The two waivers that have been requested stem from the Engineer's review of an earlier version of this sketch dated December 16, 2013. The intersection with the existing configuration of Gina Lane is not in strict conformance with the Ordinance for two reasons. When curves are

introduced along it, the existing centerline of Gina Lane comes out at a slightly different angle which is less than the 75° minimum angle allowed in the Township Ordinance. In essence, the angle is due to the centerline geometry change. The second thing is at most intersections there is a minimum 15 foot radius requirement around the curves. With the location of the existing Gina Lane and the fact that they are trying to take the road over as far as possible to keep the straightest alignment, they are within eight feet of the two roadway edges. A four foot radius is the largest radius that they could give at the intersection. The Township Engineer had some very good suggestions on some signage, advance reverse curve warning signs with an advisory speed, and signs on the 4 foot curb radius to alert motorists that they need to shift over a little bit. The developer has gone so far to define the edge of road with some white line striping. In the long run, they believe that with the 25 mile per hour speed limit and the advisory speeds it is still a safe condition, but it is not in strict conformance with the Township Ordinance requirements. This necessitates the two waivers that have been identified. They would have reconstructed Gina Lane to make it a better situation, but the owner of the neighboring property did not see it that way.

Mr. Latsha questioned if they are relying on permission from anyone else to do complete this Plan as explained.

Mr. Hess replied that the reason they had to push the road over so far was to ensure there would be no impact from any adjacent property owners on this Plan, so they will not need the consent of any other property owners. The Board of Commissioners had a good idea at the meeting last night and they have shown on the Plan a right-of-way for the future extension and realignment of Gina Lane by others. If GreenWorks comes back and changes their mind, they do not want to stop that from happening, because then it could be made better.

Ms. Letavic questioned if this would occur in the future and the spur would disappear, could the curb line be restored in a way that would be all but identical to what was conditionally approved.

Mr. Hess replied that it would be very close to what originally designed. All they would have to do is remove some curb and fill in across and remove the rest of the curb and pavement as was previously proposed.

Mr. Latsha questioned the safety risks in approving this Plan.

Ms. Letavic stated that since they have worked together a great deal on this, the current configuration that was provided tonight is by far the best situation with the exception of Gina Lane. If there is absolutely no way that Gina Lane can happen on the short-term, what they are presented with tonight is the best situation that they have been able to come up with together without causing significant design changes to the Plan. If the Lawrence Street alignment kicks too far to the left or becomes more curvy, they start losing parking and buildings.

Mr. Latsha stated that what he is really asking is if there is any risk or negligence on the Township if they approve the design of a roadway that is so substantial that it exposes people or the Township to risk.

Mr. Henninger stated that from the standpoint of Lawrence Street itself, he does not believe that that would be termed as so substandard.

Ms. Letavic commented that she would not say they are being negligent.

Mr. Henninger stated that the connection from Gina Lane and West High Street, which is a private road, connects to Lawrence Street. The connection to Lawrence Street exists today but at a 90° angle because of the angle of Lawrence Street. When Lawrence Street is straightened out, it creates the angle that requires one of the necessary waivers. One of the discussions that he has had with Ron Lucas and Ambrose Hines from Stevens and Lee on behalf of Campus Heights was whether or not the Township looks at it as a street or a driveway. It is built to Township standards which is what is required of the private streets. Language is subject to interpretation of the Township Ordinance. He believes that the safe thing for the Township would be to address it as a street which means that you would need a waiver on that angle of attack, because of Lawrence Street being straightened. If it was a driveway, a waiver would not be required, but he does not see any liability risk. The bottom line is that what will be developed in the end will be better than what existed and what exists today.

Ms. Letavic is not sure that she can agree that it will be better than what currently exists. She stated that the proposal includes a stop bar at the proper distance away from the intersection. Although it is a non-typical angle, a driver would be able to creep forward so that they could turn far enough to the right to be able to see up the lane and see the traffic coming toward them. It is a greater angle than what is typical or comfortable but the maneuver can be made.

