

MINUTES
DILLSBURG BOROUGH PLANNING COMMISSION MEETING
OCTOBER 22, 2008

The October 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, Paul Eurich, Joe Robinson and Leon Zeiders. Also present were Borough Engineer Tim Knoebel, Borough Solicitor Mark Allshouse, and Borough Secretary/Treasurer Debbi Beitzel.

Vice Chairman Brian Radcliffe and Borough Manager Karen Deibler were absent.

The following visitors were present: Matt Hearn from Akens Engineering, Jeannette and Daniel Mikos and Dillsburg Residents Hank and Pam Snyder.

The first item on the agenda was the approval of the September 24, 2008 meeting minutes. Leon Zeiders stated he needed clarification on page five, the last paragraph. Joe Robinson moved to let it stand as is. Paul Eurich stated on page six, the second paragraph, the last word "Extension" should be deleted and on page ten, last sentence beginning with "Mr. McNaughton indication", the word "indication" should be "indicated". Chairman Reeves stated on page two, paragraph 1b, the third line, "Mr. Mikos indicated a best free", the word "best" should be "dust"; on page five, the fifth line up from the bottom, the "s" should be removed from the word "provides" and on page 13, last paragraph, the first sentence doesn't make sense. Paul Eurich indicated the word "or" should be deleted. Paul Eurich moved to approve the September 24, 2008 with corrections. Leon Zeiders seconded the motion. – Motion Carried.

The second item on the agenda was the discussion and review of the Mikos' Preliminary/Final Minor Subdivision Plan. Engineer Knoebel stated a letter dated October 17, 2008 was sent to the Mikos' and Planning Commission indicating Council has granted all the requested waivers. The Mikos' will have to note on the plan the waivers have been approved and the date. He indicated the signatures and the owner's acknowledgement have to be done; the easement agreement is completed and approved. Engineer Knoebel stated to the Mikos' an estimate of the cost for bonding should be provided, unless they wanted to wait and do the work, then sign the plan. Mr. Mikos stated he had an estimate. Engineer Knoebel stated Mr. Mikos should provide it to him, so they could look at it. He indicated from the Planning Commission's perspective the Mikos' have done what was required and the PC could pass the plan onto Council subject to the comments of the letter.

Leon Zeiders suggested the engineer not give the Mikos' an option regarding the bonding; the plan should be bonded until completed. Engineer Knoebel indicated they couldn't do this. He indicated the Mikos' are allowed building improvements before Council signs the plan, then the improvements would be inspected and the plans would be signed, when all the items are done, or they are allowed to post a bond. Mr. Zeiders asked if the plans would be signed after the improvements are done. Engineer Knoebel stated the plans will be signed either after all the work is completed and inspected, or upon posting of a bond.

Engineer Knoebel indicated all the plan related items are finished, except for needing some signatures and noting the waiver approvals from Council on the plan. Chairman Reeves asked if Council has granted all the waivers. Solicitor Allshouse stated yes, at their last meeting. Mr. Eurich indicated there were two dissenting for waivers 1a and b; c and d

were passed unanimous. Chairman Reeves asked how many Borough Council Members there were. Solicitor Allshouse stated seven.

Joe Robinson moved to recommend approval of the plan to Borough Council subject to the comments being satisfied per the engineer's letter dated October 17, 2008 regarding four outstanding items. Leon Zeiders seconded the motion. – Motion carried.

Mrs. Mikos asked what the time frame was for getting the work completed or getting the bond. Solicitor Allshouse indicated the plan will go before the Borough Council at their November 11th meeting for approval subject to the four outstanding items. He continued by stating if the improvements aren't completed; bonding would be required. Solicitor Allshouse indicated the plan wouldn't get signed and recorded until the work is either completed and inspected or bonded. Engineer Knoebel stated to the Mikos' if they are planning on bonding the work an estimate for the improvements would be needed before November 11th in order to review and concur with it.

The third item on the agenda was the Discussion/Review of the Chestnut Hollow Phase 2 Final Subdivision Plan. Mr. Matt Hearn addressed KPI's comment letter dated October 17th.

