

LONDONDERRY TOWNSHIP PLANNING COMMISSION

783 S. Geyers Church Road • Middletown, PA 17057
P: (717) 944-1803 • www.londonderrypa.org

REGULAR MEETING MINUTES **MEETING DATE: August 19, 2024**

The Londonderry Township Planning Commission held their regularly scheduled monthly meeting on Monday, August 19, 2024 at the Londonderry Township Building, 783 S Geyers Church Rd, Middletown PA 17057.

Call to Order:

Chairwoman Basehore called the meeting to order at 7:00pm

Roll Call/Members Present:

Patience Basehore (Chair)
Bob Pistor (Vice Chair)
Deb Weaver (Member)
Ruth Jilka (Alternate)

Absent Members:

Irvin Turpin (Member)
Adam Kopp (Secretary)

Also Present:

Brett Flowers, Esq (Township Solicitor, Eckert Seamans)
David Blechertas (Township Manager)
Duane Brady Jr (Township Code Officer)
Mike Wood (Township Engineer, HRG)
Michelle Phillips (Township Executive Secretary)

Attendees: See attached list for Residents/Guests in attendance.

Approval of Minutes:

Chairwoman Basehore requested approval from the Board to accept the minutes of the June 17, 2024, Planning Commission meeting.

It was moved by Mr. Pistor and seconded by Ms. Weaver that the Board dispense with the reading of the June 17, 2024, Planning Commission Meeting since all members received a transcript.

On a roll call vote, the following voted “Aye”,

Chairwoman Basehore, Bob Pistor, Ruth Jilka and Deb Weaver

Chairwoman Basehore thereupon declared the motion carried.

Chairwoman Basehore requested approval from the Board to accept the minutes of the July 15, 2024, Planning Commission meeting.

It was moved by Ms. Weaver and seconded by Ms. Jilka that the Board dispense with the reading of the July 15, 2024, Planning Commission Meeting since all members received a transcript.

On a roll call vote, the following voted “Aye”,

Chairwoman Basehore, Bob Pistor, Ruth Jilka and Deb Weaver

Chairwoman Basehore thereupon declared the motion carried.

Citizen Input: None

Old Business:

Vice-President Bob Pistor requested to go on record to recuse himself from the discussion and motions due to the conflict of interest for the Falcon Crest/Lytle Farms Plan.

- Falcon Crest/Lytle Farms – Preliminary/Final Land Development Plan

Ms. Kim Fasnacht, Engineer from Rettew, representing the Falcon Crest/Lytle Farms plan stated they have received an Admin Complete letter for the NPDES permit which means it will be going into technical review. The Township had also received a copy. She said they did receive the first review of the PP&L encroachment, and they are working

on some minor comments. She stated that they estimate MET-ED's review to be ready in about 3-4 weeks.

Ms. Fasnacht stated that they were before the Board of Supervisors on August 5, 2024, and the developer received approval with conditions for all 8 technical waivers. She stated that the developer formally withdrew the preliminary /final request today. The plans will be revised as a preliminary plan with finals for each phase. She also received the first review of the Traffic study from HRG and PennDOT.

Mr. Craig Mellott, Traffic Engineer for the project, stated the role of the TIS is two-fold; to evaluate site access requirements for the development and to evaluate the impact of this development at full buildout on the adjacent road system. He stated the access is State Route 230 so they will be subjected to PENNDOT standards. To do this there was an extensive scoping process with PENNDOT, the Township's Engineer, Middletown Borough's Engineer and with Tri-County to identify the key parameters of the report. He said the scoping process is key, for it identifies what intersections you look at, what time periods you will evaluate and what other developments are planned that will need to be incorporated. At the end of the scoping process, it was agreed upon with the Townships Engineer and PENNDOT that they would look at 16 intersections. Those included Vine Street intersection with Rt. 283, Vine Street to Rt. 230 in Middletown, some adjacent intersections in the Borough and all the way up Rt. 230 to the Toll House Road interchange. They also considered 6 other planned developments in the area. Once the scoping process was completed, traffic counts were done to forecast the development impact. Mr. Mellott stated the purpose of the TIS is to determine the impact of the Falcon Crest Development. In terms of the offsites improvement, they are recommending minor improvements in Middletown Borough concerning some traffic signal timing, phasing and striping updates. He said, regarding offsite improvements in the Township there was no impact at the Vine Street intersection, Toll House Road/230 intersection, and the Toll House Road/283 interchange. He stated that the upcoming Tolani project was also considered in the traffic study.

