**M I N U T E S**

**LOWER SWATARA TOWNSHIP REGULAR MEETING**

**PLANNING COMMISSION AUGUST 22, 2019 7:00 P.M.**

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

Chauncey Knopp, Chairman

Eric Breon, Vice Chairman

Dennis Fausey

James Young

Peter Henninger, LST Solicitor

Shawn Fabian, HRG

Alexa Korber, DCPC

Ann Hursh, LST Planning & Zoning Coordinator

Tonya Condran, Recording Secretary

Excused:

Kimber Latsha

Others in Attendance:

Holly R. Evans, Evans Engineering, Inc.

Jason Gutshall, Navarro & Wright

Bill Meiser, Middletown Area School District

Lori Suski, Middletown Area School District

David Horn, Architerra, PC

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**APPROVAL OF MINUTES:**

Mr. Knopp asked if there was a motion to approve the June 27, 2019 meeting minutes. Motion was made by Mr. Fausey to approve the minutes and seconded by Mr. Young. All were in favor. Minutes were approved.

**OLD BUSINESS:**

a. **Preliminary/Final Subdivision/Land Development Plan for Star Barn Duplex Units,** revised July 29, 2019, Planning Commission File #PC2018-03. Located on Nissley Drive, south of I-283, one lot, 3.67 acres, 6 duplex units, zoned Residential Urban, owned by Star Barn Townhomes, LP, submitted by Navarro & Wright Consulting Engineers, Inc.

Mr. Jason Gutshall of Navarro & Wright came to the microphone to explain the revisions to this plan which was previously presented to both the Planning Commission and the Board of Commissioners. Along with the recommendation to the Board of Commissioners was a request for a right-of-way vacation for the end of Nissley Drive.

Mr. Gutshall went on to describe the change to the plan. He said that the property is shaped oddly because whenever the lot was created the Nissley right-of-way went through it. Their initial layout had another duplex in that area which led to a lot of questions and concerns including errant traffic coming down the street and having to make a turn. This is a private street right now the way they’ve designed it. It is all on one lot, they removed that set of duplexes and added a turn-around location there.

Mr. Gutshall explained that the plan was simpler now, with fewer units. A question from before was if there was going to be an HOA. There will not be an HOA because the owner is going to maintain ownership of all the duplexes and they will be rentals, so there won’t be any responsibility now on these 10 residents.

Mr. Gutshall said that another concern from last time was the cul-de-sac. He said they’ve adjusted it a few times to make it better to navigate. The owner is also going to put a decorative fence on top of the retaining wall that runs along Rte. 283. Mr. Gutshall added that the cul-de-sac and the width of the road complies with the Township’s lowest street requirements.

Mr. Breon asked if it still was going to be a private lane off of Nissley Drive.

Mr. Gutshall said that is correct. He said that the Commissioners had a significant concern about traffic getting back there, in case of a wrong turn. There is a “No Outlet” sign down at the last intersection but if they came in there and turned around in the cul-de-sac, it won’t be restrictive in any way. He also showed on the plan drawing where the turn-around was at the end of Nissley Drive.

Mrs. Hursh said that one of the staff’s big concerns was how short the driveways are. It appears as if a car is parked in the parking spot, it will hang over into the sidewalk. And then on trash collection day, if you have trash receptacles everywhere, that will also cause a problem.

Mr. Gutshall informed that there are single car garages for each of the units.

Mrs. Hursh responded that she understands that but if people don’t park in their garage and they park on the street, it will really present a problem.

Mr. Fausey asked that if these are going to be rental units, will there be individual trash collections for each rental units.

Mr. Gutshall was not sure how the trash was being handled.

Mr. Breon said he thought they originally discussed having a dumpster.

Mr. Gutshall said he didn’t remember any of the waste issues being discussed. What is typical with a project like this is a “gang” mailbox, so Mr. Gutshall asked if our waste contract specifies anything about that.

Mr. Henninger said no, they do not. But it can be worked out. But LST Ordinance requires two off-street parking spaces per townhome and the space in the garage constitutes one parking space, but where is the second one? The driveways look too short.

Mrs. Hursh said that we cannot enforce somebody parking in the garage so if somebody parks in the street, it is going to make it difficult for somebody else to back out of their driveway.

Mr. Henninger added that with a private road, we cannot control the “No Parking”.

Mr. Gutshall said that even with a public street, you usually do not control parking in a development.

