

MINUTES

LOWER SWATARA TOWNSHIP
PLANNING COMMISSION

REGULAR MEETING
JULY 26, 2012, 7:00 P.M.

Meeting was called to order by Eric A. Breon at 7:00 P.M. with the following present:

Eric A. Breon, Vice Chairman
Paul Wagner
Kimber Latsha
Christopher DeHart
Brenda Wick, Planning and Zoning Director
Darlene Stoudt, Recording Secretary
Angela Yealy, Recording Secretary

Excused:

Chauncey D. Knopp, Chairman
Leah Pearlman-Storch, Dauphin County Planning Commission
Charles Smith, Herbert, Rowland & Grubic, Inc., Township Engineer

Others in Attendance:

Mark Will, Fulling Mill Rd. LLC.

MINUTES

A motion was made by Mr. Latsha and seconded by Mr. DeHart to approve the Minutes of the June 28, 2012 meeting.

Motion unanimously approved.

FULLING MILL ROAD, LLC **PROPOSED ZONING AMENDMENT**

The Planning Commission reviewed the proposed Zoning Amendment request of Fulling Mill Road, LLC to change the text of the Residential-Retirement Facilities allowed by Special Exception in the Commercial-Neighborhood (C-N) District. The purpose of the request is to change Age-Restricted Housing to Age-Targeted Housing.

Mr. Will, representing Fulling Mill Road LLC, stated they have submitted an application to make an amendment to the zoning on the property of Nissley and Fulling Mill Road. What they are asking to do is change age-restricted to age-targeted. Fulling Mill Road, LLC, has approached the Commissioners to ask the proper way to go about this. They believe the proper

way is through the zoning amendment. They have submitted the application to Dauphin County Planning Commission, and they questioned if a zoning amendment is the best way to handle this. He would like to handle this however the Planning Commission feels is the best way. Mr. Will stated he would be able to talk about how this plan fits with the site and some of the issues with the site. He stated he is here to answer any questions that the Planning Commission has for him.

Mr. Latsha questioned whether the project could be completed without the zoning ordinance being amended, and he questioned what could be done if the ordinance says it is a 55 and older project.

Ms. Wick stated that Dauphin County suggested that this could possibly be done with a variance; however, she does not believe it is possible to do with a variance since there is no definition of age-targeted already in the ordinance. Dauphin County also suggested the property could be re-zoned to a general residential district which would not need any age-targeted requirement. This does not seem to be the Township's desire as they would like a retirement community. Dauphin County is only saying that building this type of housing in a regular residential zone, would be one option.

Mr. DeHart questioned if Dauphin County meant for the Planning Commission to amend the ordinance so there would be general residential in that development.

Ms. Wick reinforced that they are only suggesting this is one way it could be done.

Mr. Will thought Dauphin County might be looking at a way of impacting this particular property rather than the whole zone, since there are other tracks of land in the Township that could be potentially developed with this zoning. His goal is not to eliminate senior housing but to allow others who are not 55 and older to purchase and live in this development if they choose. His design criteria is identical today as to what it was originally. In a definition that he created for the Township, he defined a number of 1st floor master bedrooms and walking trails that are certain widths. These amenities are to promote the fact that his goal is to primarily have families made up of 55 and older.

Mr. DeHart questioned the average price of a home.

Mr. Will claimed the average price of a home on lot would be \$184,000.

Mr. DeHart stated that the cost is in line with most mid-size family residential homes. The Planning Commission went through this process before, and questioned if this could be false advertising to retirement age individuals. If this development is opened up to everyone, how do you control it?

Mr. Will stated that even under the current ordinance, the HUD Federal law (HOPA, Housing for Older Persons Act) allows 20% of the residents in an age-restricted community to be under the age of 55. Due to this ordinance someone moving into a retirement development could live beside a family.

Mr. Latsha commented that the developer could even have 100% of the community occupied by those aged 55 and older, under the current ordinance.

Mr. Will agreed that it could be 100% occupied by individuals aged 55 and older, and that stated that it could never be less than 80% at 55 and older.

Mr. Latsha commented that if an ordinance requires fewer than the 80% over 55, you lose the ability to restrict age.

