**M I N U T E S**

**LOWER SWATARA TOWNSHIP REGULAR MEETING**

**PLANNING COMMISSION FEBRUARY 27, 2022 7:00 P.M.**

Meeting was called to order by Chauncey Knopp at 7:00 P.M. with the following present in person:

Chauncey Knopp, Chairman Kaylee Justice, LST Planning/Zoning Coordinator

James Young, Vice Chairman James Diamond, LST Solicitor

Dennis Fausey Shawn Fabian, HRG

Dale Messick Tonya Condran, Recording Secretary

Others present:

Betsy McBride, LST Manager Don Wagner, resident

Don Fure, LST Codes Dept. Ron Burkholder, LST Codes Jordan Pulgar, Pulgar LD Eli Cekovic, UGI

Lauren McDaniel, McNaughton Joel McNaughton, McNaughton Prop., LP

Tim Mellott, Mellott Eng.

Others present via Zoom:

Alexa Korber, DCPC Amanda Daly, UGI

Jason Buchta, Ott Mark Romeo, Pulgar LD

Sharon McGrenery, UGI Vincent Tomasso Jr., UGI

Absent: Kimber Latsha

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**APPROVAL OF MINUTES:**

Mr. Knopp asked if there was a motion to approve the January 27, 2022, meeting minutes. Motion was made by Mr. Fausey to approve the minutes and seconded by Mr. Messick. All were in favor. Minutes were approved.

**NEW BUSINESS:**

1. **Sketch Plan Submission of Aberdeen.**

Joel McNaughton, attorney for and owner of The McNaughton Company, came to the microphone to introduce himself and his team. They are a Susquehanna Valley based development company in business for about 50 years. They are here tonight to talk about the sketch plan for a property they are working on called Aberdeen. He introduced Lauren McDaniel from their office and said she would be presenting the sketch plan. He also introduced Tim Mellott of Mellott Engineering, who does work for them.

Ms. McDaniel came to the microphone to explain their sketch plan of Aberdeen. The property is located on the southwest side of Oberlin Road, across from Powderhorn Road, and contains 19.1 acres. It is located in the Township’s Residential Suburban (R-S) Zoning District. They are proposing to create 25 single family detached dwelling lots, which is a permitted use in the R-S District. All of the lots will be at least 20,000 square feet in size and will be in conformity with the lot area and requirements provided for in the Ordinance. They anticipate home sizes ranging somewhere in the upper 2000 sf to lower 3000 sf. Each home will have a two-car attached garage. The site will be served with public sewer and public water; they have confirmed with Suez that they do have service in this area, and they are in the process of confirming sewer capacity. All 25 lots will access a proposed interior public road system designed to comply with township standards. The streets within the community will be curbed and will have sidewalks on both sides. She said their preference for curbing, if permitted, is to install slant curbs as it would allow for some flexibility in home design and layout. The road system will also connect to Bonnie Blue Lane and will create a four-way intersection at Oberlin Road and Powderhorn Road.

Ms. McDaniel went on to say that their sketch plan does contain some stormwater management; however, they will provide a full stormwater management plan if they get to the preliminary plan stage. That plan will comply with township stormwater management ordinances and with DEP requirements.

Ms. McDaniel said they did have the opportunity to meet with Township Staff to discuss if improvements would be necessary at Oberlin Road. Based on these conversations, since it is a State road, the Township would defer to the PennDOT standards. There already have been some improvements in that area in connection with other projects, including turn-lanes that have been added in front of that site. She said that they have done some initial research on traffic counts, and they do not feel there would be a need for any additional improvements. Also, there are some wetlands along Oberlin Road, so any improvements in that area would be impractical and probably not feasible.

She said that’s basically the summary of the sketch plan and asked for any comments or questions at this time.

Mr. Fausey asked what Lot 5 was, on the plan drawing.

Ms. McDaniel responded that it was an existing access drive.

Mr. Young added, in terms of the traffic, probably on a daily count it’s not really an issue; but if you are at the intersection of where Powderhorn meets Oberlin Rd at about 8:30am when there’s a caravan of FedEx vans going up that way, he feels it is good that they are providing another egress out at Bonnie Blue Lane, because there will be times during the day where it is going to be difficult making a left onto Route 441. His only other question was if there was any thought of a recreational lot.