Mr. Henninger replied that if a street is built to standard width, there should be enough room for two lanes so cars could get by.

Mr. Gutshall said that the proposed street is 24 feet wide. He said he would see if the units could be adjusted and the driveways could be made a little longer.

Mr. Breon asked if KC Lezzer was planning on remaining the owner of this.

Mr. Gutshall confirmed that. Lezzer Lumber is their primary company and they own other rental properties in the area.

Mr. Knopp had a question about the setback. He asked if the units were 35 feet back.

Mr. Gutshall said yes, they are. All the front setbacks are 35 feet and the sides are either 15 or 20 feet.

Mr. Knopp asked for clarification. He asked if every individual townhouse had a 35 foot setback.

Mr. Gutshall said it is just being considered as one property therefore the setback is just from Nissley Drive not at each unit.

Mr. Henninger informed that the buildings have to be setback from the street width regardless of whether they are public or private. It is still a street no matter if it is private or not. The reason that private roads are required to be constructed to the same standards as public is because if the home owner association fails or whatnot, it then becomes the Township’s responsibility. The building setback line is the line within a property to find the required minimum distance between any structure and the adjacent street right-of-way. There is a section of the Zoning Ordinance that says if there isn’t a set right-of-way, then it is deemed to be 25 feet from the centerline. So the way he saw and the way LST staff is looking at it is that the buildings have to be 60 feet from the centerline of the road: 25 feet from the center of the road sets the building line, and then you have a 35 foot setback from that. And that is a Zoning issue which this board cannot do anything about.

Mrs. Hursh added that this is why we have the problem with the driveways. She thinks that originally we were going under the assumption that it was a private access but different than a private road.

Mr. Henninger reiterated that we make no distinction between public and private road. A Street is defined as public or private thoroughfare. But the point being that if these were being sold as individual lots, you would have to have the setback. The same argument goes with the sideyards in duplexes. The sideyard setback must be 15 feet, which means the duplexes should be 30 feet apart and a couple of them are not. But another section states that duplexes only have to be 20 feet apart due to not having sideyards. So when you have conflicting sections, you use the one that is in most favor to the applicant. But now we are looking at front setbacks and how do we get around the 25’ plus 35’ requirement. He informed that he was not able to find that nor was Mrs. Hursh.

Mrs. Hursh then said that her comment #8 asks to explain why units do not meet the setback requirements of the Residential Urban District. She again stated that they were originally referring to it as an Access Drive, which is defined as a paved surface other than a street which provides vehicular access from a street or a private road to a lot.

Mr. Knopp then asked why it can’t be an access drive then.

Mr. Gutshall said it was considered an access drive when it was 20 feet wide, but then the concern was that they wanted to widen it. So now it has been widened to 24 feet.

Mrs. Hursh added that originally that street was much smaller and didn’t have the cul-de-sac and that is when we were treating it as an access drive.

Mr. Knopp asked again why it couldn’t be treated that way now.

Mr. Henninger said that at this point he could not answer that question without looking into it. But, he said he is ok with the sideyard setbacks.

Mr. Gutshall added that this section covers multiple buildings on one lot and the setback portion of the ordinance covers fee simple lots.

Mr. Henninger said the point behind §27-2008.A was to address the private road front yard setback situation which states “where the street or private road upon which the lot abuts is less than 50 feet in width, the private yard depth and the width of the side yard abutting the street or private road shall be measured from a line parallel to and not less than 25 feet from the center line of the street or private road.”

Mrs. Hursh explained that a 50 foot right-of-way was not being shown, what is being shown is a 24 foot cartway. So if you take 25 feet from the center of that, basically you would have 50 feet. But again, a right-of-way is not being shown on the plan.

Mr. Gutshall said that if they showed a right-of-way, the township would want a setback even though it is not the front of the property.

Mr. Henninger said the question is if it is an access drive and not a private road, does that negate the need for setbacks when you have multiple buildings off the access drive. He said he will have to look at the ordinance closer to find the answer to that.

Mrs. Hursh stated that we would still run into the parking problems where there is not enough room for residents to park. And if they park along the road, firetrucks cannot get back.

Mr. Henninger added that the Township Board has a duty to protect the health, safety, and welfare of its residents.

Mr. Gutshall refuted that the street is 24 feet, so one side of the road could handle parking while two cars could pass each other. But, he said they could make adjustments to make cars fit in the driveway.

Mr. Young asked what the requirements would be if it were an access drive.

