

MINUTES
DILLSBURG BOROUGH PLANNING COMMISSION MEETING
NOVEMBER 18, 2009

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, Vice Chairman Brian Radcliffe and Paul Eurich. Also present were Borough Engineer Tim Knoebel, Borough Solicitor Mark Allshouse, Borough Manager Karen Deibler and Borough Secretary/Treasurer Debbi Beitzel.

Members Joe Robinson and Leon Zeiders were absent.

The following visitors were present: Vernon Sealover, Stephen Quigley and Josh Weidler from H. Edward Black and Garrett Knoebel.

The first item on the agenda was the approval of the October 28, 2009 meeting minutes. Chairman Reeves indicated on page one, the last paragraph, the fifth line down, the last word of the sentence "in" should be deleted and on page two, the last paragraph, the fifth line down, the words "or taken care of" should be deleted. Vice Chairman Radcliffe moved to approve the October 28, 2009 minutes with corrections noted. Paul Eurich seconded the motion. – Motion Carried.

The second item on the agenda was the discussion of Winfield Final Land Development Plan Phase 1 and Preliminary Land Development Plan. Mr. Quigley indicated he received the comments from the engineer and we have responded to them. He indicated their responses were sent to KPI but wasn't sure if the engineer had time to review them. Engineer Knoebel stated he looked at them briefly but he didn't look at the drawings which were emailed. He stated there were ten comments from KPI and reviewed them with the Planning Commission.

1. The signatures and seals which will go on the recording documents.
2. The developer's agreement – The draft of the agreement was submitted to the Borough with the submission. Solicitor Allshouse stated it was reviewed and sent back to the developer's counsel.
3. Condominium Documents – These documents were submitted to Solicitor Allshouse on October 28th and had responded with some remaining comments which were taken care of. The corrected documents were submitted to the Borough with the submission. Solicitor Allshouse indicated he hadn't seen them yet.
4. Highway Occupancy Permit – This is still underway. According to the review engineer they're technically complete. He will be sending the comments and drawings to PennDOT for their approval; they will submit to us a comment letter for signatures. Mr. Quigley stated the only thing holding them up is the Indemnification Agreement with PennDOT. He indicated they have a consultant looking at the three neighboring properties and advising them with the changing of driveways if there would be a loss or increase in the value of the properties; so we can go back to the homeowners and talk to them about signing a HOP application for their driveways. Engineer Knoebel asked Mr. Quigley if he could estimate a worst and best time when they might be receiving the permit. Mr. Quigley stated the best case is by the end of the year and the worst case is probably sometime in March 2010. He indicated the reasoning for this is because this is a brand new system for PennDOT and they have never been through this before; this is the second time Winfield has been the guinea pig for them. Mr. Quigley indicated the changes in the Indemnification Agreement were mostly because of this project; where the Indemnification Agreement before was asking the developer to be responsible for anything and everything

that happened in the work area until someone else comes along and starts working in that same area. He indicated what this meant to the development was no sales could be made because the developer couldn't get title insurance or they would write title insurance exempting it from the insurance and therefore still wouldn't have coverage. He stated they fought the fight and it has since changed to put a limited time frame on it of six years. He indicated they are in the process of finishing it up and should have the dollar amounts on any changes in the property in the next couple of days and the letters are ready to be mailed to the owners; then the owner process will start again. He advised the Manager when the letters are mailed he will see that the Borough Office receives a copy of the letter.

