

MINUTES
DILLSBURG BOROUGH PLANNING COMMISSION MEETING
APRIL 23, 2008

The April meeting of the Dillsburg Borough Planning Commission was called to order on the above date at 7:30 PM. Planning Commission Members in attendance were Chairman Allen Reeves, Vice Chairman Brian Radcliffe, Leon Zeiders and Joe Robinson. Also present were Borough Engineer Mike Begis, Borough Solicitor Mark Allshouse, Borough Manager Karen Deibler and Borough Secretary/Treasurer Debbi Beitzel, Borough Council President Jeff Griffin and Borough Council Member Dave Baldwin. Member Paul Eurich was absent.

The following visitor was present: Stan Jarmolenko from Hoover Engineering representing the Mikos' Subdivision Plan.

The first item on the agenda was the approval of the March 26, 2008 meeting minutes. Vice Chairman Radcliffe moved to approve the minutes as presented. Joe Robinson seconded the motion. – Motion carried.

The second item on the agenda was the Discussion/Review of the Mikos/30 Greenbrier Lane Subdivision Plan. Chairman Reeves indicated the Planning Commission received a “revised” plan and asked for an explanation as to what was revised on it compared to the plans that were submitted in January 2008. Mr. Jarmolenko from Hoover Engineering stated the variances granted from the Zoning Hearing Board meeting (Note #9) were added and the granted waivers were added to the waiver block. Mr. Jarmolenko stated there were two additional waiver requests for the Planning Commission to consider, which haven't been added to the plan. Engineer Begis indicated some of the comments have been addressed. Engineer Begis went over the comments from KPI with the Planning Commission.

1. General note #9 item #3 should be revised to reflect the proper section number to which the variance has been granted (s/b section #507.1.A (2)).
2. The existing site density that is shown on the plan (12.2 units/acre) exceeds the maximum density of (8 units/acre) allowed by the ordinance for multi-family uses. The current density is a pre-existing condition (12.2 units/acre) on the current lot, however by subdividing the property the density on lot number 4 (which will be a multi-family use) is being increased from the current density. The proposed density should be calculated and should be consistent with the density requirements for multi-family dwellings (509.2-A).

Vice Chairman Radcliffe asked if this falls within the Subdivision Ordinance or the Zoning Ordinance. Engineer Begis stated it's within the Zoning Ordinance and it would have to go before the ZHB to request a variance. Mr. Jarmolenko stated even as it stood as one lot, it didn't meet the zoning requirement that is in effect now. Solicitor Allshouse indicated when a subdivision land development plan is done, you have to comply with the ordinances or get waiver approvals. Engineer Begis indicated with the timing of plan,

when it first came in, the ZHB was scheduled for the night after the planning meeting and only the first round of reviews was done. Chairman Reeves asked if the plan is approved what would be the density. Engineer Begis stated he wasn't sure. Chairman Reeves asked what it was at the present time. Engineer Begis stated it would be 12.2 units per acre. Chairman Reeves asked if it exceeds the 8 units per acre. The answer was yes. Engineer Begis stated it has to be less than 12.2 units per acre.

Chairman Reeves asked for an explanation of the benefit for dividing the lots into two parcels. Mr. Jarmolenko stated there is a couple that would like to buy the small lot and renovate the house to make it habitable.

Vice Chairman Radcliffe stated his concern with this was that if something happened to the building, they couldn't rebuild it. Leon Zeiders indicated they added a note to allow the reconstruction. Vice Chairman Radcliffe indicated the note states the reconstructed building shall comply with the area regulations of the district in which it is located. Mr. Zeiders stated which means it could go on the same foundation and the Planning Commission couldn't stop it. Mr. Jarmolenko indicated the wording is right out of the ordinance. Mr. Zeiders indicated his concern with the plan is you have a situation that isn't good from the start and now moving forward to make the situation even worse for a potential buyer wanting to buy part of the property, why should the Planning Commission move forward in this direction. Chairman Reeves agreed; he indicated his concern was in order to make this workable the owners and the future owners of the residence at 30 Greenbrier Lane now have to give up parking spaces on what little property they do have to their neighbors. Chairman Reeves stated this agreement might be acceptable to the first owners, but the next ones are stuck with sharing the driveway, providing access to the parking places that are on Lot 3, and have to provide two parking spaces that are located on Lot 4. Mr. Jarmolenko stated the potential buyers are willing to agree to this and if they decided to sell the property in the future, those people will know immediately about this agreement. Solicitor Allshouse asked what happens when the neighbors stop getting along. No answer was given. Chairman Reeves stated he agreed with Mr. Leon Zeiders, he felt the PC is taking a giant step backwards. He believes a good design could make these lots an asset to the owners and the community. Mr. Jarmolenko stated the Commission's definition of a good design is to tear the house down and leave the lot as is and put in adequate parking. Vice Chairman Radcliffe stated there are other alternatives that could have been addressed. Chairman Reeves stated there're many alternatives and tearing the house down was only one suggestion, especially with his suspicion that the house (30 Greenbrier Lane) is structurally inadequate.

