

Lower Heidelberg Township
Planning Commission Minutes
Monthly Meeting
May 12, 2014

The Lower Heidelberg Planning Commission's regularly scheduled meeting was held at the Lower Heidelberg Township Building on the above date.

Present were: Chairman Michael Levan, Vice Chairman Neal Nevitt and Member William Moser. Member Ronald Limpus arrived during the meeting. Also attending were Solicitor Ryan Jennings and Engineers Ryan Rhode (GVC), Glenn Neuhs (SSM), and Pamela Stevens (SDE). Absent was Member David Seip.

The Chairman called the meeting to order at 7:08 p.m. The minutes for the April 14, 2014 regular meeting were reviewed. **On Motion** by Mr. Moser, second by Mr. Nevitt, to approve the minutes of April 14, 2014. Motion passed unanimously.

Heffner Sketch Plan

Mr. Levan announced that the Heffner Sketch Plan was submitted in time for consideration this month. Jason Shaner of Impact Engineering presented for the applicant. The SSM review letter of May 7, 2014 was discussed. Mr. Shaner explained that the sketch plan shows a six lot subdivision at the intersection of Heffner and Wooltown Roads, with one acre lots serviced by wells and septic systems. The main reason for the sketch plan review is to consider whether or not sidewalks and curbs will be required. All other items from the review letter will be addressed with the preliminary plan set.

Mr. Limpus arrived to the meeting at this time.

Mr. Neuhs said that sidewalks and curbs are normally required, but a waiver request can be submitted by the applicant. Mr. Levan asked if there are any other sidewalks and curbs in that area. Mr. Shaner said there are none within a mile. Mr. Levan advised that the applicant should send a letter requesting the waiver. Mr. Shaner asked the Commission if there was anything else of concern that was not on the review letter. Mr. Rhode noted that there is no requirement for stormwater management at the sketch plan stage. He is not sure if the applicant will be handling it individually or throughout the site; he believes it will be difficult to do a common system. Mr. Shaner said the applicant will most likely be doing it on an individual lot basis. Mr. Neuhs said his only concern is will it be five lots or six lots, based on the density of the steep slopes. Mr. Shaner said it will be five lots. Ms. Stevens noted that there are some potential malfunctions associated with some of the lots; the probes and perc tests should be completed as soon as possible. Mr. Levan noted that Mr. Shaner should contact the appropriate engineer for advice if he has any questions during the application process. Mr. Nevitt asked if Mr. Rhode looked at the potential driveways. Mr. Rhode said he did not look at each one specifically, but the applicant will have to meet the requirements for the Township road occupancy road permit needed for Wooltown Road and the PennDOT permit needed for Heffner Road. Mr. Levan asked for any other comments. There were none.

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Timberlake Lot 68 Annexation Plan

Kurt Barnett presented for the applicant. (Mr. Barnett noted as an aside that the applicant has received the Planning Module Exemption for the Timberlake Lot 9 Plan. Ms. Stevens said that was the last item needed for the plan. She will present this at the next Board of Supervisors meeting.)

The SSM review letter of May 7, 2014 was discussed. Mr. Barnett said the neighboring property owner has asked to purchase a portion of Lot 68, which is being designated as Lot 68-A. Mr. Barnett acknowledged Mr. Neuhs comment about the note restricting further development on Lot 68-A; it will be added to the plan. He noted he has the acknowledgement letter from the Ernst-Hospidors that confirms their agreement to the annexation. Mr. Barnett acknowledged that the plan does not show the sewer lateral to this lot, but that is just a matter of drawing one line. Mr. Neuhs said that his comments have been addressed, other than the note about the lot being restricted from further development. Mr. Barnett said he does not want the note to restrict the future lot owner from being able to add an accessory building or shed. The note would prevent the lot owner from developing it into an additional single family lot. He has covered it with the original notes, and with the Hospidors signing the letter. Everything else in the review letter is a "will comply".

