

LONDONDERRY TOWNSHIP PLANNING COMMISSION

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REGULAR MEETING MINUTES MEETING DATE: OCTOBER 21, 2024

The Londonderry Township Planning Commission held their regularly scheduled monthly meeting on Monday, October 21, 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) – recused from meeting
Irvin Turpin (Member)
Deb Weaver (Member)

Absent Members:

Adam Kopp (Secretary)

Also Present:

Jim Diamond, 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 August 19, 2024, Planning Commission Meeting.

It was moved by Ms. Weaver seconded by Chairwoman Basehore that the Board dispense with the reading of the August 19, 2024, Planning Commission Meeting minutes since all members received a transcript. The motion carried unanimously.

Citizen Input: None

Old Business:

Falcon Crest/Lytle Farms – Preliminary Land Development Plan

Ms. Jill Nagy, attorney for the developer, stated there are 3 items they are looking to have moved before the Board of Supervisors. This included recreational space, sidewalks and the Preliminary Plan. She stated there are 2 options that are being presented to the Board for the recreation space. One being a private park and the other being a dedication of land to the Township.

Joel Young, from Rettew stated that Option 1 is on the western side of the property along RT 230 and the Swatara Creek. This land would be dedicated to the Township for active and passive recreation and is over 30 acres. Option 2 is in the center of development, where there would be potential pathways, streams, sledding hill, fishing pond, dog parks and open space. This would all be maintained by the HOA.

Mr. Pipitone, developer of Lytle Farms, stated the idea of option 2 was to create a 70-to-72-acre park. It would be up to the residents of the community to decide how they want to develop the recreational space.

There was a lengthy discussion amongst the Board, Staff, Solicitor and the Lytle Farms team about the recreational plan. It included how much of the space was in a floodplain/floodway, the connection of the Foxianna Road development and the rest of the community, previous staff's recommendations of a plan presented 20 years ago, and the agreements/commitments that were made by the developer to other organizations such as the water and sewer lines. Also discussed were the slope and access requirements for the Recreational Plan, the role of the Board of Supervisors, how the plan can move forward to the Supervisors and what documents are needed for the Planning Commission Board Members to get it approved.

Mr. Blechertas stated if the applicant favors option 2 of the open space plan and the Ordinances of the Township are followed then staff would not have a problem with it moving forward.

Mr. Diamond, Solicitor for the Township, stated that passive recreation alone would be acceptable, and the recreation plan will need to be wrapped up tight to be able to move on to the Board of Supervisors.

Mr. Pipitone stated the initial intent of the development is to provide walking trails, a fishing pond, pocket parks, dog parks and a sledding hill. He said anything else would be decided by the private community and maintained with the HOA.

Ms. Weaver asked who has the end responsibility of making sure the HOA follows through with their responsibilities.

Ms. Nagy stated the Township would have the right but not the obligation to enforce any of the covenants which are standard, but those declarations will be a covenant of every single property.

There was a discussion regarding which plan revision should be referred to and what should be included in it.

Ms. Nagy stated the June plan should be used, because it shows the amenities being built by the developers. A plan note will be added along with the de minimis relief involving slope, flood plain and 410.3A with waivers applied.

Chairwoman Basehore asked if there are 3 waivers.

Ms. Nagy stated yes.

Mr. Diamond stated that we do not know if 7% is de minimis, for there is no data on it.

Ms. Nagy said we are asking for some adjustment which will be calculated precisely for the Supervisors.

Mr. Diamond stated he wanted the Planning Commission Board members to understand that once a decision is made it will not come back to the Planning Commission.

Public Comment:

Allen Detweiler, resident of the Township, addressed the Board over his concerns regarding access of the development at Foxianna Road and the rest of the community. He also asked if any trees would be removed in the wetland area.

Mr. Pipitone stated that there would be no access from the Foxianna Road development to the rest of the Development and that no trees will be taken down in the wetland area.

Kevin Little, resident of the Township, addressed the board of his concerns of the high-pressure natural gas line that runs through the development and if the Fire Department has been notified. He also asked if the development would be affordable housing and if there would be no short-term rentals and Bed and Breakfast rentals.

Mr. Young stated that UGI has been involved with this plan regarding the line.

Mr. Pipitone stated that they will try to provide affordable housing and rentals. He said there is \$84,000 in every home which is a result of government regulation and the regulation that he has provided. He said regarding the short-term rentals and Bed and Breakfasts the Township has passed their own ordinances, but they are not expecting to have them in the development.