Mr. Will stated that their goal is not to mislead anybody when they come to purchase these homes, and it will be very clear that this is not an age-restricted development, but age-targeted. Mr. Will claims that they are designing something that is attractive to this age group. By the design of the house, development, and monthly fees, the target market would still be individuals aged 55 and over. However, the same criteria that may appeal to a person in this age group may also be found attractive to young married couples with no children. Monthly fees which are required to have your grass mowed, snow plowed, sidewalks shoveled, and beds mulched, will stay uniform within the development to be maintained by an association. Families with children can probably find a home in the Township in the same price range without having to spend money on association fees.

Mr. DeHart questioned Mr. Will as to what has changed that Mr. Will still wants the community designed for 55 and older, but at the same time he now wants this opened up to younger people as well.

Mr. Will responded that the economy has made the difference with the market drying up. Now they have created a development that has all the same amenities that 55 and over enjoy, but if a younger person is interested, he may also purchase one of these homes.

Mr. DeHart questioned Mr. Will on what his studies showed. Mr. DeHart inquired as to whether or not Mr. Will was worried that 20% would not be enough to cover the younger residents, and then they would not be able to sell the homes.

Mr. Will commented that with HOPA, the 80% and 20% requirement is an absolute line which you cannot cross. If you are 57 and buy a house thinking it is an age-restricted

community, and a young rowdy person moves in beside you, then you can go to the developer, but he does not have any power to move that person out. If the community is at 80% and someone has to sell, they have a smaller market and can only sell to someone 55 and over. Mr. Will questioned if this would be fair. An age-targeted community could be 100% occupied by those under 55 if they desire to live in this type of home and pay these fees. Mr. Will questioned how the Township would lose in that situation if there is a well-maintained, uniformed, sold-out, and thriving development. If it were completely filled with 55 and older the Township would not lose and the developer would not lose. Mr. Will stated that this is the goal. With a recreational center and all the other amenities, the target is still the same as far as price and design.

Mr. DeHart commented that before he came onto the Planning Commission, during the Comprehensive Plan review, this Township liked the idea of a retirement community. Lower Swatara Township does not have any retirement communities. Mr. DeHart voiced concerns about changing this. Questioning Mr. Will, he inquired exactly how much the market dried up, and if there was anything to compare this to. Mr. DeHart also stated his concerns regarding too many amenities.

Mr. Will replied that they had a very large 400 unit proposed development in 1983 where they have absolutely changed their direction from age-restricted to age-targeted. He stated that he does not have a market study for Lower Swatara Township. He does not believe that this development will be so attractive to families that it would create any other strain to the school other than the people that already want to move into this Township. Dauphin County Planning said that age-targeted housing could provide some of the housing recommended in the comprehensive plan while not being too restrictive. The Township does not want us to build 83 unoccupied units. They want to see a thriving development as does the developer. Mr. Will believes that they can accomplish this by making this an age-targeted community, but can not give any guarantees either way. What he stated was that their designs have not changed, and their definition will show that. Financing is another issue that Mr. Will brought up. The banks in all of the age-restricted communities in the neighboring areas, such as in Lancaster County and York County, have stopped financing age-restricted projects, and they are bailing out on the developers.

Mr. DeHart questioned Mr. Will if financing is the real reason for the need to change from age-restricted to age-targeted.

Mr. Will replied that while financing is part of it, the real reason is the market and demand. They are finding in studies coming out across the country that those aged 55 and older do not want to live in age-restricted developments.

Mr. Breon addressed the fact that there is already a residential classification on the books, so why do we want to spot-zone one piece for this particular situation. He questioned the real difference between age-restricted and age-targeted.

Mr. Will responded that what you are getting with age-targeted is the reassurance that you are not going to see 20-foot wide, 3-story townhouses.

Mr. Breon commented that the applicant has already given us the plan of what they think they are going to do.

Mr. Will commented that if you re-zone it RS (Residential Suburban) for example, they could take that plan and do whatever they wanted with it. Another option would be to change the entire ordinance from age-restricted to age-targeted. Then everyone would have the same set of rules.

Mr. DeHart questioned if the applicant were asking the Planning Commission to put in a new classification or change the one that exists.

Mr. Will stated this was not what he was asking. He only wants to know what the easiest way would be to handle this, so that they could move ahead with this project. He questioned the Planning Commission if they recommend to re-zone this property to RS.

