

**Planning Commission Meeting
MINUTES**

September 7, 2005

The meeting was called to order at 7:05 p.m. by Chairman Jim Brownlow and opened with the *Pledge of Allegiance*.

Members present: Jim Brownlow, Stefanie Campbell, Bobb Carson, Walt French, Pete Lamana and Barbara Lindtner. (Scott Douglas was absent.) Bryan McAdam, C. Robert Wynn Associates, was present.

Planning Commission Comments - None

Approval of Minutes

Pete Lamana **moved**, Barbara Lindtner **seconded**, that the minutes of August 3, 2005, Planning Commission meeting be approved as corrected. The motion **passed**.

Public Comments (Agenda Items)

Dennis Steskal asked when construction will begin if the Springtown Knoll Subdivision receives final approval. Scott Mease (engineer for the applicant) indicated it would be several months before outstanding plan conditions would be completed and building could begin.

Pete Lamana asked what activity was taking place currently at Springtown Knoll. Because the developer was not yet present, this question was tabled for him to answer later in the meeting during discussion of this plan.

Deborah Quinn, a new neighbor near the proposed Rolling Hills Subdivision, stated she wrote a letter to the Board and the Commission, as well as to the developer and a number of other neighbors. She wrote the letter because she felt that people were concerned about the way in which this subdivision was progressing and the neighbors were not “together” in knowing how to speak to Township officials and/or the developer about getting a different plan than was currently being considered. She and a number of neighbors met with the developer who was willing to offer an alternate plan.

She visited homes in the community showing the plan currently being reviewed (*Plan A*, later renamed “SK-H”) as well as the alternate plan (*Plan B*, later renamed “SK-J”) and obtained 172 signatures of neighbors who preferred Plan B. She asked if the Members were willing to consider the alternate plan and accept the signatures which had been obtained to support it. Jim Brownlow stated that Mrs. Quinn and the neighbors would have an opportunity to speak during the Rolling Hills Sketch Plan presentation.

Sketch Plans

Mandarino Sketch Plan (Moyer Road) – Scott Mease, Mease Engineering, presented for the applicant, Lawrence Mandarino, who was also present.

This 33+ acre property, originally before the Commission as *Summit Farms Subdivision*, was approved as a final plan but never recorded. Mr. Mandarino purchased the property and is looking to subdivide the property in a different manner under the current Zoning Ordinances. One acre of the property is in Lower Saucon Township, Northampton County. The applicant is proposing a cul-de-sac road on the southeast

portion of the property with 8 one-acre building lots around the cul-de-sac. The ninth lot would be a farmland lot located on the western portion of the tract.

The plan was introduced as a sketch plan because this is the first plan put together by Mease Engineering under the new Zoning Ordinance adopted in April 2005. As such, they are unclear about several issues and would like clarification on some seeming contradictions.

Referring to the Township Engineer's review letter of August 23, 2005, Scott Mease had specific questions about Items 2 & 4 of this letter

Pete Lamana asked Bryan McAdam if Item 1 of his review letter concerning fracture traces on the site might become a "Buyer Beware" situation. Bryan had reviewed the earlier plan and suggested that these features should be shown on the current plan. Some testing may need to be done similar to testing required at the Springtown Knoll Subdivision. Based upon these test results, the lot and/or house locations may have to change or be adapted. Bryan summarized this could become a "Buyer Beware" situation, but there is significant testing to be done prior to that point. He stated that because of the fracture traces noted on the previous study, it may be a challenge to make the proposed new sketch plan work.

Scott Mease noted that the previous plan had been done avoiding the fracture traces which were shown on the plan based upon aerial mapping only with no site-specific testing done. They currently plan to do site-specific testing before moving forward with this new proposed plan. Bryan McAdam said once the testing is done and both the Township Engineer and Kent Littlefield are comfortable with the carbonate geology study and the design, any notations of the features that exist would be placed on the plan to alert future home buyers.

Scott Mease, commenting on Item 2, stated that there are two areas of confusion in the Township's new ordinance.

The first is in the way the farmland set-aside is written in Ordinance 129 (page 8, 602.B.3), which states that one dwelling and agricultural buildings are permitted on the farmland property. The Commission stated that the intent of the Ordinance was to permit an *existing* farmer in a farm home on a property to subdivide off a portion of his land while still retaining a portion of his property for his own use. This is clearly stated in Section 512.E.4.d (page 90, first line) of the existing Ordinance, which states that the home must be an "existing" residence. (The sketch plan was submitted with a new dwelling being shown on the farmland lot.)

The second possible inconsistency pertains to Ordinance 129 (page 6, Part 7. AD Agriculture District, b.), which classifies this sketch plan submission as a "single family detached dwelling – B11a and B11b" rather than a B12 Cluster III (as identified on page 98, 602.B, ¶ 4). Bobb Carson was not aware that our new ordinance permitted one-acre zoning in the Agriculture District in a non-cluster development. Another difference pointed out by Scott Mease is that in a cluster option open space is required, but in a non-cluster development open space is not required.

Walt French brought up a theoretical question: If this plan is submitted and approved, and a former plan, utilizing the same property(ies) has been approved but not recorded (but still has time before it is no longer a valid plan), could both plans be considered viable plans? Scott Mease did not comment on that question because it requires a legal interpretation. Scott did feel, without being able to consult with his applicant at the time, that if everything appears favorable with the current sketch plan, that is the direction in which he feels his client wants to move.