Mr. Breon questioned if they have any legal rights or ability to force GreenWorks to attend a meeting with the Township to discuss this.

Mr. Hess stated that the only way would be if the Township would assist the developer in condemnation of the land.

Mr. Henninger stated that they could try to set up some sort of mediation but the Sunshine Act would need to be avoided which would mean not having the majority of the Board at the meeting.

Mr. Breon questioned if the Sunshine Act would apply to the Board of Commissioners only and not the Planning Commission as they are only a recommending body.

Mr. Henninger stated that GreenWorks would have no requirement to go before the Planning Commission unless they have a Plan before them.

Mr. Hess stated that the reverse curve will be very subtle on the public road Lawrence Street relocated, probably not unlike many roads in the Township that have curves with that type of centerline radius.

Ms. Letavic questioned if the direction that they were looking for tonight is whether or not this should be the revision of their next submission, and in order to prepare for the Board of Commissioners to act on waivers in January to get the ball rolling again, they are looking for a conditional recommendation. They are assuming that once they have a full review, the plan will be approvable.

Mr. Hess agreed this was what they were looking for tonight.

Mr. Breon commented that it seems like GreenWorks did this intentionally believing that the Planning Commission may not be in favor of this Plan and hoping to stall the Plan.

Ms. Letavic questioned if the one corner of the parking lot would be shifted, and if they have recalculated the green space percentage due to shifting the roadway.

Mr. Hess stated that this would shift the parking spaces over on the revised submission. He stated that there was an equal amount of green space on each side so it worked out.

Ms. Letavic stated that the green space percentage was close, and that is why she wanted to ensure that had been recalculated.

Mr. Henninger commented that they are helping out Mr. Honeycutt, a resident, by moving the road to the left.

Mr. Hess stated that Mr. Honeycutt was concerned about the new street and since it has been shifted about 10 feet further from his residence, he is happy about the change.

PUBLIC COMMENT

Mike Fasnacht, resident, stated that before GreenWorks even purchased property, he used to snow plow High Street back when it was a trailer park. Since the trailer park closed, he decided not to plow the area. He stated that long ago, public sewer was put in place and the residents that had put stones down on the road were told at the time that it was their private road. Permission was never asked of the residents to put the sewer line down High Street. Lower Swatara Township claimed the road and blacktopped it since they would not plow stone or dirt roads. The Township said that they would plow the road, but it was only done one time during a really deep snow. It was plowed then and they pushed all of the snow to the end of High Street and blocked off the houses that are on the other side of Wood

Street. Someone rented a front end blower to dig out and he does not know if the Township paid that resident's bill. Mr. Fasnacht mows the grass on both sides of High Street and Dauphin Street. Everyone wants to claim the road yet he said he is the one taking care of it and he is not claiming it as his own. He said that the Township never reimburses him for gas or sharpen his blades. They never come up to cut the grass, so he cuts it out of kindness. He questioned what is so bad about shifting the road over considering what it is like currently. They used to come down the road straight, but the Township allowed GreenWorks to shift the road, and now he questions that now they are worried about someone else moving the road. They go up Lawrence Street now and they have to go left and then right onto the previously existing Lawrence Street. This new shift would be minor compared to what they have now, and if anyone wrecks it is their own fault. Gina Lane could be switched to a J-shape, and then drivers could see both ways.

Mr. Henninger stated that this was proposed, but that GreenWorks will not sign off at this point.

Mr. Breon questioned the residents if they have executed agreements with Campus Heights.

Mr. Hess stated that the agreements are conditional on approval by the Township.

Mr. Breon questioned when the agreements expire.

Peggy Ginnovan, a resident, stated that her contract runs out at the end of the month but it will be extended as indicated in the contract.

Mr. Fasnacht stated that they are getting \$1,000 more to keep the same contract.

Mr. Latsha questioned if they were sure that they could get an extension.

Ms. Ginnovan said that they were told last night that they would get an extension.

Mr. Hess stated that they intend to stay with this and settle with the residents as quickly as possible. He believes that Mr. Genesio has settled on a few of the properties already.