Mr. Henninger said that he was going to have to research that.

Mr. Henninger went on to give the definition of a Street: “a public or private right-of-way constructed to municipal standards which affords primary vehicular traffic and pedestrian access to abutting properties which includes avenue, boulevard, road, highway, freeway, parkway, and viaduct, but shall not include an alley for the purpose of this Chapter.” So is an access drive similar to an alley?

Mr. Gutshall pointed out that this definition mentioned multiple properties.

Mr. Henninger said that “properties” is not defined in our ordinance. But the argument is there.

Mr. Breon asked the township engineer for his thoughts on this.

Mr. Fabian (from HRG) said he ran into a similar situation in West Hanover Twp. where the argument was made that you are not really meeting the definition of a Street because you are not servicing multiple lots because it is all one property and that would fall under the definition of an Access Drive. This is how West Hanover chose to handle the same scenario. So the argument was made that since it is still one property, this access drive is not going to adjoining properties and connecting everything together.

Mr. Breon asked what we should do at this point.

Mr. Henninger said the Planning Commission would just make a recommendation and then he, Mrs. Hursh, and Mr. Fabian will take it to the Board of Commissioners and explain it to them. And the Mr. Gutshall will give his explanation of why they are requesting this the way it is.

Mr. Gutshall added that it is a larger access drive based on complying and making changes. So he said there argument is that they are building their access drive to LST’s street standard.

Mr. Young asked if we go along with the access drive tonight and then the Board of Commissioners approves that, what prevents them from selling this individual duplexes after they’ve gotten the approval and built them.

Mr. Henninger said they would either have to do a subdivision or they would have to condo it. It would be creating a non-conformity. So the configuration would pretty much be locked in stone unless the Ordinance would change, so there is no hardship that could ever be presented in front of the Zoning Hearing Board.

Mr. Gutshall said that it definitely couldn’t be subdivided.

Mr. Breon said that theoretically two of those units probably could be subdivided because they do have enough setback on the cul-de-sac.

Mr. Henninger said yes, the ones that are in the back probably could make that argument.

Mr. Gutshall disputed that you would be creating lots that need to come off of the right-of-way.

Mr. Henninger added that you would need access to a public road. They wouldn’t be able to get title insurance because one of the questions would be if they had frontage on a public road and the answer would be no.

Mrs. Hursh said that this access drive is now much bigger than it was when it was first presented.

Mr. Fausey asked how this differs from the access drives in Woodridge.

Mr. Henninger responded that Woodridge is a Planned Residential Development developed under an ordinance from the late 1970’s/early 1980’s that really cannot be compared to this project. It’s like apples and oranges. So the access roads in Woodridge will never be public roads because they do not meet the Township’s standards. And this is one of the reasons why the Township now requires private roads to be constructed to public roads standards.

Mr. Henninger added that if this Planning Commission is saying that it came in as an access drive, and there has been a duplex removed, we have a cul-de-sac that works for a turn-around which the fire company signed off on, there are two fire hydrants (one at Nissley Dr. and one at the end of the cul-de-sac); everybody knows it is not perfect because it is not a perfect piece of property. So, we can say that we consider it to be an access drive, we do not consider it to be a private road and they do not need to meet that requirement. They do meet the front yard setback requirements because of all this. And all the side yard setbacks are met because it is all on one property. So that would take care of those two zoning concerns.

Mr. Young asked if the driveway/parking issue can be corrected, if needed.

Mr. Gutshall said yes, that will be resolved.

Mr. Knopp asked Mrs. Hursh for any other comments.

Mrs. Hursh said she is concerned about the drainage in the back by the patios and the little retaining wall. Depending on where they put a downspout, if they put it between two patios, it can pose a problem.

Mr. Gutshall said they can change that.

Mrs. Hursh said she also asked for them to verify the sight distance by the community mailboxes onto Nissley. She would also like them to verify that the grades of the driveways are not more than 10%.

Mr. Knopp asked Dauphin County Planning for any comments.

Ms. Korber stated that she feels it looks awkward where the sidewalk ends on Nissley Drive where the turn-around has been placed.

Mr. Gutshall said they could get rid of that piece.

Ms. Korber added that it would be nice to have full connectivity with that turn-around.

Mr. Knopp asked HRG for any further comments.