Ms. McDaniel said that given the number of lots, it was not initially in their plan.

Mr. McNaughton said they were looking to pay the Fee-In-Lieu-Of instead.

Mr. Messick asked about Lot 2; will the driveway that serves the existing farmhouse be cut off by the property line there.

Mr. Mellott answered that there is an existing barn structure with some accesses as well as the one being referred to that come unto the property. They will work with the seller, who is selling them the entire property, to make sure they all agree. Mr. Mellot informed that they are coordinating with the seller to allow them to still use the access in the easement even though it will now be on their (McNaughton’s) property.

Mr. Knopp asked Mr. Mellott about the sight distance at the intersection at Powderhorn because cars come flying down from that bend in the road.

Mr. Mellott answered that when they did the Powderhorn intersection design, this was already set up and there is adequate sight distance that meets the criterium, but they will look at it to make sure that vegetation and any embankment will not hinder that sight distance. But as of now, it does meet PennDOT criterium, and it was already designed in anticipation of a four-way intersection.

Mr. Knopp asked to discuss the Fee-In-Lieu-Of versus installation of a playground. He asked if there were any playgrounds in that area, at all.

Mr. Young said the nearest one was over in Old Reliance on Powderhorn Road; there are none in Twelve Oaks.

Mr. Mellott responded that they often look into a Tot-Lot configuration when you have a community with a lot larger number, but this is a community of just 25 dwellings. He added that it is usually their experience that townships would prefer the money to be able to use for their regional parks instead of having these little spot type of things.

Mr. Knopp asked Ms. Justice what her opinion was on this.

Ms. Justice said she does feel that there is a lack of recreational space, but she does understand their thinking, given the size of their lot.

Mr. Mellott added that if you think about the number of lots and what that would actually mean in a community like this, what improvements do you even put in the lot? There is really not even enough money available to do this without going way beyond what is typically done which would be either the fee or something that corresponds to what the value would be.

Mr. Knopp asked Mr. Fure for any comments.

Mr. Fure said without seeing any grading plans, it would be difficult because of the steepness of the slope coming down through. He feels most of their raw land that would be available would be for stormwater management. So, he said his opinion would be to accept the fee.

Mr. Young added that Twelve Oaks is a much bigger development without any recreational space.

Mr. Fausey added that personally he doesn’t think the township needs another small recreational facility that they would have to maintain. He is in favor of the fee.

Mr. Fabian interjected that we do have a very comprehensive review of the parks in the Parks, Recreation, and Open Space Plan, and the smaller community parks were more prevalent so when you look at the National Standard, we have a much higher number of those. We do want to look into what is lacking and what might be a good investment. But he would agree with what is being said, with the size of the lot, the proximity to Old Reliance, it makes sense to make investments in things we are lacking in.

Mr. Mellott said they were here to work with the township and take everybody’s input, so we end up with something that works for everybody.

Mr. Knopp asked for any other questions from the Planning Commission.

There were none at this time.

Mr. Knopp asked for any other questions from Ms. Justice.

She had none at this time.

Mr. Knopp asked for any other questions from Mr. Fabian.

Mr. Fabian said that this is the first time seeing this, but he enjoyed seeing a good secondary access. He said he agrees with what is being presented in here and he appreciates the explanation on why the access agreement is being retained. He feels his main questions were all answered very well.

Mr. Mellott added that on a sidenote, Bonnie Blue Lane was just a temporary cul-de-sac that was intended to be extended.

Mr. Young stated that we appreciate them coming in and working in advance with the township staff to be in compliance.

1. **Preliminary/Final Land Development Plan for Jordan Pulgar Property-**

Planning Commission File #PC2021-05, 3.0995 acres in zoning district R-A (Residential Agriculture) at 610 Spring Garden Drive, Middletown, PA, consisting of 3 separate tax parcels. Applicant is proposing a minor subdivision resulting in three (3) reconfigured total lots. Applicant is requesting a waiver for relief of the preliminary plan requirement (Section 404).