Mr. Henninger stated that he has settled on four of the properties in excess of \$1,000,000 in payments.

Ms. Ginnovan stated that she believes that when this all started, the Township had urged them to run Lawrence Street totally up to Dauphin Street. She believes that this would help cemetery property develop in the long run which gives their property access directly to Lawrence Street to connect with the main street. Originally they did not want to do this, but it came about due to the urgency of the Township.

Mr. Breon stated that from the Township's perspective it made the most sense, and it was not because of the development of the cemetery property, but due to the convoluted traffic mode that was portrayed previously.

Ms. Ginnovan stated that in the long run this will help GreenWorks, but now they do not want any part of helping out. In her original contract with GreenWorks, they assured her that they were going to purchase her property, but two weeks before the scheduled settlement, they backed out of her settlement. They did purchase the one house in the area. Matt Tunnell sat in her kitchen and told her and her daughter that under no circumstance would he allow Matt Genesio to get his hands on any property up there. She called Ruth Helwig, her sister in law, who contacted Matt Genesio letting him know that GreenWorks backed out of her settlement. Within an hour Mr. Genesio contacted her and asked her not to sign any more paperwork with GreenWorks and that he would see what he could do. Monday morning he called her and wanted to buy all of the property of the residents nearby. She said that Mr. Genesio has been sticking by them and really wants to buy their properties.

Public comment closed.

Mr. Breon questioned what the Staff believes should be done.

Ms. Pearlman-Storch stated the Dauphin County Planning Commission previously reviewed this Plan and it has been discussed with Ms. Letavic and Mr. Henninger. Since the changes occurred off-site, they were not required to resubmit to them as a full Land Development Plan. She stated that they reviewed it, but their comments are only recommendations in the least restrictive form. They agree that HRG's comments have created that best case scenario for this situation. To move this project forward, they agree that this is the best that they will get and that the waivers should be granted.

Mr. Knopp questioned if this meant that it is a safe approach.

Ms. Pearlman-Storch agreed that it is a safe approach.

Mr. Hess attested to this as well stating that with the signage and curvature, it will be safe.

Mr. Henninger stated that they have an approved Developer's Agreement to handle the reconstruction of Lawrence Street, which was his biggest concern. That has been handled and the language has been approved by the Board of Commissioners, Counsel, and the Developer. Legally, to get the Plan approved they need the two waivers of the curb radius and the angle due to the change on Lawrence Street. All offsite issues are all gone. The right-of-way was brought up to allow the Township to force any new redevelopment to make that connection to allow Gina Lane to make that connection straight across at some point. Having been involved in discussions with the Board of Commissions the past two weeks, they want to try to move this Plan to be able to address the Plan at the January 6, 2014 Reorganization Meeting. They wanted a Planning Commission recommendation on

the waiver requests on this design, knowing that a very similar design was presented prior to the Gina Lane connection option. The Board of Commissioners want to ensure that the Planning Commission has seen and understand the Plan and make a recommendation on the two waivers and the redesign. Obviously, this is subject to formal resubmission, a review, meeting all engineering comments. It is still a conditional recommendation. Mr. Henninger stated that this can be done legally. They need to address the two waivers, and address the redesign if it meets all engineering and review comments with the understanding that with the understanding that based on the representations from Mr. Hess tonight that the Gina Lane option is off the table right now.

Ms. Letavic questioned if a study for the sake of signage enforcement could be put together for Monday's submission.

Mr. Hess did not think it could be done by then, but he would have to talk to his traffic consultant about it. He showed where the stop signs are today.

Ms. Letavic questioned if Lawrence Street Partners still need to sign off on their Plan for any other reason.

Mr. Hess replied that Lawrence Street Partners will be signing off on the Plan with regard to the High Street right-of-way. They have agreed to this, in writing, in accordance with their sales agreement with the purchase of their lot. That is binding which ensures that the rest of the site plan will happen as shown.

Ms. Letavic stated that there is a piece on of the original Lawrence Street that on one version of the plan was to be vacated by Campus Heights. She thought that on the latest iteration there was that last block that was to be excluded.