Mr. Mellott stated in terms of PENNDOT's site access, it will be accommodated by Falcon Crest Drive, Crested Lane and a driveway access to Rt. 230 opposite to Colebrook Road that serves a small retail building. He said the study found that signal warrants are not anticipated at any of the

driveway locations. He stated that PENNDOT drives that decision by the minimum volumes of traffic that you have to exceed to be able to install a traffic signal. The study found that the plan is below the thresholds. PENNDOT has determined that a stop sign would be appropriate at all 3 of the driveways. In terms of other improvements, at the intersection of Crested Lane it was proposed to widen Rt. 230 to construct a dedicated left turn lane that goes into Crested Lane, likewise with the right turn lane at the location. In the area of the small retail building opposite to Colebrook Road it was proposed to convert that area into a dedicated left turn lane that goes into the driveway. This is a low volume driveway based on PENNDOT's standards. He stated that at the Falcon Crest Drive entrance it was proposed to have a stop sign at the location with a dedicated right and left turn going into the location. There will also be a bicycle lane added to the entrance of Falcon Crest Drive.

Mr. Mellott said he will be meeting with the Townships Engineer to discuss the comments from PENNDOT and Middletown Borough. He stated that not much will change due to the traffic plan proposed.

Chairwoman Basehore stated that she is amazed that PENNDOT is not requiring a traffic light at any of the intersections with the increase of 826 residential homes and commercial space being put in.

Mr. Mellott stated that it is a function of the volume of traffic of Route 230, for there is just not enough traffic to get to the threshold. PENNDOT drives the decision due to the aspects of the traffic study.

There was a discussion amongst the Board and Mr. Mellott regarding the traffic study and how the decision was made from PENNDOT to not put the traffic signals in.

Ms. Fasnacht stated that there are 2 items to discuss. The first is the curb and sidewalk deferral along Harrisburg Pike/Rt. 230 and the recreational open space plan. She stated at the Board of Supervisors meeting the preliminary/final plan was withdrawn. She said nothing has changed on the request to defer the curb and sidewalks.

Ms. Weaver and Chairwoman Basehore stated that their opinion has not changed, and they are recommending denial for the curbs and sidewalk deferrals.

Mr. Mellott added that it is PENNDOT's position on higher speed roads (such as RT 230) to discourage curbing just because if you hit curbing at a high speed it can lead to more severe crashes. He stated that another reason in PENNDOT's world is when you introduce curbing you then introduce the need to put in inlets and a pipe system that will need to be maintained and their preference is to have it run off the road or run into swales, so no maintenance is needed. He stated that he has been through this quite a few times in other municipalities where PENNDOT's position is they won't tell us we cannot do it if the Board tells us to do it, but their preference is not to do it because of the potential safety issue and the drainage issue that comes with it.

Ms. Nagy, counsel for PLF, LLC stated the developer feels that there is a significant safety risk by putting the sidewalks and curbs in and they would be asking the Township to indemnify the developer if any incidents were to happen there. She stated there will be gaps of sidewalk due to the land developer not owning part of the sideways which will create a perilous situation for pedestrians.

Ms. Weaver asked who is responsible for the people that walk on the street without sidewalks

Ms. Nagy said that it would be the Township or PENNDOT.

Ms. Weaver asked if the sidewalks are built, then they would be the problem of the developer unless the Township takes it over.

Ms. Nagy stated yes but certainly if there was a sidewalk built, they would be encouraging the pedestrian to walk into the travel lane.

Mr. Mellott stated that when you have a culvert that is wide you would be transitioning traffic when you approach it. He said he knows you would think it would be simple by just narrowing the shoulder and putting a curb and sidewalk in, but you can't do it because the structure is set up to accommodate a certain amount of load and PENNDOT will not allow you to go in and mess with the concrete to run a sidewalk through there. He said that you can't control what pedestrians do, but they don't want to encourage the activity by the design vs what they are doing today.

Chairwoman Basehore asked, so what is being said is to not to have a sidewalk from one portion of 230 to Falcon Crest Drive?

Ms. Fasnacht said that there is also the same situation west of Crested Lane where the property is going up against the bridge.

Mr. Mellott stated there will be gaps of the curbs and sidewalks due to the ownership of the land that runs within the development. He said on the curb side the land is set up so the water runs off the road and you would not have to have structures for it to get into a swale, minimizing the number of structures that will need to be maintained. Therefore, by putting in a curb it will add a lot of maintenance that goes along with it.