Mark Romeo was present through Zoom and Jordan Pulgar was present at the meeting. Mr. Romeo explained that the last time they were here, they received comments from the township engineer, and they sent out the response letter. He said he feels they addressed the major things that were asked, which were the stormwater management calculations on the swale that was previous constructed. He says he realizes they have a lot more to do on that, but he feels they are getting a lot closer to what the township wants. Mr. Romeo said it grew from being a simple subdivision to getting in over his head so that is why he hired a professional engineer (Dave Weinbeck) to do the stormwater for him on this; so, hopefully, they can get it to where the township wants it.

He then asked if the Planning Commission had a chance to look at the comment responses.

Mr. Knopp had a couple of questions. He asked if they were aware of an AT&T fiber optic line going through the property.

Mr. Romeo said yes, he believes it is on the plan on sheet 2. But they are aware of it, and they located it, but looking at the latest set of plans, he said he cannot see it on there either. The first set submitted had it on, it pretty much parallels that dirt drive. Mr. Romeo did talk to AT&T after they did the PA One Call. He said they will get that back on the plans.

Mr. Knopp asked what the height of the garage was going to be.

Mr. Pulgar said it will be 14 feet high.

Ms. Justice reported that the plan still shows 16 feet.

Mr. Pulgar said he has submitted new plans.

Ms. Justice reiterated that the newest plans still show 16 feet.

Mr. Knopp stated that the newest plans are wrong then.

Ms. Justice agreed.

Mr. Romeo said that will be corrected to 14 feet.

Mr. Knopp asked if a silt fence was put in between his property and Don Wagner’s property.

Mr. Pulgar stated that there is a super-silt fence in there and a swale was also installed.

Mr. Romeo said that they did some emergency work there and everything is stabilized now.

Mr. Pulgar said that as far as he knows there is not an issue there anymore.

Mr. Wagner rebutted that statement and said there is no super-silt fence there. The silt fence that is there was never properly installed. It doesn’t do the job that it is intended to do. He had pictures that he then presented to the Planning Commission showing what he feels is the results of the failed silt fencing.

Mr. Romeo asked Mr. Wagner if he is saying the improvements did not alleviate the situation.

Mr. Wagner responded that the improvements were not done correctly. He feels if they were done correctly, it may have alleviated it some. Mr. Wagner stated that a silt fence is supposed to be buried 4 to 8 inches.

Mr. Pulgar said it is buried at least 12 inches.

Mr. Wagner strongly disagreed. He said it was just running along the ground.

Mr. Wagner then showed the Planning Commission pictures of what he was referring to. Mr. Pulgar was then showed the pictures of the alleged failed silt fence.

Mr. Pulgar said the picture shown is not the silt fence that was more recently installed; that was the original silt fence that was installed. He explained the difference between the two fences.

Mr. Romeo added that the original silt fence failed last Spring, but since then a super-silt fence was put in place starting at the high point along Mr. Wagner’s property. He said the old silt fence may be up there close to the road but where the damage was being done was on the downhill slope. Mr. Romeo added that if the silt fence needs to be extended, it can be.

Mr. Pulgar stated that the silt fence does run to the end of the property and, as far as he understood, it was acceptable to the Township Codes Department. He also said he doesn’t know how water could be leaving his property now that a swale has been put in. He feels that if any water is running on Mr. Wagner’s property, it is because he lives on a hill and there will be some runoff naturally when it rains.

Mr. Wagner said that he always had runoff naturally before the excavating was done and he did install the silt fence, as per Don Fure. But Mr. Wagner said he was under the impression that it was supposed to go not just to the highest point of his property, but to the front also to alleviate this problem. He said he was told this by township officials.

Mr. Knopp asked Mr. Fure for any comments.

Mr. Fure feels the debate is, looking at the property line where the swale starts, Mr. Wagner is saying the water is coming in on the upper end of the property. On the plans, the swale is showing it starts about 100’ down.

Mr. Romeo said he is sure Mr. Pulgar does not want to send any more water or mud onto Mr. Wagner’s property; he said they can assess that to make sure this is or isn’t happening. That can be a comment that can be addressed, but he doesn’t feel it should hold up this plan.