5. Financial Surety – All of them were put back into the budget for the engineer's review. Mr. Quigley suggested they put a note on the plan which states "we need proof of surety to the Borough prior to doing anything under a permit" regarding the water and sewer systems. He indicated normally the developer can go ahead and with basic dirt work and E&S controls under a preliminary plan but we can't do anything more than this under a final and would have to get a permit from DAA. Engineer asked Mr. Quigley if he was anticipating doing some of the site work prior to having the final plan signed and recorded. Mr. Quigley stated no. Engineer Knoebel stated they could; especially if any work relative to things that Borough needs to inspect which is part of ultimately approving a plan, signing it, accepting bonding or anything the Borough would want to accept such as street sub grade. He wants to make sure the same process is followed where there would be preconstruction meetings, some type of escrow to provide for the Borough to inspect what needs to be inspected. He stated these things would have to happen because if not it could create a bad situation where things having been handled in the same process in which they are used to. Mr. Quigley stated they don't expect any of this to change, but what he didn't want to do was provide the security for the sewer and water because this is final phase 1 work. Engineer Knoebel indicated the Borough can't sign and allow the final plan to be recorded until the bond is in place for the Borough related items. He stated this includes verification that the bond was posted for the water and sewer work with the Authority. He indicated to not have posted this and to have a note on the plan is something different than what the Borough is used to doing. Solicitor Allshouse indicated this is something Council would have to decide on, like a waiver request. Mr. Allshouse stated the Borough Council wants certification that there's bonding in place before the plan is recorded for one reason, if we can't get the bonding and the plan gets recorded; the area still won't be able to get developed. Mr. Quigley stated they will look at some new language and send it over to the Borough Engineer and Solicitor for their review which is just related to Phase 1. Engineer Knoebel stated bonding as a condition of the final plan approval makes sense because then the developer can take it to the bank and work with them; but the bonding should be in place. Mr. Quigley indicated he will refine it so it relates to Phase 1 and will be in place as part of the bond for Phase 1. Mr. Quigley stated his concern was that they weren't planning on doing anything right now, but if the opportunity presents itself to be able to get started under the preliminary plan to do the basic grading. Engineer Knoebel stated what the developer could do, was to contact the Borough to let them know what is going on, have the preconstruction meeting, and do what is necessary to cover everything.

Bonding Adjustments – Mr. Quigley indicated they didn't include changing Winfield Drive under this submission. They wanted to get something approved and completed and then come back and talk with the Borough about the change to match the narrow roadway. Engineer Knoebel asked Mr. Quigley if he had any hesitations about the narrowing of Winfield Drive. Mr. Quigley stated no. Engineer Knoebel asked if it would make sense to ask for the waiver now. Mr. Quigley asked if the PC would consider us asking for the waiver now and getting the conditional approval with the waiver in hand. Mr. Sealover stated they didn't want to change the drawing due to PennDOT, because if the

plans were changed PennDOT would start all over again. Vice Chairman Radcliffe asked if the Borough would be willing to approve the waiver and, conditionally, the plan if the plan is not redrawn with the changed width. Solicitor Allshouse stated as long as the plan is recorded with the right width on it, there is no problem. Engineer Knoebel indicated the developer would have to amend the plan to show that. Solicitor Allshouse stated the two options are: 1) Approve the plan conditionally or 2) the developer is coming back with an amended plan which will have to be approved by the PC and Borough Council. Solicitor Allshouse indicated the other fine point with coming back for an amendment is the Borough is going to say ok amend the sheets that need amended, but KPI will have to review the whole plan to make sure everything is cross referenced together. Whereas the developer requests the amendment, and the Borough Council knows it. Engineer Knoebel asked what happens if the developer receives the PennDOT permit with the present width shown, and you want to build a different width. Mr. Quigley stated that is a minor change to PennDOT, and is easier for them to change. Engineer Knoebel asked what the problem would be if the plans were changed and then turned them into PennDOT with the new width. Mr. Sealover stated they would start from the beginning again. Engineer Knoebel stated his concern is prior to building the street, Council would need the developer to have the permit from PennDOT. Mr. Quigley indicated the worst scenario would be they couldn't make the connection at the right-of-way until the paperwork was finished. Engineer Knoebel asked if the developer was requesting the waiver. Mr. Quigley stated yes and he will send in a letter. Engineer Knoebel indicated for the developer to make a bold notation on the plan regarding the waiver. Mr. Quigley agreed.

7. The addition of a note for ADAAG curb ramps and the application for shop drawings – Mr. Quigley stated they indicated this will be a standard note on the plan.

8. Subdivision information – Mr. Quigley stated this has been included on the plans.

9. Note 8 (Recreation fees) – Mr. Quigley indicated this same note has been on the plan since the preliminary approval. There will be a recreation fee paid which would be held in escrow until the community center is built. Then the recreation fees would be refunded. He indicated the only thing that has changed was the number of units to be built before the community center was constructed, which went from 18 to 27.