Chairwoman Basehore stated when this was discussed last time it was mentioned they would have deferred the curbs and sidewalks. She stated the development starts at Middletown, and they would want to continue that through the Township. She said the Board is aware that people would utilize a walkway from the development to Middletown. How they do it whether it be on the road or sidewalk is not known, but they are sure that people will be walking that way. She recommends the Board takes a bigger look at the scale.

Ms. Fasnacht stated it will continue to be fragmented because the developer does not control the frontage.

Chairwoman Basehore asked how far off the roadway would the sidewalks be.

Ms. Fasnacht stated it would be 5 feet.

Chairwoman Basehore stated that she is inclined to table the deferral till next month so the Board could take another look at plans.

Mr. Blechertas asked the Solicitor since the applicant mentioned an indemnification if the sidewalks are installed would this be something that the Township can do.

Ms. Flowers, Township Solicitor stated it could voluntarily be done but there is no mechanism by which it would be done.

Ms. Fasnacht asked if due to the grade in some of the area would it be within the developer's right-of-way.

Ms. Nagy stated the reason it would need to be indemnified is that they have raised a significant safety issue under the Tort Claims Act, Section 85-49, or 84-49.

Ms. Flowers stated it was Section 84-42.

Ms. Nagy said the Township now has notice of a dangerous conditions and once the developer puts you on notice the Township would have to accept the liability. She said that due to the significant safety concern the developer does not want to do the sidewalks not because of the money aspect but for the safety concern. Therefore, if the Township says they want to enforce it even though they are on notice that there is a danger the Township must be a party or indemnify the developer because they have raised the safety concern.

Ms. Flowers stated sidewalks are already an exception to governmental immunity.

Ms. Nagy stated that there can only be an exception if you don't have notice, and a notice of dangerous conditions has been advised.

Ms. Flowers stated they are an exception if we have notice, therefore we must be notified. In general, if there is a dangerous condition with a sidewalk the Township is liable. She said when it's in the right-of-way there is no reason the Township will indemnify the developer for when it's not in the right-of-way it's in their private property which is a separate question.

Ms. Fasnacht stated that at next month's meeting there will be no additional information on the curbs and sidewalks matter.

Ms. Nagy asked if the Board would like to see the segments of the plan.

Chairwoman Basehore stated yes for if the Board decides there is a need for sidewalks, they want to put them in but if there is some question about problems or danger then it will need to be discussed.

Ms. Nagy wanted to address the Board to see if they have any questions on the offer of the land dedications.

Chairwoman Basehore stated they have reviewed the lay out and the parcels that would be potentially dedicated to the Township and feels disinclined to accept the land.

Ms. Weaver stated the land can't be used.

Chairwoman Basehore stated the land is very difficult to use in the methods that are needed for all the residents.

Ms. Nagy stated that in looking at the Townships Ordinance that calls out flood plain they feel they meet the criteria. Some of the dedicated place is in the flood way, there is active space that could be used for potential ball fields closer to the road. She said they looked at the National Plan that the ordinance calls out and since the Township does not have a REC plan it's difficult to know what the Township would want to see. The National Plan does call for passive open space areas where there could be hiking, walking trails and things like that in the area. The State Plan created by DCNR called out participants from Londonderry Township and Middletown in their State Plan Survey. The participants of the survey wanted open space for quiet meditation, bird watching and walking. She stated that in the survey one of the highlights from the Township's area of the Commonwealth was to just have general open space that was passive. She said even though they did not have to look at the State Plan they did and found grants available to Township.

Ms. Nagy feels that when you look at the National Plan for which the ordinance refers to and the State Plan that specifically had a lot of surveys from the area that this would be something that could be beneficial to the Township because of the survey responses. The State Plan survey is for 2020-2024, and there has not been an updated one since. She stated the plan has multiple breakouts such as wellness, active recreation and different components of what recreation is. She said the plan is good till the end of this year, and she does not know if the Governor's office will be doing another one next year.

Ms. Weaver asked what the push is to have the Township accept the donation of land and what benefit it is to the developer.

Ms. Nagy stated that there are different things that a Township can do from a recreational standpoint, one might be certain fees. She said it's a better use of integration for the Township as well as different option for the residents at Falcon Crest rather than just paying a random fee that might be used in some other part of the Township that is not connected to the development. She stated there will be natural open space with some preserved areas of the trails being proposed. With having the open space, it will always be open as opposed to someone coming back and saying they want to subdivide the land. She stated they liked the idea of having an open buffer alongside of their plan.