Mr. Fure wanted to clarify that he is not saying to hold it up or approve or disapprove, he is just making them aware that we have had issues prior with Mr. Pulgar where there was runoff from his property, so they added that swale up through, and then where they did add the swale, it was roughly 100 feet short. Mr. Fure said that he told Mr. Pulgar and Mr. Romeo, and everybody involved, and at that point it becomes the responsibility of the engineer to review the rest and then the Board here to make sure that is going to suffice.

Mr. Romeo said he agrees with what Mr. Fure is saying.

Mr. Pulgar said he is not trying to create any issues with anyone, he is not trying to dump water onto Mr. Wagner’s property. He went on to say that as soon as Mr. Fure told him something had to be done, and Mr. Fure came out and showed him where the washout was happening, he said he adjusted it immediately. He and his people were out there digging within 24 hours. They dug a trench for the super-silt fence, it is not just laying on top of the ground, it was installed properly. He said he just wants to complete this project and he was never trying to do anything to cause any issues. He wants to move forward and correct any issues that need to be addressed.

Mr. Fabian said he had a couple comments. In the engineering review of the capacity of the channel, one item that needs to be resolved is to just confirm that it meets all the standards in the ordinance. A lot of the other outstanding items have been resolved with easements showing where they need to be for the underground infiltration beds, etc. So, in the response letter, you can see a lot of back-and-forth of what Mr. Romeo felt was being addressed with the revised plan versus what was still outstanding, and we are working through this right now. Mr. Fabian said that he feels a good deal of issues have been resolved, but he still has some outstanding comments that should be resolved in the discussions here tonight.

Mr. Knopp asked Mr. Pulgar about the vehicle in his yard with a front end off.

Mr. Pulgar responded that is a cab that was rusted out of a plow truck. He said it would not pass inspection, so he is just trying to get rid of it now. He also said that there is a problem with mice on the property and they have chewed the wires and through the fuel lines to the tractor he uses to move that, so that is why it is still sitting there. This is why he is trying to subdivide the property, so he can put a building up and put all the vehicles/equipment that you see into that building and out of sight. He said he is trying to clean the place up; he wants it to be presentable; he has the house looking good now he’s trying to get everything ready for the subdivision so he can possibly put another house on the other property in the future. He says right now, the property is pretty much useless.

Mr. Knopp asked where he was putting his proposed garage and if it would be used for commercial.

Mr. Pulgar said the plan is a 40’ x 60’ pole barn and it is not for commercial use. He said he just wants a building to put all his equipment/vehicles in.

Mr. Knopp asked about the road being put in there, if it would be paved or not.

Mr. Pulgar answered that it will just be a stone road, they are not paving it. That road has always been there, he believes it is a right-of-way for AT&T.

Mr. Knopp asked about the AT&T fiber optic line right-of-way.

Mr. Romeo confirmed that there is a deeded right-of-way there. It was on the first plan they submitted, but for some reason it was left off of the resubmitted plan. He will make sure it will be back on the resubmittal.

Mr. Knopp stated that along with including the right-of-way on the plan, the height of the garage must be changed to 14’ on the plan, as well.

Mr. Knopp asked for any questions or comments.

Ms. Korber said the copy of the plan she saw back in October was missing the approval block for Dauphin County Planning Commission, so there will also have to be a space on the resubmittal for the Chairman and the Secretary to sign. The only other thing was Parcel #36-009-422, when she looked it up on Dauphin County’s parcel viewer, it doesn’t look like it matches up; she just wanted to point that out.

Mr. Romeo said that is 100% correct. The County GIS has not only the shape on the northside of Spring Garden incorrect, it also puts the PennDOT storage area on the southside of Spring Garden. So that is all a County GIS drafting issue. He did extensive research on that with deeds and the PennDOT right-of-way plans for 441 and found that this specific parcel is definitely incorrect. He said he is 100% confident that they have it depicted correctly on the plan.

Ms. Korber said that satisfies her then.

Mr. Knopp asked Mr. Fabian for any further comments.

Mr. Fabian said the majority of his comments are all calculation related, so nothing that is going to change how the subdivision is laid out. He was mostly concerned with showing the easements. So as long as the additional comments are resolved, then he is ok with it.