Mr. Nevitt asked if there is a stormwater maintenance agreement for the property. Mr. Barnett said there is an easement. Mr. Rhode said it is really an overflow from the pond; the pond itself is not a stormwater facility. The Township needs access to it as it is connected to the public system. Mr. Limpus repeated Mr. Nevitt's question: is there a stormwater maintenance agreement. Mr. Barnett said the applicant has provided an easement around the existing pipe and the catch basin. Mr. Limpus confirmed that the applicant has agreed to restrict the lot against future development, rather than further subdivision. Mr. Barnett read the note from the plan: "Lot 68A to be annexed to adjoining landowner as shown, and is not being developed as a separate building lot". Mr. Limpus asked if Mr. Jennings felt the note was sufficient. Mr. Jennings said the note should be spelled out that there will be no further land development or subdivision on either Lot 68 or Lot 68-A. Mr. Barnett said if the owner of Lot 68 wants to further develop it, he would need to come before the Planning Commission. Mr. Levan asked for any further comments.

Vice-Chairman Nevitt noted that he has recused himself and will abstain from voting on any motions on projects owned by Grande, or any matters concerning or involving Grande Construction or any related entities as he has entered into an Agreement of Sale for the purchase of a residence being constructed by Grande Construction. The recusal letter is on file with the Township office. Mr. Barnett said he will change the note to be more restrictive and will add the sewer lateral line to the plan as requested by Ms. Stevens. Mr. Levan asked for any further comments. There were none.

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On Motion by Mr. Levan, to recommend to the Board of Supervisors to approve the Timberlake Lot 68 Annexation Final Plan, subject to the following conditions prior to release for recording: to the extent necessary, the applicant shall enter into a Stormwater Management Maintenance Easement Agreement for the two lots, spelling out the lot owner's respective responsibilities; obtaining all necessary outside agency approval; compliance with all additional and outstanding engineering review comments; a notation on the Plan restricting the lots from any further development; and revision of the plans to add a lateral location. Mr. Limpus asked if the motion covers the need for the easement agreement. Mr. Rhodes said that will not be needed. Mr. Levan modified the motion to strike the stormwater condition. Modified motion seconded by Mr. Limpus. Motion carried with Mr. Levan, Mr. Moser and Mr. Limpus voting aye, and Mr. Nevitt being recused as previously stated.

Green Valley Estates West Phase 1 - Final Plan

Kurt Barnett and E.J. Walsh presented for the applicant. The SSM review letter of May 9, 2014 was discussed. Mr. Barnett said that most of the items from the letter are "will comply"; the outstanding items pertain to floodplain and sewer planning. Mr. Neuhs stated that some of the wetlands are within the protected margins. Mr. Barnett said that 100% of the wetlands are within protected areas. Mr. Walsh said that 80% of the wetlands are protected. Mr. Neuhs noted that behind lots 92 to 98 the existing contours have changed. Mr. Barnett said they have corrected the contour lines to show the protected area. Mr. Neuhs said there is sufficient protected area shown based on the contours.

Mr. Barnett said the applicant will address the GVC comment about the cost estimate after they obtain the contractor's estimates. Mr. Rhode said his question is whether it will be separate escrows for the two phases. Mr. Barnett said they are only asking for approval of Phase 1. Mr. Barnett noted that the E&S approval was just received on May 8th. Mr. Walsh said the approval is for the entire project. Mr. Levan asked if the EDU's have been secured. Mr. Barnett said they had. Mr. Barnett said the Operations and Maintenance Plan has been included; Mr. Rhode noted that the Operations and Maintenance Plan should be condensed into one document to hand out to homeowners. The revised plan shows a stormwater swale. Mr. Barnett said they will create an easement for the swale, so that homeowners do not plant trees or otherwise encroach on the protected swale.

Mr. Barnett said Mr. Greth had 110 reserved capacity units, and the applicant requested an additional 53, so between the two projects, there should be sufficient reserved capacity. The applicant has DEP module approval for 65 units. Phase 1 of Green Valley Estates West is only 55 units. The DEP approval is site specific, so the 65 DEP approved EDU's goes to this project. Mr. Barnett said Mr. Greth had to apply for his own 55 EDU's for his project. When Grande is ready to start Phase 2 of Green Valley West they will have to come back to the Planning Commission to apply for the Planning Module for Phase 2.