Ms. Weaver asked why the developer wouldn't just keep it and make it part of their development.

Ms. Nagy stated at the first meeting it was brought up about having recreation and open space and thought collectively it was a good idea together. She said there will be improvements throughout the development to have corridors for walking and thought that having the open space or if the Township had a better need or use rather than the developer trying to maintain it or maybe not having their standard or you're asking them to do other things.

Mr. Pipitone, landowner for the project, stated he has also studied the "We Conserve," study, which goes by the national standards for parks and rec. In this study it states how the Township does not have a park and rec plan, and yet the Township still collects park and rec fees. There has been a concept over the years that when you develop park and rec there always has to be a playground or tot lot. He said when you look at national standards, they call for natural vistas, where people can walk up a hill, look at birds, see wildlife in the area and get to a plateau and overlook a stream. There are natural vistas that do not have a playground or pickle court, or a tennis court. He stated there is a lay out of how municipalities have different needs for different claims of uses.

Ms. Weaver asked why not have it be part of your development and why would you just want to give it to the Township.

Mr. Pipitone stated the Townships Ordinance calls for Park and Recreation fee or land in lieu of. Therefore, the land is being offered to the Township.

Mr. Wood stated that they can give the land or pay the fee.

Mr. Pipitone stated that it is up to the Township to do what they want with the land that is being offered to them but if the Township decides they do not want it, the Township will end up not getting anything. He stated what they are thinking is that at the top section of the donated land it could accommodate a tot lot or small playground. The area in the floodway could accommodate walking trails. He stated that the far reach area of the donated land could be used as a natural vista for which residents could go up and look at the view. It will be up to the Township to decide what they want to use the donated land for. He said his predecessor, which is Core 5, just paid a very big recreational fee that he anticipated the Township could use on the developer's side of the street. He stated that the money went away from what he understands and is now being used for a tot lot at the golf course.

Mr. Blechertas stated there is not a tot lot at the golf course.

Ms. Flowers stated that if land gets dedicated to the Township it will become the Township's property to maintain vs the fee in lieu. If they don't have the required 25%, they will pay the fee in lieu.

Ms. Weaver asked if the Township does not accept the donation, then the Developer does not have to pay the fee in lieu of?

Ms. Flowers stated the Township does not have to accept it; for we only accept what the Township wants to accept. The Developer can retain it if they meet the requirements of 25%.

Ms. Nagy stated that if the donated land is given to the Township the residents can enjoy it for if it stays with the developer the land will be closed off and only used by the residents of the development.

Mr. Pipitone stated there would be grant money available to the Township once it becomes Township property to improve.

Mr. Wood stated per the ordinance section 22410.2C, the maximum percent of 25% of the total land required by this section to be provided for the rec may consist of flood plain areas. He stated that the area is about 72% flood plain. He stated the definition of a flood way is the special hazard area in

the flood plain. The designated area of the flood plain/flood way is required to carry and discharge flood waters with the given magnitude, for the purpose of this chapter flood ways will be capable of accommodation a flood of 100-year magnitude. In regard to the land that is being offered to the east of the private area, he said per Ordinance 22410.3B states site or sites should have suitable topography and soil conditions for use of development as a recreation area.

Ms. Fasnacht stated that no action is being required tonight. She said the intention is to revise and resubmit the preliminary plans only and get the sidewalk plan over to Duane in the meantime so the Board can see it ahead of time. Also, an executive summary will be provided so that the Board can see it extracted from the overall traffic impact study. She said that the definition of flood plain will also be looked at.

Mr. Blechertas asked Mr. Mellott if there were any improvements to Foxianna or Geyers Church Road.

Mr. Mellott stated there are none as far as capacity impacts.

Mr. Blechertas asked about the conditions of Foxianna Road with the impact of construction vehicles, is there anything that could be a result of that with the study.

Mr. Mellott stated they do not specifically evaluate that part in the traffic study but could certainly a conversation can be had with HRG about that.

New Business:

Discussion on proposed changes to the zoning ordinance

Mr. Brady, Township Zoning officer addressed the Board about a proposed amendment to the Zoning Ordinance. He said the changes that are being suggested are to remove most of the residential uses from the Commercial 1 and Commercial 2 district. He stated currently the zoning ordinance is designed in a stacking or compounding fashion where everything in the R1 is permitted in R2 and both of those zones are permitted in the Commercial 1 and all three are permitted in Commercial 2. Mr. Brady reviewed the map with the Board pointing out the areas that are for commercial use. He said he is looking to preserve the Commercial areas that are already designated

and not have to take away from R1 and agricultural areas. There had been some conversation to allow the removal of the principle residential uses from the commercial districts.