Mr. Hess stated that Lawrence Street will be dedicated by both Lawrence Street Partners and Campus Heights Associates.

Mr. Henninger stated that this is in writing and financial security is being held on those.

Mr. Hess stated that with this plan a portion of the right-of-way will now not be dedicated and will remain part of their property. The right-of-way does jog out a little where the Township wanted to have control of the intersection and crosswalk. On the other side, they are bound by the agreement between Lawrence Street Partners and Campus Heights Associates to dedicate the new Lawrence Street, and there is again a public right-of-way. This was previously shown as being extinguished as a result of eliminating the spur. Since the spur will be retained, right-of-way is again being proposed to be dedicated to the Township. Other right-of-way is to be dedicated/vacated by Lawrence Street Partners.

Ms. Letavic questioned if their intent is to offer the entire length of Lawrence Street over to the Township at one time.

Ms. Hess stated that the southern section is built and was held up until the SR 230 improvements were done. This may proceed with dedication, but he does not know the intent of the owners, but it is set up between Lawrence Street Partners and Campus Heights Associates. The north section is in complete control of Campus Heights. He does not know the timing of what the Developer's intend to do there.

Mr. Henninger stated that they have entered into a Winter Maintenance Agreement for Lawrence Street since it is not a Township road at this point. The reason it is not currently a Township road currently is due to the agreement which says that rather than dedicating and then turning around and vacating when the other thing is done, depending on timing they can accept everything at one time. Consistent with this in the Developer's Agreement, is to vacate the balance of Lawrence Street at the same time. The idea is to accept this and vacate that at the same time, so they are not doing this piece where they would have a Township road that comes up, makes a little left, and ends that they are responsible for. Right now Lawrence Street Partners and Campus Heights Associates pay the Township to plow it, as in their agreement. That is the intention and he thinks that there is a good chance that it will work out this way. If they get their approvals and their project built by August 1 or 15, in time for school, they would beat the next snow season.

Mr. Breon questioned Ms. Letavic's recommendation to the Planning Commission.

Ms. Letavic recommended that they move forward with the latest version of the Plan as discussed tonight, and she also recommends conditional approval of the two waivers. They will be doing a full engineering review of it. They have seen the geometrics but they have not discussed fire truck movements or other things. She has not seen the grading on it, but she does not expect a whole lot to come out of the review.

Mr. DeHart questioned if there was any thought of making the private road of West High Street a one way road heading east.

Ms. Letavic replied that they would need Lawrence Street Partner's permission to do that.

Mr. DeHart questioned where the private road stops at the entrance where the Township could indicate that drivers could not go out that way.

Mr. Hess believed that there were agreements between the two parties that allowed this access to be here so that they could indeed get to Gina Lane.

Mr. DeHart commented that you can get to Gina Lane and you exit on Wood Street. That would reduce a lot of that flow and there are a limited amount of homes back there.

Mr. Hess stated that in his review of the recorded plan of Gina Lane, it was actually supposed to be a one way circulation pattern in a counter clockwise direction. He does not know that they or the Township could enforce a one way circulation on a private street.

Mr. DeHart questioned if the Township could put an issue in where it dumps into the Township right-of-way.

Mr. Henninger stated that it exists into the road currently and is there to allow a second means of access. If it were a Township road we could absolutely change this, but it is not a Township road.

Mr. Breon questioned if the Township could take the road.

Mr. Henninger stated that the Township could take the road but agreed with Ms. Letavic that the Township would not want to.

Mr. Hess stated that the Township would have to offer it to be dedicated and it is not up to Township standards, so a lot of money would need to go into it.

Mr. Henninger stated that Gina Lane itself was built to Township standards, but High Street has never been a Township Road. In response to a residents question he stated that the reason that it may have been plowed one time and not again was probably because someone in his office told the Township to not do this again since it is private. For this reason the grass would not be mowed by the Township either.