10. Future dedication – Mr. Quigley stated there is a 10-foot strip that runs on the North side of Winfield Drive up to the property line. The intent is for this strip to be dedicated for a future right turn lane or right taper when or if it's necessary. He stated this was something which was suggested early on; it was suggested at a wider width but when the lanes and sidewalks are drawn in, someone needs to get 10'. He stated they had originally shown it as a note to dedicate it in the future to the Borough. There was a question about this, so the plan was changed so the note is on the plan, only say for future dedication; on the cover sheet there is more of an explanation. Engineer Knoebel stated his concern was if this took a long time for this need to happen, the Borough would have a 10 foot strip of land and therefore have some responsibility. Mr. Quigley stated this is why we noted it as future dedication.

Mr. Quigley indicated the developer is asking the Planning Commission for recommendation for approval of both the Revised Preliminary and the Phase 1 Final plans. Engineer Knoebel stated since the preliminary plan was conditionally approved in November of 2007, it makes sense to have an amended preliminary plan approved along with the final. Therefore, if the Borough did want to sign it, they could. Engineer Knoebel stated if the Planning Commission wants to entertain that, they would subject it to the comments of KPI's letter. We will want to verify the notes on the plan and a couple of things the solicitor will want to finalize. Engineer Knoebel indicated the PC will have to take some kind of action on the request for the waiver, subject to a written request being

submitted. He stated the waiver is Section 502.B. Engineer Knoebel stated the plan is up for action and Council will have to take some sort of action on it in December. He indicated there was prior discussion by the Council that the last extension would be the final extension. Engineer Knoebel indicated most of the outstanding items are administrative items, the question is if the PC is willing to have the PennDOT permit as a condition, which they are entitled to do.

Engineer Knoebel asked if the Planning Commission was to make the recommendation subject to the comments of the letter, would the developer be able to have the majority of the comments addressed by the December's Council Meeting. Mr. Quigley indicated the only one they haven't corrected on the plan is the width of Winfield Drive and the administrative items.

Paul Eurich asked Mr. Quigley why he thought they might get the HOP by the end of the year. Mr. Quigley stated it depends on how the legal department of PennDOT falls in place. We have sat in meetings with them and they indicated it's a speedy process for them if we don't ask them to change language.

Mr. Eurich asked if Walter Folgel still owns land that neighbors the Winfield property. Mr. Quigley stated at the time the survey was done he did. Mr. Eurich thought Mr. McNaughton purchased all the land. Mr. Quigley indicated he will check into this. Engineer Knoebel stated that is why the plans usually state now or formerly.

Vice Chairman Radcliffe moved for the Planning Commission to recommend Borough Council approve a waiver for the cartway width of Winfield Drive changing it from currently showing 40' to 32' (should have stated 34') and aligning it with the approval negotiated with the Meadows Edge developer and subject to the receipt of a waiver request from the Winfield Developer by November 30th. Motion was seconded by Paul Eurich. – Motion carried.

Vice Chairman Radcliffe moved for the Planning Commission to recommend Borough Council give conditional approval to the Revised Preliminary Land Development Plan for the Winfield Development and for the Phase 1 Final Plan, subject to the developer addressing all the comments in the engineer's letter of November 12, 2009, subject to receipt of the HOP permits for the development from PennDOT, and subject to amending the plan to show the reduced street width if Borough Council approves the waiver for reduce street width. Motion was seconded by Paul Eurich. – Motion carried.

Vice Chairman Radcliffe suggested recommending approval for another extension in case Borough Council decided not to approve or act on these recommendations.

Vice Chairman Radcliffe moved for the Planning Commission to recommend Borough Council approve an extension of the planning review period in the eventuality the Borough Council wouldn't be able to conditionally approve the Preliminary Land Development Plan for the Winfield Development and for the Phase 1 Final Plan at their December meeting and subject to the receipt of a letter request for the extension of plan review from the developer. Motion was seconded by Paul Eurich. – Motion carried.

Mr. Quigley asked when the drawings were needed if they were able to get the changes made for the roadways. Engineer Knoebel indicated by December 1st.

Chairman Reeves indicated Joe Robinson was assigned to report at the Borough Council's December meeting and would be unfair for him to report. Vice Chairman Radcliffe stated he would go and report.