Vice Chairman Radcliffe asked if the garage was a viable place to park three (3) vehicles. Mr. Jarmolenko stated he wasn't sure if it was viable for three (3), but it was for two (2) vehicles. Vice Chairman Radcliffe indicated the garage would probably have to be reconstructed to accommodate two (2) vehicles.

Solicitor Allshouse indicated there is a plan that's in front of the PC that doesn't meet the Borough Zoning Code; the applicants have been to the ZHB once to address the plan. Mr. Allshouse stated the PC can table the plan and have the applicants go back to the ZHB or indicate that the Commission isn't in favor of passing the plans over to the

Borough Council and letting them make a vote on the plans. Solicitor Allshouse indicated constructive feedback, if the plan is going to get revised is useful, but legally the only two options are to table the plan or vote to disapprove.

3. The impervious coverage should include parking areas, access drives and all existing and proposed impervious areas (413.C). Engineer Begis indicated this has been addressed and was taken care of.
 6. Adequate lighting of the parking area should be provided (5063B (3)).
 7. York County Planning Commission (YCPC) comments should be considered (404.P).
 8. Executed owner's acknowledgments are required (402.A (6)).
 9. All related improvements are required to be bonded or installed, such as sidewalks, lighting monuments & markers, etc (502.4, 406).
 10. The sidewalk at the intersection of Harrisburg Pike and Greenbrier Lane should be handicap accessible (402.A.17).
4. Waivers requested to the plan:

Vice Chairman Radcliffe stated the PC should have some description of what the hardship is and why it's a hardship in order to make some determination or approval. Solicitor Allshouse indicated it's a gray area but some explanation of why the requests are being made should have been given and then the Planning Commission has the ability to make the determination for the basis if it's a hardship or not a hardship.

- a. Section 506.7.A (2) – To allow the access drive to be less than 18 feet (14 feet proposed).

Vice Chairman Radcliffe stated asking the developer to move the utility pole or hydrant at their expense would be unreasonable, but the waiver request isn't viable and shouldn't be given because there's an alternative to bring the driveway entrance for Lot 3 in at another point.

- b. Section 506.7.A (3) – To waive the requirement that the access drive be paved.

Vice Chairman Radcliffe stated it should be paved and lined off in order for the residents to know where the parking spaces are located. He also indicated there're options for paving that would be pervious and would solve the stormwater run-off.

- c. Section 506.7.A.5 (b) – To allow the access drive to be within 10 feet of a fire hydrant (the existing driveway is currently 5 feet from the fire hydrant).

Vice Chairman Radcliffe indicated this waiver relates to the same discussion as waiver 4a.

- d. Section 506.6.E – To waive the requirement that street trees be provided.

Vice Chairman Radcliffe indicated a written request for this waiver is needed. Solicitor Allshouse stated a written request is needed if one hasn't been provided for the street trees because having it on the plan isn't sufficient. After researching further, Solicitor Allshouse indicated a request was received on January 2, 2008. Chairman Reeves asked what the reason was not having street trees. Solicitor Allshouse stated the request is being made due to the nature of the proposed subdivision and its location. The

subdivision consists of the creation of property lines around existing dwellings units, with no new improvements or dwellings being proposed. Additionally, planting of street trees along this tract would be out of character with the existing neighborhood which has already been developed. Vice Chairman Radcliffe and Member Robinson stated they didn't have a problem with this request. Chairman Reeves stated he would like to see them at the property. Joe Robinson asked about the site distance and vision at the intersection. Engineer Begis indicated trees can't be planted in the right-of-ways. Chairman Reeves indicated a well planned tree layout shouldn't interfere with the site lines. Chairman Reeves stated he objects to saying the character of the neighborhood doesn't lend itself to street trees.