Mr. Knopp asked the Planning Commission to address the two waivers. He stated that the Township Subdivision and Land Development Ordinance states in section 22-502.7.a, that streets shall intersect as nearly as possible at right angles, and no street shall intersect another at an angle of less than 75°. The way this Plan is presented tonight, they are at 66°, so they would like a waiver to approve the 66° intersection.

A motion was made by Mr. Latsha and seconded by Mr. DeHart to approve the waiver to allow a 66° intersection.

Mr. Breon was opposed, and the motion was passed with a 2 to 1 vote.

Mr. Knopp stated that the Township Subdivision and Land Development Ordinance states in section 22-502.7.f, at intersections of streets, the curb and edge of pavement radii shall not be less than 15 feet. The one radius in this Plan is 4 feet.

Mr. Hess assured that this was safe, and that they would be restricting right turns, so that drivers would not be making that move. He commented that most drivers will be heading south toward Main Street anyway. The 15 foot radius is for bigger intersections for cars to make a left or right turn.

A motion was made by Mr. DeHart and seconded by Mr. Latsha to approve the waiver to allow a 4 foot radius.

Mr. Breon was opposed, and the motion was passed with a 2 to 1 vote.

Mr. Knopp questioned if there is a motion to approve the plan as presented tonight with the conditions that have been discussed.

Mr. Latsha questioned if it becomes available that this Plan could be adjusted if the two parties worked something out, could a condition be attached to the approval of the Plan that they would have to go back to the preferred Plan.

Mr. Henninger replied that they could not do this since the Plans have been approved. If that option becomes available, he knows that they will go back to exactly what was previously approved.

Mr. Hess stated that they have already tried to address this issue simply by providing a right-of-way.

Ms. Letavic questioned if they could do this as a construction modification.

Mr. Hess replied that they could certainly do this down the road if GreenWorks comes around and decided to do this.

Mr. Latsha questioned if it becomes available, what could be done to commit the applicant to incur the cost of doing what they said they would do when this was first approved.

Mr. Henninger stated that the Township cannot require offsite improvements, and the Gina Lane connection would be an offsite improvement. Absent a Township Road Improvement Plan, which costs six figures to prepare, the Township cannot require offsite improvements. If three months from now, GreenWorks agrees to sign off on the plan, he does not believe that they could put anything on the Plan.

Mr. Latsha questioned if they could have them enter into an agreement that would bind them to the Township if that becomes available.

Mr. Henninger stated that he believes this could be done. It should be a separate motion recommending that the Board of Commissioners consider entering into an agreement whereby Campus Heights II would be legally bound to complete the Gina Lane connection in accordance with their previously conditionally approved plan at their sole cost and expense as was contemplated by such Plans.

Mr. Breon asked that they consider the fact that the way it has been worded so far, that the cost be split 50/50.

Mr. Latsha stated that this was the original plan that they relied on, and that they are not asking them to do anymore than what they were committed to previously.

Mr. Breon agreed and said that he was asking if they should consider the fact that maybe they should pay some additional amount due to the fact that they are changing things after the fact; however, this might prevent them from wanting to do it.

Mr. Henninger stated that they pay additional review fees if they come back to do that. He believes that they have a motion to act on but Mr. Latsha has another motion to make a recommendation to the Board of Commissioners.

A motion was made by Mr. Latsha and seconded by Mr. DeHart to approve the Plan with stipulations.

Mr. Breon was opposed, and the motion was passed with a 2 to 1 vote.

A motion was made by Mr. Latsha and seconded by Mr. Breon to recommend that an agreement be entered between the petitioner and the Township to require them, if the site becomes available, to configure Gina Lane as they had committed to in the prior Plan that the Township approved.

Motion unanimously approved.

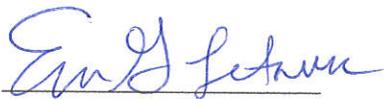
ADJOURN

A motion was made by Mr. Latsha and seconded by Mr. Breon to adjourn the meeting.

Motion unanimously approved.

Meeting adjourned at 8:42 P.M.

Respectfully Submitted:



Erin G. Letavic (Herbert, Rowland & Grubic, Inc.)
Acting Planning and Zoning Director