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Mr. Levan asked if the EDU's have been paid for yet. Mr. Barnett said it was his understanding that when Mr. Greth reserved the capacity for the 110 EUD's, he paid 25% at that time. Mr. Levan questioned how the Township can make sure the sewer capacity is there for the project to move forward. 110 EUD's have been purchased. The balance of 75% will be due at Final Plan approval. The 110 EDU's are reserved at Sinking Spring. Mr. Nevitt noted the EDU's will have to be obtained and paid at building permit stage. Mr. Levan noted that Mr. Greth, at a prior court hearing, said he had the EDU's secured by paying the 25%. Now that there are two concurrent projects, Green Valley Estates West and Cacoosing Crossing North, can EDU's for one project be taken and applied for another project. Mr. Barnett advised not to confuse reserve capacity with the Township with what DEP has approved. Mr. Greth split the 110 EDU's as he only needed 55 for the Cacoosing North project, giving the remaining 55 EDU's to Green Valley Estates West. Mr. Greth's payment of 25% goes to the Cacoosing Crossing North project. Mr. Grande spoke and stated that he will pay for the 55 EDU's at the final plan approval. Ms. Stevens said the letters refer to the Cacoosing Project, not Cacoosing North or Cacoosing South. The 110 EDU's could go anywhere split 55 and 55, as stated at an earlier Planning Commission meeting. Mr. Moser asked who made the original sale, to who were they titled. Mr. Nevitt stated that this is not an issue as there is now capacity. Mr. Walsh noted that 55 EDU's are what DEP vetted, the approval is for the 55, and the money due is a separate issue. Mr. Nevitt clarified that someone has to pay the 75% balance due on the 110 EDU's, and then 100% for the remaining EDU's that are still required.

Mr. Barnett noted that the sanitary sewer line through the Green Valley Country Club has been completed. The plans no longer show the water line as PA American Water did not want the water line there. They can supply Phase One from the existing pump station, and will supply Mr. Greth's project from Gaul Road. The applicant has the approval letter from PA American Water. Ms. Stevens said the project does have Planning Module approval; Mr. Walsh provided a letter. PPL has given the applicant the serviceability letter; he will meet with their representative to discuss the relocation of the utility poles. Mr. Rhode said he would like to get together to look at the plans for changes to Gaul Road. Mr. Levan asked if the curb will be taken out. Mr. Barnett showed the area on the plan where the curb will be taken out, but acknowledged it is difficult to see at that plan scale. Mr. Walsh said that has not changed since the original plan for Cacoosing Crossing.

Mr. Levan asked for any further comment. William Koch, neighboring property owner, said he supports Mr. Grande's application for this project, and commends him for saving the existing house. Mr. Nevitt asked Mr. Rhode if he was satisfied with the review of the flood hazard area. Mr. Rhode said it was satisfactory.

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On Motion by Mr. Levan, second by Mr. Limpus, to recommend to the Board of Supervisors to grant Final Plan approval for Green Valley Estates West Phase One, subject to any outstanding comments from the SSM review letter of May 9, 2014. Motion carried with Mr. Levan, Mr. Moser and Mr. Limpus voting aye, and Mr. Nevitt being recused as previously stated.

McGlenn – Revision to Record Plan (Final)

Eugene Long, Bogia Engineering, presented for the applicant. The SSM review letter of May 7, 2014 was discussed. Mr. Long confirmed that General Comment 8 has been addressed; two parcels each labeled number one has now been corrected. Mr. Rhode noted that there is no need for curb and sidewalk waivers; the note on the plan should read that all rights and waivers for the original plan will apply to the current plan. Ms. Stevens said she will email the appropriate language for the note to Mr. Long.

Ms. Stevens noted that the on-lot sewer and water systems fall across lot-lines, and asked if they need full easements created and recorded. Mr. Jennings confirmed that the Township would like to see the creation of easements. Mr. Long agreed with the creation of the easements. Mr. Levan asked for any further comments. There were none.

On Motion by Mr. Levan, second by Mr. Nevitt, to recommend to the Board of Supervisors to grant Final Plan approval of the McGlenn Subdivision Plan, subject to the following conditions prior to release for recording: the addition of notations regarding the applicability of previously-granted waivers regarding curbing and sidewalks to the Plan; the recordation of easement agreements for the waterline and septic system upon Plan recordation in a form satisfactory to the Township; compliance with all additional and outstanding engineering review comments; and obtaining all necessary outside agency approval. Motion passed unanimously.

