

LEHIGH TOWNSHIP PLANNING COMMISSION

Minutes of November 9, 2020

Present: David Shulman, Chairman
Rod Miller, Vice Chairman (via phone)
Cynthia Miller
Michael Cawthray
Phil Malitsch, Township Engineer
Michael Corriere, Solicitor
Liz Gehman, Zoning Officer
Lori Lambert, Planning & Zoning Secretary

Absent: Jack Wall, Secretary

CALL TO ORDER

READING OF THE MINUTES

Mike Cawthray made a motion to approve the minutes and waive the reading of the minutes from the October 12, 2020, Planning Commission meeting. Cindy Miller seconded the motion. All voted aye. Motion carried.

TIME EXTENSION

A time extension request has been received for J & T Enterprises, LLC, Final Land Development Plan, until April 10, 2021. Mark Leuthe from Lehigh Engineering stated that this is a slow go, it is hard to get a hold of Terry Vandling. He does have time invested in the project; however, if nothing happens between now and April, he will let the plan die and not ask for another extension. Cindy Miller stated that 6 months is a long time, she will grant the time extension to the end of February. This is the property that built a home without permits and he is under a court order. Mark Leuthe amended his time extension request until February 28, 2021.

Cindy Miller made a motion to grant the time extension until February 28, 2021. Mike Cawthray seconded the motion. All voted aye. Motion carried.

A time extension request has been received for Piechota Group (Michael Piechota), Preliminary/Final Land Development Plan until March 29, 2021. Mark Leuthe from Lehigh Engineering, stated that they need additional time to finish up the engineering. Dave Shulman stated that at the last meeting this plan was presented, Brian Gasda was the

representative. He was told that the Board would not grant any further extensions, additional information was to be provided to the Board. This plan has been before the Board for approximately two years. The Board will go through the motions and have Michael Corriere draw up the denial letter for the plan. Mark Leuthe stated that the Board can do that, they will then submit another land development plan; he is not sure what the hold up is with this plan. Cindy Miller stated that this has been going on for two years, we said that we were going to deny the time extension at the last meeting if the plan was not submitted. Dave Shulman suggested giving the extension until the end of January, 2021. Rod Miller agreed that the Board said we would deny the plan.

Cindy Miller made a motion to deny the request for the time extension for the Piechota Group (Michael Piechota) Plan until March 29, 2021. Mike Cawthray seconded the motion. All voted aye. Motion carried.

Mike Cawthray made a motion to deny the Piechota Group (Michael Piechota), Preliminary/Final Land Development Plan on the basis of the Township Engineer's review letter dated July 10, 2020, and based on the outstanding issues from the last review by the Planning Commission requiring certain information be put on the plan; which information is part of the minutes from the July 13, 2020, Planning Commission Meeting. Cindy Miller seconded the motion. All voted aye. Motion carried.

A time extension has been received for the LTMA Pennsville Booster Station, Final Land Development Plan until January 31, 2021. Wayne Doyle from Cowan Associates stated that a majority of the Township Engineer's comments have been incorporated into the plan; however, some of the comments caused repercussions onto the water booster station, the plan had to be resubmitted to DEP for review. Once all the water and sewer lines are run through the Authority and DEP a plan will be submitted to the Township for review.

Mike Cawthray made a motion to grant the time extension to the LTMA for the Booster Station until January 31, 2021. Cindy Miller seconded the motion. All voted aye. Motion carried.

A time extension request has been received for the Tommy and Linda Bowman Final Minor Subdivision Plan until March 31, 2021. Dave Shulman abstained from this request. Amit Mukherjee from Base Engineering stated that the plan has been submitted for the December PC meeting. A peculiar review letter has been received from the LVPC; they are not pleased with the one lot subdivision. DEP has been contacted

several times in regards to the planning module exemption.

Cindy Miller made a motion to grant the time extension request to March 31, 2021. Mike Cawthray seconded the motion. Cindy Miller, Mike Cawthray, and Rod Miller voted aye. Dave Shulman abstained. Motion carried.

PLAN REVIEWS

LURRS/Northwoods, Preliminary/Final Lot Line Adjustment Plan

Mark Leuthe and Dave Lear from Lehigh Engineering were present to represent this plan.