- e. Section 506.7.B (2) – To waive the requirement that off street parking spaces be paved.

Vice Chairman Radcliffe indicated his argument (with 4b) applies to this waiver also. Vice Chairman Radcliffe asked why there are six meter heads. Joe Robinson stated common areas (ie. hallways, outside lighting) are probably paid by the owners.

5. This was added as a waiver request. Section 506.7.A (5) (d) – The access drive shouldn't be located within 3 feet of a property line (pertains to the existing driveway). Vice Chairman Radcliffe asked if this needs to be approved by the Planning Commission because the ZHB had already approved this. Engineer Begis stated it's a SLDO section. Manager Deibler indicated the ZHB granted approval for the off street parking spaces being within 3 feet of property line. Vice Chairman Radcliffe indicated the plan states the access drive closer than 3 feet from a property line was approved by the ZHB. Engineer Begis indicated the note (#9 (3)) is incorrect and needs to be fixed. Vice Chairman Radcliffe indicated it would have to be granted for lot 4 and would like to see the waiver specifically note lot 4. Chairman Reeves asked in the present situation, aren't there two parking spaces completely on lot 4 that belong to lot 3 and two that are partially in lot 4 from lot 3 and one right along the property line and five that are less than 3 feet off the property line. Engineer Begis indicated the applicants are proposing an access easement. Solicitor Allshouse stated where they would come out of the garage and back out of the spaces that are on Lot 4 would be within the access easement. Engineer Begis stated once the easement is established, nothing will be allowed within that easement.

11. This was added as a waiver request. Section 402.A.19, 26-122 – A stormwater management plan. Engineer Begis indicated a stormwater management plan is required due to the increase of impervious surface being placed on the lot. The ordinance states land development that creates an additional impervious area on the project site or property of 500 square feet or more requires a stormwater management plan. Mr. Begis stated the plan shows an additional 2300-2500 square feet of impervious surface on the property proposed. Mr. Jarmolenko indicated that's why the applicants asked to have it remain in stone. Mr. Begis indicated the ordinance states gravel shall be considered impervious surface. Chairman Reeves asked what is there now. Solicitor Allshouse stated a mixture (paved, stone, impervious, grass). Leon asked if they move the ten parking spaces over to the side of the house, and put pervious paving there, would

you waive it. Engineer Begis stated pervious paving would essentially be their stormwater management.

Engineer Begis stated there also has been a waiver requested from a preliminary plan requirement. Vice Chairman Radcliffe indicated that had already been passed onto Borough Council. Discussion on the waiver block. Joe Robinson indicated Section 506.7.A.2 appears twice within the waiver block. Solicitor Allshouse stated Section 506.7.A.2 needs to be replaced with Section 506.7.A.5 (d). Vice Chairman Radcliffe stated Section 402.A.19, 26-122 also needs to be added. Engineer Begis stated the two additional waivers presented at tonight's meeting would not appear in the waiver block yet.

Manager Deibler asked if sidewalks and lighting are noted on the new plan. Solicitor Allshouse indicated there were some sidewalks missing and some lighting. Engineer Begis stated the lighting issue was one of KPI's comments.

Joe Robinson asked what the legal status was on the house at 30 Greenbrier Lane. Manager Deibler indicated it's not up to UCC codes or Property Maintenance codes for rentals. Mr. Robinson asked could you live in it if it was sold. Solicitor Allshouse stated yes, assuming the exterior is up to code. Chairman Reeves asked if the IBMC Residential Code was adopted. Solicitor Allshouse indicated it was adopted, but not currently enforced, unless there is a reasonable suspicious expectation that there is a problem based upon the exterior, they have the ability to send in the inspector. The inspector could claim the property inhabitable. Manager Deibler indicated the house at 30 Greenbrier Lane can't be used as a rental property until passes all inspections.

Vice Chairman Radcliffe asked if the Borough Council had approved the waiver from a preliminary plan. Manager Deibler stated yes.

Solicitor Allshouse indicated at this point the PC has three options: 1) make a motion on the plan itself, 2) table the plan, or 3) do a combination of making a recommendation based upon the numerous waivers to Borough Council and table the plan until a response is received from Borough Council. Leon Zeiders asked where the extension puts us on this plan. Vice Chairman Radcliffe stated June 23, 2008. Mr. Begis indicated it would need to be acted upon at the May 28th meeting.