Mr. Fabian said most of the other comments were easy to rectify. One comment he did have is if they’re replacing that pipe under Nissley Drive, it would be nice to get a flare-down section and a rip-rap apron there. With the wetland and the stream in that location, you wouldn’t be able to extend on to that pipe, so maybe we could put a rip-rap energy dissipater there and adjust the pipe as it is replaced.

Mr. Knopp asked Mr. Henninger and the Planning Commission for any comments.

Mrs. Hursh added that she had a question on the waivers whether they were going to be the same ones as previously submitted.

Mr. Gutshall said yes. The curb requirement along Nissley Drive and that Preliminary Plan.

Mr. Fausey said that we had decided at the last meeting that the curbing along Nissley was not a good idea because we want the water to drain off.

Mr. Gutshall confirmed that and said that we wanted the drain-off to go to the wetland area instead of being concentrated to go down Nissley to the next inlet.

Mr. Knopp asked that the waivers be addressed:

1. Preliminary Plan - they are requesting that the Preliminary Plan requirement be waived and the plan be presented as a Preliminary/Final.

a. Mr. Young made the motion to recommend approval of this waiver.

b. Mr. Breon seconded that motion.

c. All were in favor.

1. Curbs - they are requesting that the curb requirement along Nissley Drive be deferred.
   1. Mr. Young made the motion for recommendation to defer the curb requirement.
   2. Mr. Fausey seconded that motion.
   3. All were in favor.

Mr. Henninger stated that as far as the plan is concerned, as he understands it, it is the consensus of the Planning Commission to treat that (the road) as an Access Drive.

The Planning Commission agreed with this statement.

Mr. Henninger continued. Thus the comments with regards to the building setback line and the side-yard setbacks do not pertain. So, the first motion would be that it is the opinion of the Planning Commission that the access into the property, or units, is an Access Drive and not a Private Road and thus the zoning comments relating to setback lines do not pertain to this plan. This would be Motion #1.

* 1. Mr. Fausey made the motion described above.
  2. Mr. Young seconded that motion.
  3. All were in favor.

Mr. Henninger stated the Motion #2 would be to recommend approval of outstanding comments of staff and outside agencies.

* 1. Mr. Young made the motion described above.
  2. Mr. Fausey seconded that motion.
  3. All were in favor.

Mr. Henninger added that when it is presented in front of the Board of Commissioners, Mrs. Hursh and he can explain the specifics to them and make sure there are not any other conflicting language with regards to access drives within the Zoning Ordinance.

**b. Sketch Plan for New Synthetic Turf Field** for Middletown Area School District presented by Evans Engineering, Inc.

Ms. Evans introduced her team: Dr. Lori Suski and Mr. Bill Meiser of the Middletown Area School District, and Mr. Dave Horn of Architerra, PC (their landscape architect).

Ms. Evans went on to say that this plan is a stormwater management plan, not a land development plan. And they just want to keep the Township informed as they move through the process. They have been working with the township engineer and staff on reviews. They are down to about a handful of minor comments, working with the township engineer. So she said they are here tonight basically to present to the Planning Commission where they are at with the project. This project will probably go out for bid sometime this fall and construction would start next spring when the weather breaks.

Ms. Holly Evans presented a PowerPoint presentation of the plans for the new field at this time.

Some key points she presented were:

* + This new plan is very similar to the original plan however they have reduced it to a single amenities building on the one side which will take care of restrooms and food-stuff.
  + The field itself has not changed.
  + They are redirecting the walk-way around the field.
  + This field is intended for purposes such as field hockey, soccer, lacrosse, youth football, marching band practice, and other things not being used at the primary field.
  + This field is not intended for actual football games or any heavy-duty use.
  + The actual seating capacity in the bleachers is limited to about 500 people.
  + There will be the required number of ADA parking spaces.
  + They have also provided a bus loop drop-off.
  + It is a lit stadium; there are 4 primary light poles.
  + There will be additional lighting provided along the handicapped parking area and bus drop-off area.
  + The lighting has been reviewed by the PA Turnpike Commission and they accepted that lighting plan.
  + Stormwater is controlled by a sub-surface stormwater detention basin which meets all township requirements.

Mr. Knopp asked Mrs. Hursh if she had any questions.

Mrs. Hursh said that she had asked about the parking. She informed that they did have a parking variance at one time for the school parking. She said that they did send her a narrative explaining that if there are concurrent activities going on that there would be shuttle buses if that need arose. So, Mrs. Hursh said she was satisfied with the parking plan. We don’t want them to put in additional parking if it will not be used.