A review letter dated November 6, 2020, has been received from the Township Engineer. Written waiver requests have been received from Section 147-9.A.5, Section 147-9.A.6 & 10.A.16, and Section 147-29. Dave Lear stated that they will comply with all of the comments in the review letter.

LURRS/Northwoods, Preliminary Land Development Plan

Mark Leuthe and Dave Lear from Lehigh Engineering were present to represent this plan.

Mark Leuthe stated that the well permit (public water supply) has been resubmitted to DEP for review and the wetland general permit crossings approval from DEP and Army Corp have been received. DEP has been hard to get ahold of because of the Corona Virus. Northwoods is serviced by their private water supply, they are however considered a public water supply like LTMA and they are governed by DEP. The Heritage Village water supply can supply the first 100 units of Northwoods, the permit and well are required for the remaining units and for fire suppression. This will be a back up well for Heritage Village. LTMA will supply sewer service for Northwoods, they are private lines. LTMA has provided capacity approval, a plan approval is still required by LTMA. Dave Shulman stated that he has read the LTMA minutes, it appears that there is a substantial amount of money owed by Heritage Village. Mark Leuthe stated that he is unaware of that, he doesn't pay any bills for Heritage Village.

Dave Lear stated that the community center is now Phase 2A, which is immediately after Phase 1. The sequencing of the ponds has been changed. A small percentage of water has to be discharged to the

wetlands area because the LVPC felt that the wetlands would dry up. Ponds 1, 2 and 3, are in Phase 1 and ponds 4 and 5 are in Phase 2A. The sequence has been derived through LVPC, NCCD and DEP, to meet the requirements of the NPDES and E&S permit.

Mark Leuthe stated that a majority of the comments can be addressed in the final plan stage. He would like a conditional preliminary approval. A response letter to the Engineer's review letter dated November 9, 2020, was provided to the Board.

Dave Shulman stated that a letter has been received from the Fire Marshal dated November 9, 2020. The green signs with reflective white numbers will be at the curb, this will be added to the plan. As mentioned in the letter, the hydrant location will be changed on the plan and the foot bridge will be covered as part of final plan review. Dave Lear does not have a problem with any of the comments in the review letter and they will be addressed.

Dave Shulman questioned why Lots 163 and 164 still appear on the plan. Mark Leuthe asked what the legal requirement is to remove these lots; unless Buckeye tells him that they have to be removed. Dave Shulman stated that it is his position that it's not safe; the last time a street or driveway crossed the pipeline, an agreement with Buckeye and the developer was required. We also had this discussion and Dave Lear agreed to take them off. Dave Lear stated that he made the comment to remove the lots in a joking fashion, if the PC approved the plan that night, they would be removed. The original plan was for 250 lots, it has been reduced to 198, they have worked with the Township with cove roads, etc. The Township has approved prior subdivisions where driveways have crossed the pipelines or lots contain the pipelines, the Pitts Subdivision would be one of them. They are more than willing to provide the agreement with Buckeye. Dave Shulman stated that he will not vote for the plan because of these two lots, it is not good planning, or for the best health and safety of the residents.

Pg. 3, 7. and 8, in regards to the wetlands, there are concerns by the neighbors regarding water runoff. Phil Malitsch stated that we do have the preliminary JD from the Army Corps. Pg. 3, 12., this is a condition of the conditional use hearing, what is on the plan is in response to the conditions. They have release rate approval from Act 167 and they have their NPDES permit. Phil Malitsch saw the issues on Butternut Drive, he does not believe that piping water from Butternut Drive is the best solution. Mark Leuthe stated that he worked with Phil Malitsch, they walked the property, they looked at historical photos, they looked at the design, the water problems there are not from Heritage Village. There are problems