Chairwoman Basehore stated she does not feel comfortable approving the Recreational Plan due to not having the specifics and waivers for the plan.

Chairwoman Basehore made a motion to table the Recreational Plan until more information is provided. It was seconded by Ms. Weaver and the motion carried unanimously.

Ms. Nagy stated next is the deferral will be for the sidewalks. A plan was presented to the Board before with all the health, safety and welfare concerns. She said one of the things that came up was what would the Township be responsible for and how much of the sidewalk would be in the PennDOT right-a-way. As a normal course of operations, the developer cannot enter into an agreement with PennDOT. Therefore, it would be the Townships responsibility to enter a maintenance agreement with PennDOT as well as accept liability for the sidewalk. She said they have shared their concerns about the safety components of the sidewalk and research has been done on the Core5 part and that was when the Planning Commission stated they did not want sidewalks on RT 230.

Chairwoman Basehore stated that was not true.

Ms. Nagy stated there are some concerns being there will be a new DM2 regarding transportation and pedestrian amenities. This will likely be released for comments to PSATS and Municipalities this week. She stated she has seen it already and certainly the pedestrian walkway would have a chilling effect on public transportation based upon the disconnectivity of the sidewalk, that is not in place today but would be in place in some future date if public transportation would be available in this area. She said she wanted to walk through what the Township would be ultimately responsible for from a sidewalk perspective because they had previously had not plotted in that manor so they wanted the Township to know what they would be accepting responsibility for if the sidewalks were put in.

Mr. Young walked the Board through the experience of what one would have while walking along RT 230.

There was a lengthy discussion regarding the area along RT 230 and where the sidewalks would be installed, the areas that are not owned by the developer, topography of the land, the right-of-way areas and how the developer does not want to be liable for the sidewalks.

Mr. Young stated he sees it being a safety concern for pedestrians by the inconsistency of sidewalks along RT 230.

Ms. Weaver stated that people walk along RT 230 regardless of whether the sidewalks are installed.

Mr. Diamond said it supports having the sidewalks the entire way as much as it does not having any.

Ms. Nagy stated we would be encouraging pedestrians to walk along there. If someone is walking along there the developer or Township is not encouraging them if they are doing it, that would be at their own risk. Once we start to encourage them to do that then they have created an additional risk.

Mr. Diamond stated that the risk would be taken away because they will be off the shoulder of the road.

Ms. Nagy said by creating sidewalks it is encouraging more people to be on them as of now without the sidewalks they are at their own risk with no encouragement.

Mr. Diamond said as a solicitor he does not have that opinion, he thinks the opposite with having sidewalks the entire length of the development to reduce the risk.

Mr. Young stated they are asking for a deferral and in some time in the future after the development sidewalks are in, the bridge is improved, and other things like that it may make sense with a more complete corridor.

Mr. Blechertas asked if what the developer was saying, is that a safe sidewalk could not be built.

Ms. Nagy stated that is correct.

Mr. Blechertas asked if what the developer was saying, is that in the future a safe sidewalk could be built.

Mr. Pipitone stated that PennDOT is currently studying the area from the airport to this whole corridor as part of the 250 or 230 plan due to the Airport Expansion. He said that sometime in the future he thinks there is a possibility that some of the road and frontage will change on RT 230. Therefore, they are asking for a deferral instead of the waiver.

Mr. Diamond asked if the developer would be willing to post the cost of installing sidewalks as security.

Mr. Pipitone stated it was not asked for in the development across the street, so why would it be asked for the Falcon Crest Side. He said he did not intend to.

There was a discussion regarding whether the deferral was something the Township would consider if a bond was posted for the sidewalks, the liability of the sidewalks, what the previous Township Staff and Township Engineers recommended 5 years ago, if PennDOT was consulted on putting a barrier on the bridge, who would be responsible for the application to PennDOT, and the safety concerns the developer has with installing the sidewalks compared to the Townships stand on it being safer with the sidewalks being installed.

Mr. Diamond stated the last development that was approved had sidewalks.

Ms. Nagy asked if a deferral was something the Township would be willing to consider if a bond was posted.

Mr. Diamond stated he did not know if that is the case or not, for he was asking if that was something the developer was proposing.

Ms. Nagy said they do not feel comfortable at this time installing sidewalks due to the safety elements.