Glen Gery Minor Subdivision – Revised Preliminary/Final Plan

Eugene Long, Bogia Engineering, presented for the applicant. The SSM review letter of May 7, 2014 was discussed. Mr. Neuhs commented that all protected areas need to be delineated on the plan. Mr. Long noted he forwarded drawings of the protected areas, and when they come in for the building permit he will provide the calculations needed. Mr. Long said they now have the proposed layout for the driveway. Mr. Rhode said that all previous GVC comments have now been addressed. He was able to look at the proposed driveway location, and it appears to be the only site that meets the ordinance requirements. The applicant has submitted for a Township road opening permit. The Township Recreation fee required for the project is still outstanding. The Planning Module is still open; Ms. Stevens suggested that the Planning Commission and the Board of Supervisors can give a final approval, but not date the plan, and hold it for signature until the Planning Module is approved, as there may be a nitrate issue.

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Mr. Dan Becker noted that the applicant is in the process of conducting a nitrate study; the Commission can issue a final plan approval subject to that study being completed and they can move forward. Ms. Stevens concurred that it would be okay to move forward while waiting for the results, and she repeated that the plans should not be signed yet, as that will start the 90-day recording clock. Mr. Levan asked for any further comments. There were none.

On Motion by Mr. Levan, second by Mr. Nevitt, to recommend to the Board of Supervisors to grant Preliminary/Final Plan approval of the Glen Gery Minor Subdivision Plan, subject to the following conditions prior to release for recording: the percentages of woodlands and steep slopes which have been projected by metes and bounds should be indicated; payment of the recreation fee, pursuant to Section 528(d) of the Subdivision and Land Development Ordinance; compliance with all additional and outstanding engineering review comments; and obtaining all necessary outside agency approval, including DEP Sewage Facilities Planning Module approval prior to application for a building permit. Motion passed unanimously.

Cacoosing Crossing North – Preliminary Plan

Aristides Otero presented for the applicant. The SSM review letter of May 7, 2014 was discussed. Mr. Levan noted that DEP granted approval for a set amount of houses for Phase 1 of Green Valley Estates West. Mr. Levan then asked how many houses were approved on this site during the court hearing that was held. Ms. Stevens noted that there is no Planning Module on this project yet. She just received the Planning Module for Green Valley Estates West, which was holding up the application for this project, as they are connected to Green Valley Estates West. Now she can move the Planning Module forward to the Board of Supervisors. Mr. Levan questioned Mr. Otero as to the 55 proposed lots on the plan; were there a proposed number of houses specified by the court hearing on this project. Attorney Dan Becker, representing adjoining property owners Bill and Robin Koch, said that only 52 lots were approved at the special hearing. Mr. Nevitt said the project was granted a Special Exception for 52 lots, which was changed by an agreement between the Township and Mr. Greth to 55 lots. There were certain conditions to be met before the agreement would take effect; he questioned whether the conditions have been fulfilled. Mr. Becker, representing adjoining property owners Mr. and Mrs. Koch, gave a history of the property. He stated that David Bright testified at the Zoning Hearing Board that the original plan submitted in 2004, for property in the R-6 district, was approved by the Municipal Authority, the Planning Commission and the Board of Supervisors. At the same time, the applicant submitted for a Special Exception. Mr. Becker stated his belief that there is no sewer capacity approved for this project.

Mr. Nevitt said 52 lots were granted by Special Exception and the capacity is there at this time. Mr. Becker said he will appeal the Special Exception and the decision of the Board. Mr. Otero said he will get to that, but would like to proceed with the review letter.

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Mr. Otero noted that the majority of the items are a "will comply"; the Primary Resource Impact Plan will be added to the index. The Improvements Agreement will be done at the Final Plan stage. The Existing Resources and Site Analysis will be added to the index. The previously proposed screenings around detention basin 2 have been removed as the basin has been redesigned and will not hold water, but will release over 24 hours. The screenings are no longer required (as per DEP.) Mr. Neuhs said the original comment was made because the basin was directly behind the adjoining property. Mr. Otero said the applicant has received Berks County Conservation District approval, and handed out copies of the approval letter. Mr. Rhode commented that the Faust Road entrance to the school does not currently contain sidewalks; he reviewed the revised plan, and advised Mr. Otero to contact the School District to get input. Mr. Otero said he has contacted the School District and left a message. Mr. Koch remarked that when the School District was in front of the Planning Commission for the school project, their position was that they were going to bus all the children to the school; they did not want sidewalks.