down there; however, they are not caused by Heritage Village or the proposed development. Mark Leuthe feels that Northwoods will decrease the problems that exist. Dave Lear stated that they have gone through DEP, NCCD, LVPC and the Township Engineer, they have reduced the amount of water as much as they are legally allowed to, to the adjacent property owners. They've reduced their flow leaving the site in all storm events. They were not permitted to connect the ponds, some of the water has to be discharged into the wetlands. An access easement is being provided to an adjacent property owner. Culverts will be provided along Butternut only if required by the Township. This will be in the developer's agreement, upon full build out, it will be analyzed by the Township Engineer to determine if this is required. Phil Malitsch's opinion right now is that he doesn't want to touch anything. Pg. 3, 6., underdrains beneath Butternut Drive; Dave Lear stated that this cannot be a forever requirement, if the Township wants the pipes replaced and put in, they will put them in at the end of the development. Dave Shulman stated that the Board of Supervisors after the maintenance agreement period, may want them to do something or provide security. Michael Corriere will talk to David Backenstoe regarding this issue; Mark Leuthe stated that he will have his attorney work with David Backenstoe. Pg. 6, 6., a note will be added to the plan and the development will be built out within 5 years. Pg. 6, 10., none of the streets are being dedicated to the Township, they are private. A maintenance agreement and rules have been submitted to the Township. The maintenance escrow will be worked out with the developer. Pg. 7, Stormwater Management, 7., with the change in DEP requirements, spray irrigation is now being used. Ponds have been enlarged, after storm events the water will be pumped to the east side of the PPL line, irrigation heads will be installed and sprayed in the wooded area. There are some areas in the open spaces of the development that will have the spray irrigation as well. Pg. 7, 10., the BMP's will be part of the operations and maintenance agreement. Pg. 8, 11. and 12., the additional impervious has been included in the stormwater calculations, grading plans will be submitted for each lot. A note will be added to the record plan and will be included in the rules of the park.

Phil Malitsch stated that when the final plan comes in, it will need to be demonstrated that each phase can stand on its own. The technical comments in his review letter can be addressed as part of the final plan review process. The Pitts easement will be extinguished, an agreement was provided to the Township. This needs to be clearly shown on the plan. Mark Leuthe stated that they could get 100 lots without the public water supply permit; however, he won't be selling or starting this development to the operator of Heritage Village prior to obtaining the permit. There are approvals required by LTMA, water, Buckeye and PPL. Phil Malitsch does not have an issue moving this plan out of preliminary.

Jan Ryan, 4112 Butternut Drive, Walnutport, has several concerns. There is a driveway being cut between two ponds, there will be mosquitoes from the wetlands all over the homes being placed in that area and when they cut into the dirt and the water is re-directed it will probably come to her because her property is low. Dave Lear stated that the area with the driveway in between has been walked with DEP and the Army Corp of Engineers. The wetland area has been recertified, it has been made larger than what the Army Corp said to do. The proposed digging has been reviewed by DEP and the permit has been obtained. Mark Leuthe stated that generally speaking, development helps the person downstream. It reduces the amount of water because it is controlled. Jan Ryan stated that she went to see another engineer, he said let Mark Leuthe put it in and see if you have problems. If you do, then we have to sue, which she is willing to; she will also include Heritage Village. She also cannot believe that they are dumping the water from lot 110 on to her property. Dave Lear stated that DEP made them do that, if they didn't put water in there, it would dry up. The wetland delineation area has not changed.

Cindy Miller questioned if Buckeye has to come in and do work in the area, how would the residents of lots 163 and 164 get to their property. Mark Leuthe stated that they will never leave the line open, they will come in, do the work for the day and if they aren't done, they will close up the line. The resident will have access to their home; they may not be able to drive on their driveway, they may have to park on the street, but they will have access to their home. Dave Lear stated that Buckeye has to make concessions for someone to have access to their property. Language can be added to the park rules in reference to this issue. Cindy Miller wouldn't want to see the home condemned because of Buckeye. Mark Leuthe stated that the person will not own the land, they own the home and if there were a situation where the land is condemned, the homes are easily movable. Dave Shulman stated that he is not going to vote for this plan, beyond the planning issue, we were told these lots were going to be removed, he is tired of developers saying one thing and doing another. Mark Leuthe stated that there is no legal reason for this plan to be denied. Dave Lear stated that there were five lots that were approved in the Tim Pitts subdivision, which are identical to these two lots. The conversation that he had, it was in a joking manner, he apologizes if it was taken any other way. Rod Miller stated that he doesn't have a lot of history with this plan; technically, the homes are going on a rented parcel of land, if the home needed to be moved in an emergency situation, it could be moved. Mark Leuthe stated if Buckeye comes back to them stating that the two lots need to be removed, he will remove them. Dave Lear stated that they have met on site with Buckeye many times, an approval has yet to be received, a plan has been submitted.