Mr. Blechertas stated they are looking to establish a designated growth area between Rt 230 and 283, following the public sewer north in the Vine Street area. This area is where the Township would like to maximize development in the future because of the availability of utilities and road infrastructure. This is also the area where a lot of the commercial is located. He said the idea of the designated growth area is not just that it maximizes density within the corridor, but it spares the remainder of the Township and preserves the rural agricultural nature of the northern and southern portions of the Township. What we don't want to do is lose that valuable commercial land because commercially zoned land is an important component for a township to have a well-balanced tax base, and a well-balanced availability of services to residents. The Township wants to provide a certain amount of commercial for the residents. In the current ordinance that commercial area may be developed residentially, and the concern is that you would lose that commercial space. Then in the future, when we would get demand for commercial space for other areas, we don't want to convert R1 and AG zones into commercial land to make up for commercial land that was residentially developed under the current ordinance. The goal is to control and reserve the commercial land that we have to maintain that balance. The reason for this request is to save our commercial land and there by save the residential and Agricultural land.

Ms. Weaver asked why short-term rental units would be allowed under the C1 if we didn't want housing there.

Mr. Brady stated short-term rentals do not necessarily have to be in new housing or in new developments. He said short-term rentals could be apartments and there does not need to be a townhome or single-family dwelling for it to be a short-term rental. He stated any residential that is there already will become non-conforming. With the existing structures being turned into non-conforming structures, those houses can be used for houses in perpetuity as long as the use does not change. What preserving short term rentals in that district does is allow a use of what is already legally permitted there to continue as a commercial use. He stated that short term rentals are permitted in R2 and due to the current compounding nature of the ordinance they are by default allowed in the C1 and C2. Short term

rentals are a type of commercial use and its appropriate to leave them in the C1 and C2 district.

Mr. Pistor stated he was at a meeting relating to a soccer club coming in and wanted to know if this change will be an impact.

Mr. Brady stated the ordinance would not have any impact on the proposed landowner.

There was a discussion amongst the Board and Mr. Brady regarding the verbiage of the ordinance.

Chairman Basehore asked if there is more tax revenue from commercial vs. residential.

Mr. Brady stated that commercial taxes are higher than residential property taxes.

Mr. Blechertas stated that what this Township experienced for a long time with TMI being in business was a nice healthy tax base with practically no commercial development. He said hopefully TMI has positive plans for the future, but when that revenue went away it really exposed how unbalanced the zoning was in the Township. He stated that there is not a lot of land that is zoned commercial, and it is important to maintain the Township's rural character. He stated we need to at least preserve the commercial we have.

Chairman Basehore asked how the utility behind Rutters was taxed.

Mr. Blechertas stated he did not know but thinks it is a Public Utility.

Mr. Brady said the Public Utility Commission has a lot of sway, and they are more than likely tax exempt.

Chairwoman Basehore stated that the Township lost a lot of revenue off Vine Street due to the utility and storage center going in instead of a shopping center and restaurant and she does not want to see that happen again.

Chairwoman Basehore requested approval from the Board to recommend the proposed ordinance changes to the Board of Supervisors as Ordinance 2024-06

It was moved by Ms. Weaver seconded by Ms. Jilka that the Board recommend the proposed ordinance changes to the Board of Supervisors as Ordinance 2024-06

Chairwoman Basehore asked if there was any other discussion.

Mr. Pistor asked if TMI was a Public Utility why were they not tax exempt.

Mr. Blechertas stated he would have to research it.

Mr. Mel Hershey, Township Supervisor stated that the Township lost 42% of its income, the School District lost \$890,000 and another \$200,000 in revenue. He also said that Dauphin County lost 1 ½ employees per shift that was being paid for.

Mr. Blechertas added that the LST & EIT tax were also lost.

On a roll call vote, the following voted “Aye”,

Chairwoman Basehore, Bob Pistor, Ruth Jilka and Deb Weaver

Chairwoman Basehore thereupon declared the motion carried.

Any Other Matter: None

ADJOURNMENT:

There being no further business to bring before the Board, a motion by Ms. Jilka seconded by Mr. Pistor the meeting was adjourned at 8:15pm

Signature on file

Secretary – Adam Kopp