Mr. Otero continued with the items from the review letter. An improvements agreement will be provided at Final Plan stage. A summary of maintenance procedures and guidelines for the individual lot owners will be needed. Mr. Levan asked if the Township requires periodic inspections. Mr. Rhode responded not at this time; the process is regulated by DEP. The agency will go out if authorized by the Board of Supervisors. Mr. Otero agreed the purchaser of the lot will need something in the way of guidelines and procedures, and the applicant is amenable to that; he inquired if there is standard language that can be used. Mr. Rhode said that there is, and he will assist the applicant with the appropriate language.

Mr. Otero continued the discussion of the review letter. A maintenance agreement will be provided at Final Plan stage. Comments regarding the Gaul Road pipe replacement will be addressed on the final plan submission. The applicant continues to work on providing more detail for connection of proposed roadways to existing Township streets. GVC will provide the applicant with standard detail needed for road restoration of Gaul Road. Mr. Otero will obtain information from Mr. Barnett at Green Valley Estates West to add to the plan pertaining to the elevations

Mr. Otero moved to the SDE comments. There are a total of six stream crossings. The applicant will have the PA American Water letter by May 22nd, which he will then forward to the Township. Mr. Otero noted that under General Comments, 75% of the EDU's have to be purchased at final plan submission. At this point Mr. Becker again addressed the Commission on behalf of Mr. and Mrs. Koch. Mr. Becker noted that per Mr. Bright's testimony at the Zoning Hearing, Greth reserved no capacity. Mr. Nevitt noted that there is capacity at the present time. Mr. Becker expressed his opinion that the plan should be rejected. Mr. Otero said that Mr. Koch gave him the comments from Mr. Ludgate's review of the plan. Mr. Becker said there have been substantial changes to the plan since the Special Exception Hearing and the Zoning Hearing Board does not have the authority to grant sewer capacity.

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Mr. Jennings noted that the outstanding zoning appeal should not preclude action by the Township on this project. The Planning Commission can consider a recommendation on the plans, noting any outstanding issues as conditions in the event of approval. Mr. Otero went back to the review letter. Mr. Rhode will look at the issue of the abandonment of the manholes and lines, and will discuss with Ms. Stevens. The last item is again the conversion of data, and Mr. Otero will obtain the needed information from Mr. Barnett.

Mr. Becker again addressed the Commission. He stated the current plan is substantially changed since the Zoning Hearing. Robert Ludgate, representing Mr. and Mrs. Koch, commented on the changes between the current plan and the plan that was presented to the Zoning Hearing Board. Changes include a change in lot number from 80 to 55; two intersections with Gaul Road, not one; seven lots fronting to Gaul Road; a gravity fed sewer system changed to a low pressure system; original basin in the Northeast section of the tract, now showing a detention basin next to the Koch residence.

Mr. Otero responded to Mr. Becker and Mr. Ludgate by noting that the current submission meets all plan and agency requirements. Mr. Levan asked for any additional comments. Mr. Nevitt said that the number of lots needs to be resolved. Mr. Levan agreed that he has concerns about whether it should be 52 or 55 lots. Mr. Moser agreed the issue needs more clarification. Mr. Otero asked what other issues need to be addressed. Mr. Levan said that the Commission is not prepared to grant an approval at this time; the applicant should continue to address outstanding issue with the engineers and return next month.

Time Extensions

As the McGlinn Project plan was approved earlier, there was no need for consideration of the scheduled time extension request.

Other Business

Mr. Levan noted that the next Planning Commission Workshop meeting is scheduled for Wednesday, May 28th at 7:00 p.m. at the Township Building.

Mr. Levan asked for any other public comments; there were none.

Adjournment

On Motion by Mr. Limpus, second by Mr. Moser, to adjourn at 9:40 p.m. Motion passed unanimously.

Respectfully submitted,


Theresa Connors, Recording Secretary

Approved on: June 9, 2013