Chairwoman Basehore asked the developer if they would consider posting a bond.

Mr. Pipitone stated that he would, but he will not accept liability for the sidewalks. He said this was discussed by the previous administration and for 5 years they were told there would not be any sidewalks here. Staff changed and everything else changed.

Chairwoman Basehore asked how a bond would be determined.

Mr. Diamond stated that it should be taken off the table because it was not suggested by the developer.

Ms. Nagy said if this is what makes the Township happy that this is a true deferral it can be something that will be calculated. She said this is a safety issue not a cost saving.

Mr. Diamond and Chairwoman Basehore both stated it would be safer to have the sidewalks installs.

Mr. Pipitone did not agree to it being safer and offered to post the bond, but he will not be responsible for the liability of the sidewalks.

Public Comment:

Mr. Detweiler stated his concerns about there not being a traffic light entering the development. He also said that people walk into Middletown all the time and feels it's unsafe now and sidewalks would make it better.

Mr. Diamond said sidewalks are required by the ordinance and if they wanted to propose a deferral/waiver it should be proposed by the developer.

Ms. Nagy stated they have proposed the deferral and if the Planning Commission wants to reject the deferral, then it will need to be moved to the Board of Supervisors so a Public Hearing can be had on the issue.

Mr. Diamond stated you cannot bifurcate it any further therefore the plan moves with the deferral to the Board of Supervisors. It will then be at their discretion to hold a hearing, if not there will be a hearing in court.

Ms. Nagy stated under the MPC the developer can request a hearing, and they are entitled to one.

Mr. Diamond said the developer is not entitled to one.

Mr. Nagy and Mr. Diamond discussed the ability to hold a public hearing, the sunshine act, the appeal process and the plans that were presented.

Mr. Pipitone stated all the technical parts of this plan have been addressed except the Recreational plan and the Sidewalks.

Mr. Diamond said there are multiple things that have not been met regarding the Preliminary Plan approval.

Ms. Nagy said the rest of the items in the Engineers review letter, they feel are appropriate for a condition. They are asking about the deferral for the sidewalks since they know how to proceed with the Recreational Plan. She said this is the last outstanding waiver/referral. The rest of the items are agreeable plan conditions that they would then be able to get information from the supervisors to clean up. Once the plan is set, they can get the technical issues addressed.

Ms. Nagy concurred with Mr. Diamond that there are technical issues left from the Engineers' letters that they are not disagreeing with. This is the last deferral item that the developer is asking for a recommendation on, so they can finalize the plan and take care of those technical issues.

Mr. Blechertas wanted it to be clear to the Planning Commission Board that there are 2 deferrals regarding this topic, one being the sidewalks and the second being the curbs and gutters.

Ms. Nagy stated the curbs and gutters were discussed at the previous meeting, and it was semi resolved.

Chairwoman Basehore stated it was discussed previously, and it had not been approved to proceed to the Supervisors.

Ms. Nagy said she thought everyone was leaning towards understanding that there were storm water concerns with the curbing, therefore the curbing was something everyone understood.

Chairwoman Basehore stated they had heard from Andrew Kenworthy from HRG, and he suggested that might be the better option regarding the curbs and gutters.

Mr. Diamond asked if he understood what we have in writing as far as the waiver request, for now we have mentioned a deferral. He was unsure if the developer proposed posting a dollar amount and what that dollar amount would be.

Ms. Nagy stated it has always been a deferral. She said what could be done for the sidewalks is that the engineers would come up with an amount to be posted, if this is something the Board would consider.

Mr. Diamond asked if the amount would be the amount for the entire frontage including retaining walls etc.

Mr. Young stated it would be the area's that the developer would be in control of.

Mr. Diamond said that it would be different, for now you are then asking for different things.

Ms. Nagy stated she can't ask for sidewalks and the cost of property that they don't own. She said it would be the cost of the property the developer owns.

Mr. Diamond explained what a bond does to the Board. Presumably the developer would say defer this until the Township decides they are ready to pull the trigger, but they will post 110% of all the money for what it would cost to build the sidewalks along every foot of their property.

Mr. Blechertas said otherwise the burden would fall to the HOA sometime in the future.

Mr. Pipitone stated it would fall under the HOA anyway because it will be added to the cost of the lots. This is why the \$84,000 is added into every lot anyone buys because of regulations by the government.

Ms. Nagy stated once the cost is figured out by the Engineers the developer would be willing to post the cost.