- 1, 2 and 3. Administrative items. He indicated Carroll Township Board of Supervisors conditionally approved the plan on October 13th and the signature and seal will be provided when all the revisions to the plan are resolved. He stated the developer understands the recreation fee needs to be paid.
4. E & S Plan and NPDES permit revision are still with the York County Conservation District (YCCD) and hasn't received any comments from them. Mr. Hearn indicated when the comments are received the E & S plan will be added to the tail end of the subdivision plan.
5. Cost estimate comments. Mr. Hearn stated they had no problems with any of these items. He indicated some of the items are counting the paving in terms of square yards rather than tonnage. He asked Engineer Knoebel what the target price was for the total paving section. Engineer Knoebel stated they could provide him with what they have seen recently. Mr. Hearn stated he had come up with approximately \$34-\$35 per square yard, but would like to talk with him to discuss this further. Engineer Knoebel stated the amount was close and would talk with him.
6. Developer's Agreement. Mr. Hearn indicated the developer understands this will have to be provided.
7. Stormwater Management.
 - a. Mr. Hearn indicated new drainage easements are required in lots 21 & 22 of Phase 1 and they are being produced and executed.
 - c. Inlet 6C. Mr. Hearn indicated an inlet was labeled wrong. The mislabeling carried into the computations that are reviewed by the engineer. He explained in the computations inlet 6D was connected to 6C then going downstream to 6B; on the plan they eliminated 6C because it wasn't necessary.
 - e. Phase 2 Boundaries. Mr. Hearn indicated they are now included in the legend on page five and are shown more clearly.
 - f. Review of drainage swale. Mr. Hearn indicated he met with Engineers Knoebel and Begis on September 3rd at the site and discussed how they could best fit the Western Bypass Swale in between Autumn Woods and Chestnut Hollow; which is included with the plan. Mr. Hearn stated a survey crew looked at the swale and they are confident the swale will work as designed; cross sections can be provided if needed. Engineer Knoebel indicated the

response letter stated the developers would work with KPI during construction. Mr. Hearn indicated the slope of the swale is flat; the earth work should be monitored closely during construction to make sure the design grade is actually constructed properly. Engineer Knoebel stated he wasn't asking for the plan to be changed; just make a note on the plan. The contractors don't always have the benefits of knowing this or the foreman doesn't tell the men on the jobsite doing the work, they need to contact KPI when the work is being done.

g. Potential for backup in swale. Mr. Hearn felt the potential for water to back up for any significant amount of time is very low. The reasons for this are the two large pipes (30") at an end wall that were designed to carry water through to the basin. Mr. Hearn stated it would be unlikely those pipes would be clogged. He stated water from the basin in a massive 100 year rain fall event would fill up the basin but wouldn't reach the drainage swale. He indicated the drainage swale has been designed for a 100 year rain fall event capacity. Engineer Knoebel stated the way the swale works now is the water is broken up into smaller areas that drain into the inlets, so it is intercepted at different points and intervals. Their concern is the swale is now designed to carry all the water down to the these pipes, because the inlets aren't located within the swale; and with that volume of water and the fact the calculations show there will be some backup during the 100 year storm, they don't want any problems to occur.

h. Engineer Knoebel stated he wanted the first inlet, near the area in question, somehow be made into an overflow where if the swale does backup, it will backup in the direction of the inlet. Mr. Hearn asked if Engineer Knoebel would consider he pull back the contours to the inlets. Engineer Knoebel stated yes. Mr. Hearn stated both inlets would provide relief. Engineer Knoebel indicated to understand why this is being done is to satisfy a concern in part from Carroll Township there could be a surcharge condition that could back up on the intersection; he doesn't want the surcharge to go behind the houses in Autumn Woods Court. There was a discussion on this issue and what might be able to be done.