Vice Chairman Radcliffe asked Mr. Jarmolenko if he knew what the owners feelings would be in regards to making changes. Manager Deibler asked why the Mikos didn't attend the meeting. Mr., Jarmolenko indicated he had no idea and thought they would be present. Vice Chairman Radcliffe indicated if a new plan comes back before the PC, it would have to be a significantly different plan to be approved.

Solicitor Allshouse stated the seven (7) requested waivers were: SALDO Sections 506.7.A.2 – Access driveway width, 506.7.A.3 – Access drive paving, 506.7.A.5.b – Access drive not cross the street line within 10 feet of hydrant, 506.7.B.2 – Off street parking spaces and paving, 506.7.A.5.d – Access drive located within 3 feet of property line, 402.A.19 – Stormwater Management Plan and 506.6.e – Street Trees. Vice Chairman Radcliffe moved to recommend to Borough Council to deny the seven (7) waivers that were requested due to the fact that a sufficient claim of hardship wasn't made and that there are alternative solutions that could be addressed that wouldn't require the waivers to be requested. Joe Robinson seconded the motion. – Motion Carried.

Joe Robinson moved based on the recommended disapproval of the seven (7) waivers, the plan itself is recommended for disapproval to Borough Council. Vice Chairman Radcliffe seconded the motion. Vice Chairman Radcliffe indicated the recommended subdivision would create a non-complying spacial condition that would affect the zoning requirement. Solicitor Allshouse indicated there is an outstanding zoning issue and comments from the Borough engineer. Joe Robinson and Vice Chairman Radcliffe withdrew their motions. Joe Robinson moved based on the recommended disapproval of the seven (7) waivers, the outstanding Zoning Hearing Board issue, the spacial issues developed by this plan needing the ZHB to take action and the Borough Engineer's comments that remain outstanding and the Planning Commission recommends disapproval to the Borough Council. Vice Chairman Radcliffe seconded the motion. – Motion Carried.

The third item on the agenda was the Discussion/Review of the Winfield Time Extension. Manager Deibler indicated a letter was received for a time extension for July 31, 2008. Leon Zeiders asked what the status is now. Manager Deibler stated according to Steve Quigley everything is OK except for the Highway Occupancy Permit (HOP). Solicitor Allshouse indicated they haven't gotten back with the Borough on the suggested revisions to their Home Owners Association Agreement. Manager Deibler stated that is what they would like to directly talk with Council about. Manager Deibler indicated her personal thought was they should come to a Workshop Session instead of the Council Meeting, so she was going to try to get them to come on May 6th. Vice Chairman Radcliffe asked if they submitted a plan. Engineer Begis indicated they have been busy working on their HOP plan. Solicitor Allshouse stated there is more than the HOP outstanding, there are plan comments, etc. Vice Chairman Radcliffe stated they are one week away from the deadline to submit a plan for the May meeting. Manager Deibler agreed. Vice Chairman Radcliffe indicated an extension until July 31st doesn't really give the PC much time to do anything. President Jeff Griffin asked if Mr. Sealover was suppose to give the PC a time line as to where they stood with the plan. Vice Chairman Radcliffe indicated the PC asked for that, but they haven't complied. Manager Deibler indicated they did to a point. Vice Chairman Radcliffe stated they advised the PC of what they were doing, not what their plan was to get it to completion. Council Member Baldwin stated he thought the last extension granted was contingent upon a time line of how they planned on addressing outstanding issues. Chairman Reeves asked what the stall was. Manager Deibler stated she was only going by what Steve Quigley indicated to her, that everything was addressed except for the HOP. She indicated they would like to talk with Council about the HOA. Leon Zeiders indicated they had never seen anything regarding to the HOA. Solicitor Allshouse stated he had and the reason the PC has never seen it yet is they don't have it near completion for PC to review. Manager Deibler stated the wording and disagreement lies with automatically paying EMS. Several discussions took place among the individual members. Vice Chairman Radcliffe indicated the only option he suggested was to approve it contingent on getting a decent extension of at least 120 days in order to give PC sufficient time to review and approve and they give us an acceptable time line with milestones for how completing the project or the plan would be