Mr. Romeo asked if they could get a conditional approval then if all the comments from the township engineer and Planning Commission are addressed satisfactorily upon resubmittal.

Mr. Knopp advised that we are not finished yet.

Mr. Fure said that with the thunderstorms that have dumped 3 or 4 inches of rain, you cannot contain the runoff no matter what. With that being said, Mr. Fure asked Mr. Pulgar if he would be willing to extend that swale up to the front as long as that grade permits.

Mr. Pulgar said absolutely, he would do whatever it takes to make everyone happy.

Mr. Knopp asked for any other questions or comments.

Mr. Wagner said that since the beginning of this project, his relationship with his neighbor, and the problems that have ensued, has been taxing. He said that Mr. Pulgar’s attitude here is that he is going to correct everything and that he is willing to work with us, but Mr. Wagner feels that is not the case. He stated that Mr. Pulgar is a contractor, doing work from his home, while he is in a Residential/Agricultural division, not a Commercial or Industrial division. He feels that Mr. Pulgar parks his vehicles along his property line just to irritate him. Mr. Wagner said he would like to resolve this too, but he claims he cannot believe a word Mr. Pulgar says. Mr. Wagner went on the say that it was brought to Mr. Pulgar’s attention tonight about a vehicle, and he acknowledged that it was there; but he did not acknowledge that it was going to be moved. Mr. Wagner said that he is trying to protect what he has worked for for forty years, the value of his property. He said the way Mr. Pulgar’s property looks right now will devalue the neighboring properties. Mr. Wagner went on to say that he got an appraisal letter from a realtor stating that he can expect 20% less value because of it. Mr. Wagner also stated that Mr. Pulgar did a lot of work without permits. He again discussed the silt fence, saying it was put on top of the ground, as seen in the pictures. He claims all he has done is push dirt up against the fence; it is not a swale; it is just dirt against a fence. Mr. Wagner feels Mr. Pulgar’s vehicles are a direct violation of LST’s Ordinance Section 302-8. Mr. Wagner’s opinion is that if Mr. Pulgar is allowed to build this garage, there will be cars lined up in the woods. Mr. Wagner also claims that Mr. Pulgar is running a business in a residential/agricultural development. He also brought up Mr. Pulgar’s sawmill. Mr. Wagner claims that he runs that sawmill sometimes 8 hours a day for 3 days straight. Mr. Wagner said he is trying to retire, but he doesn’t want to live next door to a construction business.

Mr. Knopp asked for any other questions or comments.

Mr. Young made the comment that Mr. Wagner’s concerns seem to be legitimate, but we have to segregate out the Planning issues that are here before us tonight and enforcement issues. Does he have the right under our ordinances to do what he plans to do? If he gets the approvals, and then violates the Ordinance, there are enforcement mechanisms in the Ordinance itself. There have been a lot of “he said, he said” going back to the October meeting and Mr. Young said he would like to see that additional silt fence and swale installed; he’d also like to see the engineer’s comments addressed; and without passing judgment whatsoever, he would make a motion that we table this until those items can be cleared up and that he, in good conscience, knows that these things have been resolved when we make our recommendation.

* Mr. Young’s motion is that we table this until the outstanding items are addressed.

Mr. Diamond interjected asking Ms. Justice for the approval timeline.

Ms. Justice said we will need an extension.

Mr. Diamond stated that we would need that we need that extension from the applicant.

Mr. Romeo said they could do that. Mr. Pulgar then drew up a paper requesting the extension and presented it to the Planning Commission and Ms. Justice.

Mr. Messick asked if, at this point, the subdivision meets all of the Township’s criteria?

Ms. Justice confirmed that it does meet all criteria.

Mr. Fure said as long as Mr. Fabian was comfortable with the Stormwater.

Mr. Romeo asked Mr. Fabian if there was anything other than dealing with that swale that he needs to see done.

Mr. Fabian answered that he has some minor comments just trying to set up some guidance on long-term operation and maintenance of the swale.