8. Documentation from DAA. Mr. Hearn stated DAA has approved the sanitary facilities and water designs last December and he will submit their letter and a copy of the approved sanitary facilities and water designs to the Borough. Engineer Knoebel stated Mr. Hearn would have to provide the documentation they approved the plan. Mr. Hearn stated it wouldn't be a problem.

Mr. Hearn asked the Planning Commission to consider recommending the plan for conditional approval based on resolving the outstanding items and satisfying the administrative items. Chairman Reeves asked Engineer Knoebel if he has a problem with the request. Engineer Knoebel stated he didn't have any problems, as long as they do everything and satisfying the stormwater issues.

Mr. Zeiders indicated the stormwater basin at the end of the development was filled shortly after construction started. Mr. Hearn indicated the basin is still serving as a sediment basin for Phase 1. He continued by indicating when everything in Phase 1 is completely stabilized, which won't be until early next summer, the plate that restricts the outflow of water will be removed and replace with a much lower plate to allow water to flow more freely out of it. Engineer Knoebel indicated the issue of sediment basin is another concern because the stormwater basin doesn't work like it's supposed to until the conversion is completed. Mr. Hearn stated that was correct and it will function differently once it's converted. Engineer Knoebel stated he would like to see this initiated in conjunction with

the work instead of leaving it as is. Mr. Hearn indicated he couldn't see this happening much before May or June.

Engineer Knoebel indicated from the Borough Council's standpoint before they act on it, he would like to see all the non administration items, such as the stormwater comments, the bonded estimate be finalized and the E&S Plan taken care of. Solicitor Allshouse stated he would like to have copies of the stormwater easements to look over once they have been signed.

Chairman Reeves asked if the plan should be tabled. Engineer Knoebel stated it's a decision the PC would have to make; he indicated the PC isn't required to take action because there was a time extension granted. He indicated it's a reasonable request to consider whether or not to pass it on with conditions or table the plan because of all the outstanding items. Mr. Hearn indicated he anticipated having all the items be completed and a new plan in the Borough's possession prior to the Borough Council's workshop meeting held on November 3rd. Mr. Robinson asked about the E&S Plan. Engineer Knoebel stated they would have wait and see; if it comes back with a lot of comments, Council might want them done before approving the plan. Mr. Robinson asked what if they don't hear back from YCCD before the Committee meeting. Solicitor Allshouse stated the Council would likely table the plan. Mr. Hearn stated if he hasn't had resolution from YCCD, he will call the Borough Office and have it removed from the agenda. Joe Robinson moved to recommend conditional approval of the plan to the Borough Council subject to KPT's letter of October 17th and satisfying those comments. Paul Eurich seconded the motion. – Motion carried.

The fourth item on the agenda was the update on the Final Minor Subdivision Plan for Fred Smith. Secretary/Treasurer Beitzel indicated the plans are ready to sign; however we are waiting for the signed paperwork from DEP. Leon Zeiders asked if there was any action required. Engineer Knoebel indicated the PC and Borough Council had already acted on it. Chairman Reeves asked if all the issues of the requirements of separation between buildings and the separation of driveways had been taken care of. Engineer Knoebel indicated there have been various questions proposed and various responses have been provided. Engineer Knoebel stated the distance between buildings wasn't deemed to be applicable; the building setback requirement in the ordinance was used. He indicated the building separation applied to situations such as eci putting multiple buildings on one lot and didn't have any building setback lines to comply with. Engineer Knoebel indicated there was some conflict within the Borough Ordinance itself; the conflict would be interpreted in favor of the land owner. He indicated it was reasonable to go with the building setback because we are dealing with a subdivision plan. Chairman Reeves asked if the purpose for the 25 foot separation is for emergency vehicle entrances. Solicitor Allshouse stated the setback purpose is also for emergency vehicle entrances. Engineer Knoebel indicated when there is a building setback in the ordinance prescribed for the subdivision; the building setback line will be followed. Solicitor Allshouse indicated on the rules of construction of ordinance the specific takes precedent over general. Discussion on the setback ordinance.