rejected. Manager Deibler asked if the plan is rejected would they have to start all over. Solicitor Allshouse stated yes. Engineer Begis stated any waivers that were granted would be invalid. Discussion. Vice Chairman Radcliffe moved for the developer to be requested to provide a new extension request that would give a minimum of 120 days extension and the developer would also provide a time phase schedule listing all the actions and activities that need to be done with dates to bring the final plan to completion; if not provided prior to the Council Meeting, we would recommend the Council to disapprove the Final Development Plan for Phase 1. Manager Deibler indicated the developer should have this information into the Borough Office by Friday, May 2nd. Solicitor Allshouse indicated to be clearer with the motion; it went from an extension request to a denial of plan. He suggested a motion that says if we don't have it, to deny the extension request and a second motion if Council doesn't grant an extension the plan be denied. Vice Chairman Radcliffe withdrew his motion. Discussion. Council Member Baldwin asked what date the plan is good until. Vice Chairman Radcliffe stated May 31, 2008 and Council would have to vote in their May meeting. Discussion. Vice Chairman Radcliffe moved to request the Borough Manager contact the developer and request the developer to provide a longer period of extension to allow reasonable amount of time for the Borough to review and for the developer to make changes that may be needed and that reasonable time period should not be less than 120 days from the current expiration date and in addition request the developer to provide a time phase schedule outlining all the remaining tasks and actions needed to be done by the developer on the plan in order to gain approval and if those conditions are met we would recommend approval of the extension by Borough Council; if those conditions are not met we would recommend disapproval of the extension by Borough Council. Joe Robinson seconded the motion. Leon Zeiders opposed the motion. – Motion Carried 3-to-1 vote. Vice Chairman Radcliffe moved if the developer doesn't provide an acceptable extension period of at least 120 days and an acceptable time phase schedule for the actions needed to be taken, that Borough Council would disapprove the Final Development plan for Phase 1 of the Winfield Development based upon the outstanding comments of the Borough Engineer. Joe Robinson seconded the motion. – Motion Carried.

Old Business: Borough Manager Deibler indicated Mr. McNaughton called and would like to come to the May 6th meeting and talk with Borough Council to find out what their opinions would be on having only town houses built on his property. Manager Deibler asked who should be first Mr. McNaughton or Mr. Sealover. Leon Zeiders suggested the two not be connected together. Joe Robinson asked since it's a conceptional development discussion, couldn't the Council refer them to the Planning Commission. Solicitor Allshouse stated if they choose to since it's essentially a sketch plan. Manager Deibler stated if Mr. McNaughton wouldn't be allowed to address the Council at the Committee Meeting, he will probably attend the Council Meeting on May 14th and talk during public comment. Manager Deibler indicated she could have them scheduled for two different times. Solicitor Allshouse indicated the other option is if Council doesn't want to hear them yet, they can send them to the Planning Commission Committee to get recommendations on a sketch plan; Council will then have the Planning

Commission's comments. Discussion. Council Member Baldwin stated he would take the recommendation from the Planning Commission before he would talk to the developer. Solicitor Allshouse indicated the Borough's plan requirements state a sketch plan can be forwarded to Borough Council for advice on the requirements. MPC allows the Borough Council to send it back to the Planning Commission, but technically Council has to receive it first. Discussions on proper procedure regarding sketch plans. Solicitor Allshouse indicated to have them at the meeting at the same time.

Leon Zeiders asked when a fire hydrant such as the one on Greenbrier Lane gets pulled out, why DAA doesn't put it back in to meet the Borough requirements. Manager Deibler stated to actually move it would have cost \$5,000-\$6,000 and they told Mr. & Mrs. Mikos that they had no problem moving it; but they would have to pay the fee. Mr. Zeiders asked if the owners refused to let DAA to see the damaged basement, can DAA refuse to do anything and if they wanted the hydrant moved, would it be the at the owners' expense. Manager Deibler stated yes.

New Business: Solicitor Allshouse indicated he would not be able to attend the May Planning Commission meeting.

Adjournment: As there was no further business, Member Leon Zeiders moved to adjourn at 9:05 PM. – Motion Carried.

Debbi L. Beitzel
Secretary/Treasurer

cc: A. Reeves M. Allshouse
 B. Radcliffe Mayor Snyder
 J. Robinson K. Deibler, Borough Manager
 P. Eurich Council
 L. Zeiders T. Knoebel