Mr. Diamond stated that there would need to be a separate agreement under a separate developer agreement/account. He said the Supervisors will pull the trigger on when the sidewalks could be built.

Ms. Weaver asked who makes the determination of when the sidewalks should be built, and what is the advantage of having a bond instead of having the builder do it.

Mr. Diamond stated the Board of Supervisors would make the determination of when the sidewalks would be installed. He said he's not sure if there is an advantage of having a bond.

Ms. Nagy stated the developer does not want to be involved in the construction, and they would much rather post the bond for the Township.

Ms. Weaver asked if the developer posts the bond, then it will be the Township's responsibly to build the sidewalks.

Mr. Diamond stated that it would be different, because the Township could say the next day the developer would have to build it.

Ms. Weaver said that would put the responsibility on the Township.

Ms. Nagy stated they would give the Township an easement and let them post the bond.

Mr. Diamond said he cannot recommend this deferral with a bond, either the Board wants sidewalks, or they don't.

There was a discussion regarding the concerns of the Board regarding the sidewalks not being installed, the willingness of the developer to put up the bond for the sidewalks and not being responsible for them, what PennDOT's

involvement would be, who has the right-of-way, the involvement the Department of Transportation would have and the safety of the residents.

Mr. Detweiler, Township resident stated he feels the percentages far outweigh someone being killed without a sidewalk than with a sidewalk. If a sidewalk was installed it would get people off the road.

Mr. Diamond stated that having 80% of the sidewalk would mean 80% of the time people are not on the shoulder walking, that would be better than none.

Mr. Detwiler said who has the liability if anyone gets killed.

Mr. Diamond stated that it's not just a matter of liability, the reality is you have to do the right thing what is safe and what isn't. He said from our perspective as a government, we have a responsibility that transcends worrying about liability and trying to set up what is safe and affects a community wide concept. Mr. Diamond said we can only regulate the plans that are in front of us.

There was a short discussion regarding the utility company's involvement of their land that runs through the plan, who will need to sign off on the plan, if a compromise can be made between the Township and the developer, what involvement Core5 could have and what previous staff told the developer.

Public Comment: None

Chairwoman Basehore requested approval/denial from the Board for a deferral of Section 22-507 Sidewalks along E Harrisburg Pike/Rt 230

It was moved by Mr. Turpin and seconded by Ms. Weaver that the above deferral be denied. The motion carried unanimously.

Chairwoman Basehore requested approve/denial for a deferral of Section 22-506 Curbs and Gutters along E Harrisburg Pike/Rt 230

It was moved by Chairwoman Basehore and seconded by Ms. Weaver that the deferral of Section 22-506 Curbs and Gutters along E Harrisburg Pike/Rt 230 be approved. The motion carried unanimously.

Mr. Diamond asked the developer if they wanted to table the plan.

Mr. Pipitone stated yes, and he would like to know specifically what the Township wants. He said a lot of the things the Township is asking for are typically conditions of the preliminary plan as far as Townships go. He would like a list to be provided by the Township of the things the Township wants.

Mr. Diamond said that the developers will need to present whatever plan the developer thinks is by-right and do it.

Mr. Pipitone stated that he will provide the rest of the Engineers' review letter and if this is what was on the record tonight.

Mr. Diamond said there are lots of things and there may be more than just the Engineers report. He said the developer will need to put something through and it will be either approvable or it will not be. Mr. Diamond also added that the Phasing presentation will need to be cleaned up.

Chairwoman Basehore requested to table the Preliminary Land Development Plan for Falcon Crest at Lytle Farms at the request of the developer.

It was moved by Ms. Weaver and seconded by Chairwoman Basehore the Preliminary plan be tabled at the developer's request. The motion carried unanimously.

Chairwoman Basehore asked the developer where they stand with the traffic study.

Mr. Pipitone stated that he is waiting for a meeting with PennDOT and Middletown Borough.

New Business:

Mr. Brady advised the Board that Ruth Jilka has resigned from her position of alternate member for the Planning Commission.

Mr. Blechertas stated that the Township is looking to of (2) Zoning Hearing Board Members and (1) Planning Commission Board members.

Any Other Matter: None

ADJOURNMENT:

There being no further business to bring before the Board, a motion by Mr. Turpin seconded by Ms. Weaver the meeting was adjourned at 8:45 pm.

Signature on file

Secretary – Adam Kopp