Chairman Reeves asked if there was something regarding driveway separation. Joe Robinson stated there are state regulations for driveways on a state road. Engineer Knoebel indicated Welty Avenue isn't a state road and the lots are separate. Mr. Robinson indicated there aren't regulations because access has to be granted. Chairman Reeves asked what the state regulation for driveway separation was. Mr., Robinson stated he didn't know. Engineer Knoebel indicated there is a separation requirement in the ordinance, there are various isolation distance for driveway, such as fire hydrant, property lines, etc. The plan was recommended for approval based on the comments; one of the comments was to show the location of the driveway. Council also approved the plan. Engineer Knoebel indicated

the driveway has been shown on the plan and it may not meet the required separations; however the plan has been approved. Solicitor Allshouse indicated there is nothing legally that can be done; the approval goes to the benefit of the property owner. Chairman Reeves asked why it was put on the agenda if it's already been approved. Solicitor Allshouse indicated it was the assumption the DEP letter was going to be here and the plan was going to be signed.

Old Business:

a. McNaughton Time Extension- Secretary/Treasurer Beitzel indicated the review date for the plan runs out on November 27th and they will be sending in a letter requesting a 180 day time extension. Mrs. Beitzel also indicated the developer will provide a complete listing of all the waivers they will be requesting. Chairman Reeves asked if a recommendation to the Council is needed. Mrs. Beitzel stated yes. Mr. Leon Zeiders moved if written request is received from Mr. McNaughton for a 180 day extension of the plan, the PC recommends the Borough Council grant the extension; if a letter isn't received, the PC recommends the Borough Council disapprove the plan. Paul Eurich seconded the motion. – Motion Carried.

Mr. Eurich indicated Mr. McNaughton has “for sale” signs on properties included on the plan. Chairman Reeves stated he thought the sign was only for the two single family dwelling unit lots. Mr. Eurich stated he would be interested in walking up through the proposed development, but there are “no trespassing” signs at the edge of the property. He indicated he didn't like Mr. McNaughton's attitude when he comes to the PC and tells us we can condemn this, we offered him this street, people were on the committee when this was discussed previously, he has an approval from earlier person. Chairman Reeves stated this was all true. Mr. Eurich asked if he has proof of all this. Solicitor Allshouse stated Mr. McNaughton does have proof and he has reviewed it. Chairman Reeves indicated Borough Council talked Mr. McNaughton into buying the old Turkey Farm property, with all the back taxes due, all the liens against it and all the trash which made it a public dump. Chairman Reeves indicated Mr. McNaughton bought it and cleaned it up; with the understanding the Borough would help him to develop it as one property. Solicitor Allshouse indicated the courts are going to say we have to follow through with the deal. Chairman Reeves stated Mr. McNaughton kept his side of the deal by keeping the property cleaned up and maintained. Mr. Eurich indicated he wasn't aware of all the deals that were made between Mr. McNaughton and the Borough, except for the issue being brought up at the PC meetings. Chairman Reeves stated the Borough approached Mr. McNaughton. Mr. Eurich indicated to get all the information out on the table and let the other members of the PC know what all the deals are. Solicitor Allshouse indicated to Secretary/Treasurer Beitzel to get the PC members a copy of the February 20, 2002 letter from Dave Witmer. Solicitor Allshouse indicated what Mr. McNaughton represented to the PC was accurate. Solicitor Allshouse stated he reviewed the files; Mr. McNaughton spent money and bought the property in reliance on the Borough's promises. He stated the Borough has a legal obligation to hold up their end of the bargain; which means Mr. McNaughton gets a little leniency. Mr. Zeiders asked how the Borough Manager could be allowed to do something like this without approval. Solicitor Allshouse indicated the Borough Manager was the agent at the time and the Borough is bounded by the acts of the agent. Mr. Zeiders asked if the Manager could write a letter. Solicitor Allshouse stated yes and could bind us. Joe Robinson stated he would side with Mr. Eurich because he was on the committee and he doesn't know what the details were. Chairman Reeves indicated it didn't come through the PC. Mr. Eurich stated he would like to see a copy of the letter and know what the details are. Engineer Knoebel indicated the letter was only discovered after the last PC meeting. Solicitor Allshouse indicated the first e-mail regarding the letter was sent to him the end of September and then the letter came in after that. Engineer Knoebel indicated Dave Witmer

in his capacity as Manager and as Zoning Officer at the time was able to make those kinds of determinations.