Cindy Miller made a motion to grant this plan conditional preliminary approval, conditioned upon the developer complying with the comments in the Township Engineer's letter dated November 6, 2020, the comments in the Lehigh Township Fire Marshal's letter dated November 9, 2020, and the requirement that the developer agrees to not submit Phase 1 final plan until the water permit approval is received from DEP. Mike Cawthray seconded the motion. Cindy Miller, Mike Cawthray and Rod Miller voted aye. Dave Shulman voted nay. Motion carried.

LURRS/Northwoods, Preliminary/Final Lot Line Adjustment Plan

Mike Cawthray made a motion to grant the waiver request from Section 147-9.A.5, Section 147-9.A.6 & 10.A.16 and Section 147-29. All of these items will be part of the Northwoods Final Plan. Cindy Miller seconded the motion. All voted aye. Motion carried.

Mike Cawthray made a motion to grant this plan conditional preliminary/final approval, conditioned upon the developer complying with the comments in the Township Engineer's letter dated November 6, 2020. Cindy Miller voted aye. Motion carried.

GENERAL DISCUSSION

Bed and Breakfast

Cindy Miller stated that the Board of Supervisors wants the Planning Commission to come up with regulations/guidelines for bed and breakfasts. Bed and breakfasts are allowed in a residential district. By making the change to the bed and breakfast and hotel definition, when the short-term rental ordinance was created, they thought that it would protect the people in residential areas. If an Air B&B exists, it potentially could come in as a bed and breakfast now and remain. Michael Corriere looked at the law from 2017 and 2019, if it meets the definition of family, it could be used in a residential use; unless it is regulated out. It would need to be restricted to certain districts. Dave Shulman stated that our ordinance states that the owner must reside there, what happens if it is owned by a corporation? Michael Corriere would take the position that a corporate officer would need to live on site, it needs to meet the definition of family. An e-mail has been received from Charlie Schmehl which contains information regarding bed and breakfast requirements, the Planning Commission may want to consider adding some of this information. Dave Shulman stated that the short-term rental licensing and controlling sections may want to be incorporated into the bed and breakfast

ordinance. Bed and breakfasts should be limited to certain districts, NC and RC. The short term rental ordinance should be converted to Bed and Breakfast; use the definition from bed and breakfast, all of the restrictions should apply, add a screening requirement if not already included, Section 180-62.A. should remain only in a single family detached dwelling with the RC and NC zone, the number of units/persons should be limited and require someone to live there, breakfast shall be provided to overnight guests, a land development plan is required, up to 12 rooms. Dave Shulman questioned if a fire suppression system is required. Liz Gehman wasn't sure, she would have to check with Keycodes Inspection Agency. It does require approval from the Department of Labor and Industry. Michael Corriere will draft an ordinance and send it out to the Planning Commission prior to the next meeting for review at the December meeting.

GENERAL BOARD DISCUSSION

Dave Shulman stated that a letter has been received from Fred Ebert, Ebert Engineering, on behalf of LTMA requesting a letter for the Local Share Account grant they are applying for. This is for upgrades to the Pennsville WWTP. Cindy Miller stated that this is not on the agenda, the Board cannot act upon it. Michael Corriere stated that technically, it could be acted upon even though it is not on the agenda, there is pending litigation to change this. Cindy Miller stated that we will have residents coming in and saying that it was voted upon and we weren't notified of this item being discussed. Lori Lambert noted that the information was received on the day of the meeting and applicant was told someone needed to be present for this discussion (there was no representative at the meeting). This will be added to next month's agenda for discussion. The Board agreed that agenda items should not be added to the agenda after the Friday before the meeting.

PUBLIC COMMENT

There was no public comment at this time.

ADJOURN

Mike Cawthray made a motion to adjourn. Cindy Miller seconded the motion. All voted aye. Motion carried.