Mr. Romeo said they would submit the O&M Agreement with notes about the easements. Other than that, he doesn’t know what else is holding it up. He understands there are problems with the neighbor, but that is not part of this process.

Mr. Knopp reminded the Planning Commission that the motion on the table was to table this plan.

* + (Mr. Young had made the motion to table.)
  + Mr. Fausey seconded the motion.
  + All were in favor.

Plan was tabled at this time.

**c. Preliminary/Final Land Development Plan for Harrisport CNG Facility –** Planning Commission File #PC2021-08, 2.98 acres in zoning district IP-L (Industrial Park – Limited) located at Harrisport Court off of Fulling Mill Road. Tabled at the January 27th meeting. Applicant is proposing a CNG station and warehouse facility with outdoor storage of pipe and aggregate. Applicant is requesting waivers for relief of the preliminary plan requirement (Section 404) and landscaping (Section 27-1105.10.A).

Eli Cekovic from UGI Utilities came to the microphone and introduced his team who were all joining the meeting on Zoom: Jason Buchta from Ott Consulting; Amanda Daly, legal counsel for UGI Utilities; Sharon McGrenery who is part of the real estate group with UGI Utilities; and Vince Tomasso who is part of the Air & Gas Technologies which has helped design the CNG station.

Mr. Cekovic then went on to explain that they do realize that their drawings need to catch up with the written responses. They submitted responses to all the review letters that they received. There is one small edit that will be coming to their design that he wanted to point out knowing that they will need to update.

Mr. Cekovic said the design itself keeps getting a little better. [He then showed the Planning Commission the layout of the CNG Station.] He said with the revised drawings, they are going to move the fence in about 8-10 feet to come underneath that fueling island and put that fueling island on the outside of the fence. He informed that yesterday they were able to obtain the verbal approval of Zoning Hearing Board to make that a public fueling station. He stated that this new layout gives a better turning radius and it allows more vehicles on the side of the island. They have started to talk to an architect about their warehouse and the architect recommended that they get rid of the shed and extend the warehouse by about 20 feet: 10 feet to keep the ramp inside so there is no winter maintenance or slipping on the ice; and the other 10 feet to allow the footage that would have been in the shed. They are also turning a step into a ramp, so it will be a little bit longer but still in the same spot. The garage door may be a little larger to allow crews to get materials in and out. Updates will be made on future drawings.

Mr. Fabian said that he was very satisfied with a lot of the responses from the comments, and he liked how they were handled. When he sees the revised plan set, he will offer comment again.

Mr. Knopp asked if there were any questions from the Planning Commission.

There were none at this time.

Mr. Knopp asked Ms. Justice for any comments.

Ms. Justice said that they gave pretty extensive responses to our comments and although we do not have the updated plan, they did acknowledge missing items such as identifying the height of the structure.

Mr. Knopp asked the Planning Commission to address the waivers:

1. Preliminary/Final Plan – applicant is requesting a waiver of preliminary plan requirements.

* Mr. Young made the motion to recommend approval of the waiver.
* Mr. Fausey seconded the motion.
* All were in favor.

1. Applicant is requesting a waiver to allow the parking and driveway to be located within the landscape buffer as shown on the plan to reduce obstacles within the center of the property and provide a safer traffic pattern.

* Mr. Young made the motion to recommend approval of the waiver.
* Mr. Fausey seconded the motion.
* All were in favor.

Both waivers were approved.

Mr. Knopp asked the Planning Commission what they would like to do on the plan as a whole.

* + - Mr. Young made the motion to recommend approval of the application contingent upon the submitting of the revised drawings, resolving any and all outstanding comments and confirming that the application conforms to all of our local ordinances and applicable laws.
    - Mr. Fausey seconded the motion.
    - All were in favor.

Plan was approved for recommendation to the Board of Commissioners.

**OTHER BUSINESS:**

The next Planning Commission Meeting will be scheduled for Thursday,

March 24, 2022, at 7:00 P.M.

**ADJOURN:**

A motion was made by Mr. Messick and seconded by Mr. Fausey to adjourn the meeting. All were in favor.

Meeting adjourned at 8:06 P.M.

Respectfully Submitted,

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Kaylee Justice, Planning & Zoning Coordinator