Mr. Henninger asked if the 500 people seating capacity trigger additional parking requirements.

Ms. Evans responded that basically the way the current arrangement is, it will have to be updated. The current parking arrangement addresses the two practice fields that are there and it is all about how to address simultaneous parking. So the additional seating would require additional parking but because they have a parking plan already assembled and they do not feel there will be multiple events occurring at the same time. But if they would have multiple events, then there will be shuttle parking arrangements accordingly. So the parking plan that was provided to everyone tonight is the current plan that is in place and will be amended as part of the plan prior to final recording.

Mr. Henninger asked if the 88 spaces that are referred to are new spaces.

Ms. Evans said they are all new ADA spaces. So as to not reduce any of the parking that was already part of the prior agreed parking plan, they provided the ADA compliant spaces; therefore, they are taking care of the ADA requirements while not reducing the overall gross parking on the campus. And then they will simply update the plan accordingly.

A brief discussion on the basins and stormwater control followed. It was confirmed by Mr. Henninger, Ms. Evans, Mr. Fabian, and Mrs. Hursh that everything has been looked at and will continue to be monitored for compliance, safety, and functionality.

Ms. Evans also discussed the maintenance building. There is currently a maintenance building on the campus up by the baseball fields. It is well-used but aged, but basically it will need to be replaced. So this old building will be replaced with a slightly larger version of the same building. This has also been reviewed and addressed by the township engineer and part of their submission to the County Conservation District for review and approval.

Mr. Knopp asked if this new building would be up by the baseball field too.

Ms. Evans said yes.

Mr. Breon asked if this was part of this whole plan too.

Ms. Evans said yes, it is.

Ms. Evans reiterated that they just wanted to be open and bring this before the Planning Commission. It is not required that they do this but they wanted to make sure they keep the Township informed as the move forward through the process.

Mr. Knopp thanked Ms. Evans and then asked if there were any questions or comments from HRG.

Mr. Fabian said the remaining comments should be easy to rectify. All the previous plan review comments they had around the stormwater easements are covered under the O&M portion now. There were some geometry changes that were suggested with the channels on the northeastern side of the fields, but nothing insurmountable with that.

Ms. Evans said only three of those comments were technical and they have no issues with the comments.

Mr. Breon said that everything else relates to the O&M Agreement and the parking. He stated that the parking has always been a challenge since the new school has been built. He then asked if they were planning to run shuttles from the Middle School now.

Mr. Meiser explained the parking in more detail. There are triggers by different levels of people that will attend. Whenever there is an outside application, they write their perspective number of visitors you will have by vehicles. So if you have 500 people, there won’t be 500 cars. They used a calculation to figure out what the number of cars would probably be. But there are different triggers in the existing plan: assisted parking, non-assisted parking, and shuttles. Since the new high school has been in effect, they are proud to say that they have had no problems at all. They have had multiple events on multiple nights and the front lot can handle most but if it flows over into the overflow lot, there is assisted parking there. He stated that they have not had to run shuttles yet because they do very well in planning events. However, if they have a championship basketball game or playoff game and they also have something going on in the auditorium, it would be the maximum of what they would most likely ever get. Most of the events that they do have there, are not highly attended events where they would get 500 spectators. Most of the time, the numbers they use are less than 200 people, usually it is around 100 people that attend these events, home and visitor.

Mr. Breon also added that most of the sports games would be played in the evening hours after school anyway so school would not be in session.

Mr. Meiser agreed. He said they will not have large events going on during the school day. He also stated that if you drive by when school is in session, you will see that there is ample parking in there. But for them to have an event while school is in session would be a very rare thing.

Mr. Knopp asked Ms. Korber for any comments from the County. She had none.

Mr. Knopp asked Mr. Henninger for any comments. He had none.

Mr. Knopp asked the Planning Commission for any comments.

Mr. Fausey said he just had one comment. He feels this has been long overdue and he is glad we are showing our Raider Pride.

Mr. Knopp and the Planning Commission thanked Ms. Evans and her colleagues for the presentation.

**NEW BUSINESS:**

None.

**OTHER BUSINESS:**

The next Planning Commission Meeting will be held on Thursday, September 26, 2019 at 7:00 P.M.

**ADJOURN:**

A motion was made by Mr. Fausey and seconded by Mr. Young to adjourn the meeting.

Meeting adjourned at 8:03 P.M.

Respectfully Submitted,

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Ann Hursh

Planning and Zoning Coordinator