Mr. Eurich indicated he felt Mr. McNaughton was telling the PC, Engineer and Solicitor exactly what they should be doing. Mr. Eurich felt he was entitled to know the background on the issue. He indicated he was new to the committee and he isn't an engineer; he is only going on the advice from the Solicitor and Engineer when making his decisions.

Engineer Knoebel indicated they all knew there were some arrangements with the McNaughton issue. He had asked Manager Deibler if Dave Witmer wrote a letter because he acted as the Zoning Officer and it would have been his call to make those decisions. Engineer Knoebel stated the letter couldn't be found; but we all knew something had happen and were wondering what we should do. He indicated all we knew was what Mr. McNaughton was telling us what to do; finally the letter was found and forwarded to Solicitor Allshouse. Solicitor Allshouse indicated all of what had happened as to what Mr. McNaughton can and can't do, happened the second week of October. Solicitor Allshouse stated it wasn't on tonight's agenda, therefore nothing was going to be discussed. Solicitor Allshouse indicated now that the letter is found, the PC will be provided with a copy at the next Meadows Edge review. Chairman Reeves indicated he was aware the past Mayor, past Borough Council President and other members of past Borough Council had dealt with Mr. McNaughton; he wasn't aware Dave Witmer was involved with it and had written a letter. Engineer Knoebel indicated he was glad the letter was found because we now have something to rely on. Solicitor Allshouse stated they now know what to rely on and the parameters, so it can't be extended past what was advised to Mr. McNaughton before. Mr. Eurich asked if the letter involves Hanover Street. Solicitor Allshouse stated no; it has to do with use only. Mr. Robinson indicated Mr. McNaughton's whole speech was trying to tell the PC the agreement included Hanover Street. Engineer Knoebel indicated Mr. McNaughton was dancing around issues continuously; he was told another access was needed because the Winfield Development wasn't in front of the PC. Engineer Knoebel stated Mr. McNaughton was told to find another way into his property, and suggested Hanover Street. Mr. McNaughton tried to buy property and KPI told him what he needed to do to improve it; he didn't act upon it. Engineer Knoebel indicated he then came back with another plan. We suggested to Mr. McNaughton his plan provide a right-of-way on his property from Winfield Drive to Hanover Street in the event Hanover Street would ever get extended. Mr. McNaughton took this advice and stated he was allowed to connect to Hanover Street. Engineer Knoebel indicated the PC never dealt with Mr. McNaughton on the Hanover Street issue; he did. Mr. Eurich stated Mr. McNaughton had many opportunities to purchase properties surrounding Hanover Street. Engineer Knoebel indicated they advise Mr. McNaughton to look into this; which he did and found out he couldn't make it work. There was discussion regarding Hanover Street.

New Business: Chairman Reeves indicated the ZHB will be hearing a case tomorrow from a woman who would like to have a Pet Grooming business at her residence at 239 Gettysburg Street. Joe Robinson asked if the applicant was asking for a waiver or a nonconforming use. Chairman Reeves asked if the residence was in a Manufacturing Commercial district. Secretary/Treasurer Beitzel stated yes. Chairman Reeves stated he thought it was a good idea. Joe Robinson moved to recommend to the ZHB the PC would be in agreement to grant her request for the variance for the non-conforming use in the M-C district. Paul Eurich seconded the motion. – Motion carried.

Secretary/Treasurer Beitzel asked the PC members if they would still continue to have their meetings on the fourth Wednesday of each month, except for November and

December at 7:30 PM. The members of the PC indicated to keep the meeting time and date the same for 2009.

Adjournment: As there was no further business, Member Joe Robinson moved to adjourn at 8:54 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