

The regular meeting of the Middle Smithfield Township Planning Commission was called to order on Thursday, November 21, 2013 at 7:00 p.m. at the Schoonover Municipal Building with Mark Oney presiding.

Members present: Mark Oney, Bob Early, Parin Shah, Carrie Wetherbee, Wayne Bolt and Gary Summers. Also present, Alternate Solicitor Michael Gaul, Esq., Alternate Engineer Christopher McDermott, P.E., Township Secretary Michele Clewell and several interested parties and residents.

Presenting on behalf of Dansam, LLC – Brick Linder, P.E. of Linder Engineering and Attorney Charles Vogt.

Approval of Minutes

Carrie Wetherbee made a motion to approve the minutes. Wayne Bolt seconded the motion. Motion passed 6-0.

Plan Submittals

None

Plan Reviews and Unfinished Business

Dansam, LLC – CCP Phase 3 Section 5 PRD Plan – Revised plans were provided to the members via email on November 8, 2013 and paper copies were provided at the meeting.

Attorney Gaul stated that he has the same comments as the last time everyone met, with the exception of the phasing concept, which had been removed from the Plans.

There continues to be no resolution between the North Association and the developer. There are still questions with regard to the settlement agreement between Toll Bros/Township and the developer. If the developer steps into the shoes of Toll Bros., then it must be developed under the 1988 PRD.

Nothing has been finalized in terms of mechanical, no E&S, Post Construction, Cost estimates, no performance guarantees, and no sewage agreements, as the township line does not run to this portion of the development. The revised plan shows lines but there are question. The existing line is off site. Sewer extension agreements with the township, an exemption from PA DEP or a planning module will also need to be completed. A will serve certification for sewage disposal from the township will be required, stormwater agreement is also required. We currently do not have any of the declarations or agreements, no proof of acceptance from any property association, no meets and bounds or easements or utility easements have been received to date.

The last amendment to the Toll Declaration only provides for 66 units and the plan shows 70 units. This was brought up over a year ago. Have not had any response on this from the developer and the associations attorney sent a letter to Attorney Gaul explaining that this goes against the association's Declaration.

Attorney Gaul stated that he also has new comments regarding the revised plan. There is an access path to a recreation area shown; however, it is unclear as to what standard it will be built, (details may be necessary), it is going to be improved. There is no reference to escrow for recreational fees, the plan does not show all the limited common areas; the units not a typical area, except how it is shown on the graph on the plan, which is not the best way to show it.

There is no delineation of the wetlands on the plans. There is no way to measure the 50' (foot) buffer on the plan. How things are worked out with the North Association does affect the plans.

The common living elements, maximum area does not show the actual area. There are still problems with the notes. The revised plans show some of the sidewalks blocked by vehicles. There is no traffic control to get to the recreation area.

Chris McDermott stated that a lot of his comments reiterate Attorney Gaul's comments. Outside agency approvals, E&S, Water Company, detailed calculations for sewer and certifying there is capacity, the developer's agreement is needed, and drainage easement notes were added to the revised plan. The modification request for the base of the roadway, the township has already discussed at length and approved.

Brick Linder, P.E. of Linder Engineering stated that he will make sure the stormwater and controls calculations are sent to Chris McDermott from the manufacture.

Chris McDermott also stated that some additional comments are the road center line metes and bounds are shown on the stormwater plans. They should also be added to the plans that are to be recorded. Metes and bounds should also be provided for the wetland buffers.

Chris McDermott stated that the access paths to the recreation area show no details. Brick Linder showed them the 6' wide and wood chipped path. Attorney Charles Vogt stated that is the responsibility of the association. Chris McDermott stated that this should be added to the plan as a note.

Chris McDermott stated that most of his comments can be addressed without significant changing of the plans.

Bob Early asked why the major things have not been addressed, such as the number of units. Attorney Vogt stated that that is just a matter of knocking out 2 of the units. Attorney Gaul stated that they need to show what they are doing.

Bob Early asked if they have sewer approval and do they have the capacity to handle the flows. Brick Linder stated that they have done calculations and he is comfortable with it as there are 4" main lines.