Old Business: Engineer Knoebel wanted to discuss some things regarding Meadows Edge. He indicated at the Council meeting they decided to table the Meadows Edge Final plan which was for one house. The single house is located in Carroll Township and is named Phase 1; making a Phase 2 (old Phase 1) and a Phase 3 (old Phase 2). He indicated all the construction related items on the preliminary plan essentially are not

applicable for the Phase 1 plan because its access is off Gettysburg Street and doesn't require any new sewer lines, streets or curbs to be built.

Engineer Knoebel indicated the concern of Council was that procedurally it represented an amendment to the previously approved preliminary plan because the phasing scheduled was changed. He stated prior to the Council Meeting he had a discussion with the Carroll Township's engineer and asked them how they were going to handle the change. They stated they didn't have this problem because they approved the amended preliminary plan with the correct phasing scheduled already on it. He indicated the consensus of the Council was to table the Final Plan and have the developer file a copy of the amended preliminary plan back to Dillsburg Borough in order to verify it and include with Council's approval of the Final Plan for Phase 1 acknowledgement or approval of that amended preliminary plan; to make things procedurally follow each other. Engineer Knoebel stated he received a copy of the plan just a few days ago and wasn't able to review it in time to be included in the packet. He indicated he did have time to review the plan before tonight's meeting and provided a letter to Planning Commission with his findings. Engineer Knoebel stated all the developer did was changed the phasing line and added General note #23 to sheet I of the amended preliminary plan, which is the date when the preliminary plan was approved. Vice Chairman Radcliffe asked if the single lot was a separate phase. Engineer Knoebel stated that it wasn't originally; it was included in Phase 1.

Engineer Knoebel stated they did notice the phasing schedule was incorrect. The plan shows Phase 1 and Phase 2 with 93 units. He indicated Phase 1 should be one unit, Phase 2 should be 19 units, and Phase 3 should be 74 units, for a total of 94; which should be corrected if the Dillsburg Borough is going to reapprove the plan. Engineer Knoebel asked if the Planning Commission should make motions to set the stage for Council to approve the plan. Solicitor Allshouse stated there is no harm in it. Vice Chairman Radcliffe suggested recommending approval for another extension in case Borough Council decided not to approve or act on these recommendations.

Vice Chairman Radcliffe moved for the Planning Commission to recommend Borough Council to approve the Meadows Edge Amended Preliminary Plan subject to the conditions as outlined in the Borough Engineer's report dated May 4, 2009 and the GTA Associates, Geo-Technical Engineer's report dated April 6, 2009; noting the phasing boundary has been amended and the phasing schedule be corrected on sheet 1. Motion was seconded by Paul Eurich. – Motion carried.

Vice Chairman Radcliffe moved for the Planning Commission to recommend Borough Council to approve the Meadows Edge Phase 1 Final Plan subject to the conditions as outlined in the Borough Engineer's report dated October 22, 2009 and with the additional condition the Homeowner's Association documents be reviewed and approved by the Borough Solicitor and to note since the plan doesn't require action until the January 12, 2010 Council meeting, Council would also have the option to table the plan until the applicant is able to address the comments on the Engineer's October 22, 2009 report. Motion was seconded by Paul Eurich. – Motion carried.

Vice Chairman Radcliffe moved for the Planning Commission to request the Borough Manager to contact the developer and ask them to submit a request for extension to cover the situation that Borough Council wouldn't approve the preliminary plan or final plan and recommend subject to receipt of the letter Borough Council approve an extension in case they can't approve the plan. Motion was seconded by Paul Eurich. – Motion carried.

Vice Chairman Radcliffe asked if it was possible to go into an agreement with a developer that would basically suspend for an indefinite period of time, the review period with a mutual agreement to eliminate the consent thing of coming back every 60-90 days and getting an approval of an extension review period. Solicitor Allshouse stated it has to be date certain according to the MPC. He indicated if a developer asks for a waiver of one year,

the PC can recommend approval for this. He stated the key is the Borough has to grant it. The MPC stated developers have a right to 180 days for review and decision makings. The MPC says in order to do this it has to be date certain, a letter has to be written and include some language in it which says they understand their rights are being waived under the MPC.

New Business: There was none.

Adjournment: As there was no further business, Paul Eurich moved to adjourn at 8:33 PM. – Motion Carried.

Debbi L. Beitzel

Debbi L. Beitzel
Secretary/Treasurer

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