Ms. Wick stated that even if the property was re-zoned to RS or RU (Residential Urban) that would not require the amenities and services planned for this community.

Mr. Will commented that they could go to the final on their plan, and there is also commercial on the front that cannot be affected.

Mr. Breon questioned the staff if they are recommending age-targeted for this project.

Ms. Wick replied that staff would find it difficult to enforce this type of ordinance, and she doesn't believe that age-targeted housing will meet what is needed by the Comprehensive Plan. Also if these developments that are 15 years old are not working other places, why push it here?

Mr. Latsha commented that with age-targeted housing, you can market to the world, and not be discriminatory since you could not exclude anyone. In the past we had worked hard to get the age-restricted housing, and now we are backing away from that.

Mr. Will stated that they do not believe they have a market or can get financing for the original age-restricted development. They are willing to come in and start the project, but would like leniency from the Planning Commission. They cannot afford to put another 1.75 million into this project and not be able to sell the houses. Since building permits are down, this could be a positive for the Township.

Mr. Breon suggested that the Planning Commission make a recommendation.

Mr. DeHart questioned what our time table is for the hearing.

Ms. Wick replied that on August 1st the Board of Commissioners need to act to advertise.

Mr. Breon commented that they could recommend doing exactly what they are requesting, to leave it like it is, or come up with something else.

Mr. Latsha commented that before recommending anything move forward, the Township should have their solicitor take a look at this. Mr. Latsha suggested there may be legal issues associated with the age-targeted housing or spot-zoning this particular property. He questioned whether the applicant had a legal review completed of the project.

Ms. Wick stated that if this change would go through, then it would be a special exception that could be placed on any commercial neighborhood property. Currently these properties are limited, but would also affect any other request to re-zone a property to a commercial neighborhood property. Once it is on the books, it can impact what is left of the commercial neighborhood area.

Mr. Breon questioned Mr. Wagner on his thoughts on the three main options given.

Mr. Wagner preferred to table it, and then get the legal information before making a recommendation.

Ms. Wick commented that the residential retirement overlay requires the commercial part also, so it has to be a mixed use as in this case.

Mr. Will commented that we already have a special exception in our ordinance, but we would only be changing age-restricted to age-targeted.

Ms. Wick stated that if this became a change to the zoning ordinance, they would need to go back to the zoning hearing board and request another Special Exception.

Mr. Latsha felt that they have not succeeded in creating an age-restricted housing project. The Planning Commission wants to see the project succeed but was not in favor of approving this if age-restricted is not a part of it. Mr. Latsha has concerns of what is being created. The goal was age-restricted, and he is unsure that buyers will know what they are getting. Seven years ago age-restricted might have worked, but he understands that times have changed.

Mr. DeHart also has reservations at this time to change the age-restricted to age-targeted. His concern is in the long-term if this is opened up as age-targeted. He feels that this is not going in the right direction to obtain what was thought was needed. If lawyers review this, and we see how other municipalities are doing this, then we could review this at that time.

Mr. Latsha questioned if an age-targeted plan would be compliant with the fair housing law? The Planning Commission would not want to create something in the Ordinance that is contrary to State law. Only if permissible by law, can we consider age-targeted and open this up to all housing. Mr. Latsha recommended a market study be completed to see if there is a current market for 55 and older.

The Planning Commission would like to have the Township Solicitor give an opinion on the legality of the age-targeted project. A market study should be submitted by the applicant. Also the applicant should address the financing concerns in writing for submission to the Planning Commission.

Mr. Will answered questions from the Planning Commission on the Homeowners Association. The developer would start an association and control it up until the planned community takes over. He has had conversations with Paul Navarro to lease the community space to the association with a long-term option. If the Homeowners Association did not uphold their responsibility, the Township can take control. Banks also investigate documents to ensure Homeowners Associations are set up correctly.

Following the Homeowners Association discussion, the Planning Commission motioned to table the Zoning Amendment request of Fulling Mill Road, LLC. The motion was made by Mr. Breon and seconded by Mr. Latsha to table and get additional information from the Township solicitor and the applicant.

Motion unanimously approved.

ADJOURN

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

Motion unanimously approved.

Meeting adjourned at 7:58 P.M.

Respectfully Submitted:

Brenda Wick, Planning and Zoning Director