Brick Linder stated that once they receive approval from the Township, they will then go for outside agency approvals.

Attorney Gaul stated that more information has to be shown on the plans regarding the sewer system and Brick Linder agreed.

Bob Early questioned if they have permission to tie into the sewer lines. Attorney Vogt stated that either Toll Bros. or the North Association owns the line and if Toll is the owner then they would be allowed to tie into them under the settlement agreement.

Attorney Gaul stated that this is not preliminary approval, they are asking for final approvals under the PRD.

Bob Early questioned the central water and Brick Linder stated that they have not done a final submission to PA American Water yet.

Mark Oney asked how to move the plan along. Attorney Gaul stated they can approve with conditions subject to the Engineers and Solicitor comments being completed.

Bob Early stated they could also recommend rejection and it still goes to the Board of Supervisors.

Attorney Gaul stated that a letter from Mr. Pohlman was received and he does not believe the developer would have a problem with a security bond or bonds for ensuring that the infrastructure will not be damaged, that RGB will follow the association rules; such as dust remediation's and roadway cleanup, and adhere to the PRD open space requirements.

Bob Early stated that there are flaws and the Planning commission has been patient and the developer shows no urgency to get it done as this has been going on for over 2 years now and this is a volunteer board.

Bob Early made a motion to reject the plan due to the solicitors and engineers comment. Carrie Wetherbee seconded the motion to reject.

Bob Pohlman stated that the developer shouldn't get what they want, the plan is supposed to be for 66 units and the plan shows 70. There is too much of a disconnect.

Ray White stated that when the developer went from 66 units to 70 they stepped out of the 20th amendment, if they do the 66 units then maybe the association can work with them, if they create their own property owners association the north would be able to manage it.

Mark Oney asked Attorney Gaul for his legal opinion on whether to reject or accept with conditions. Attorney Gaul stated that this is not going work unless they all work out the number of units. If you think it's going to work then pass it on, if you really don't think it will then reject it.

Parin Shah asked the members if they had to remove 4 units would it matter which ones. Attorney Gaul stated that the items in his memo will not change if the plan moves forward. He doesn't have a problem with moving forward. If the developer has to rearrange other things on the plan because the reduction from 70 to 66 units, they have to come back to the Planning Commission. Otherwise it will simply be a matter of deleting the excess units.

Bob Early asked Attorney Vogt if there is a solution to the 66 and 70 units. Attorney Vogt replied, yes.

Attorney Gaul stated that if the Planning Commission recommends approval subject to the conditions, then he would write the conditions.

Bob Early withdrew his motion to reject the plan.

Bob Early made a motion to table action on the plan until the next meeting, as they will wait for Attorney Gaul's list of conditions to review for a possible recommendation of approval. Carrie Wetherbee seconded the motion. Motion passed 5 in favor and 1 abstained (Gary Summers).

Reviews and Recommendations

Proposed Zoning Amendment Ordinance – Attorney Gaul stated that the proposed ordinance was prepared by URDC (Urban Research Development Corporation). Attorney Gaul was asked if the revised ordinance would still provide an opportunity for the development of adult uses in the Township. Attorney Gaul stated that he has not personally done any calculations regarding the possible areas for the development of adult uses in the Township, as would be permitted by the ordinance amendment. However, his understanding is that URDC did perform some rough calculations and is satisfied that the ordinance changes still provide for an opportunity for adult uses in the Township. Attorney Gaul further stated that URDC is a well-recognized company that does this type of work.

Following lengthy discussion regarding the ordinance, Carrie Wetherbee made a motion to forward and recommend approval of the Proposed Zoning Amendment Ordinance to the Board of Supervisors. Wayne Bolt seconded the motion. Motion passed 6-0.

Continuing Education

Carrie Wetherbee stated that she thoroughly enjoyed the Subdivision and Land Development Course seminars that she and Bob Early attended in Stroudsburg.

Adjournment

Parin Shah made a motion to adjourn the meeting at 8:52 p.m. Wayne Bolt seconded the motion. Motion passed 6-0.

Respectfully submitted,

Michele L. Clewell
Township Secretary