Applicant will comply with Items 7 – 10 in the August 23, 2005, Township Engineer's review letter.

Jim Brownlow asked how we could ensure that there would be no further development of the 22.4 acre farmland lot open space area. Scott Mease indicated that deed restriction was required by our ordinance and would be complied with. However, the Members felt that they would prefer a Conservation Easement for that portion, as it is more binding in the future than is a deed restriction.

A discussion ensued regarding whether the 22.4 acre portion of this parcel—without an existing farm house—could still be considered a farm lot vs. open space. Jim Brownlow asked that the recording secretary contact the Township Solicitor to obtain a ruling on this and secondly, to find out the best way to quickly correct the apparent contradiction as noted in paragraph 8 of this sketch plan review. As soon as this legal interpretation is received, we are to share it with Scott Mease, engineer for the applicant, so that they know how to proceed in this submission.

For the record, Jim Brownlow stated that he preferred the previously approved Summit Farms subdivision.

Rolling Hills Subdivision (Route 212 & Slifer Valley Road) – Prior to the applicant’s presentation, Jim Brownlow clarified what would be discussed at this meeting. He stated that Item 10 on the agenda would be discussed at this time. Correspondence dated July 21, 2005, was written to the Supervisors by Attorney Robert Gundlach on behalf of Mr. Harrington, the applicant. The letter included an alternate sketch plan showing 21 lots with on-lot private water and septic systems —*Sketch Plan SK-H*— for the Supervisors to review as a substitute for the preliminary subdivision plan (32 building lots with public water and sewer) submitted in February 2005. The plan submitted in February has still not been discussed by the Planning Commission. Both the February sketch plan and the newly submitted *Sketch Plan SK-H* place all the homes in the third of the property that runs along Route 212.

In the correspondence, the applicant requested that this alternate sketch plan would replace the one submitted in February and discussion would proceed under the old Zoning Ordinance in place at the time the February plan was submitted. At their August 9, 2005, meeting, the Supervisors referred this communication back to the Planning Commission to determine whether or not this alternate sketch should be considered as a new submission (under the new ordinance), or whether it could be an alternate to the existing subdivision application and be reviewed under the old ordinance.

The second issue to be discussed is another plan for the Rolling Hills property that would be more acceptable to some of the neighbors. This plan was developed by Mrs. Deborah Quinn and a group of neighbors as a result of a meeting they had with Mr. Harrington, the developer. That meeting produced a new sketch plan—referred to as *SK-J*—which also has 21 building lots, but the lots are moved to the other two-thirds of the property.

Attorney Robert Gundlach presented for the applicant, Bob Harrington, who was also present. Mr. Gundlach basically agreed with Jim Brownlow’s summary of what was to be accomplished during their presentation at this meeting. However, he added that he and the applicant were not at this meeting to get into that technical a level of discussion (whether the new sketch plan(s) constitute a new plan or can be reviewed under the old ordinances), but rather to find some common ground and offer a reasonable compromise to the pending 32-lot subdivision plan which is apparently “hated” by the neighbors and the Planning Commission. The July 21 letter to the Supervisors was written to present a compromise 21-lot plan.

Before that plan could be presented at a public meeting, a number of the neighbors saw the sketch plan, did not like it, and contacted the developer with a list of alternatives. Mr. Harrington agreed to consider their ideas and instructed his engineer to produce an alternate plan—*SK-J*—which was subsequently shared with members of the Planning Commission by Mrs. Quinn.

Jim Brownlow reminded Mr. Gundlach that the Planning Commission had been instructed by the Supervisors to comment on whether the “alternate plan(s)” should be considered under the old or new ordinance.

Mr. Gundlach stated that if neither of these alternate plans were acceptable alternates, they would have to go back to the subdivision plan that had been submitted in February and begin the process of reengineering the site in accordance with Bryan McAdam’s review letter. They would then resubmit that initial subdivision plan for review. The applicant’s desire, however, was to find a common ground that would be more to the liking of the Planning Commission and the neighbors.

Mr. Gundlach stated that it was not their intention to submit either *Sketch Plan SK-H* or *SK-J* (the plan proposed by some of the neighbors) as “new” plans, but rather as a resubmission for the pending subdivision submission. It was the consensus of the Planning Commission that both of these sketch plans are new submissions. Mr. Gundlach stated that he felt that the decision as to whether this was a new submission was a legal issue and could not rightly be decided by the Planning Commission. He said this is a very complicated area in land law that would require an attorney to construe the current case law in Pennsylvania as to what changes in a plan would require it to be considered as a new submission. Barbara Lindtner said she spoke to Attorney Jim McNamara and he expressed to her that these sketch plans would be new plan submissions. Mr. Gundlach stated that was not his understanding from conversations he held with Mr. McNamara.

Pete Lamana asked Bryan McAdam whether *Sketch Plans SK-H* and *SK-J* (neighbors’ proposed plan) meets with the requirements of our ordinances.

For *SK-J* (neighbors’ proposed plan), without having done an in-depth review of the new sketch plan, Bryan said it appeared it may not meet the open space requirements and that both cul-de-sacs may not be in compliance with the ordinances.

Regarding *Sketch Plan SK-H*, a more formal review was done and the comments were shared in the August 11, 2005, review letter mailed to the Members.

To settle the confusion, Jim Brownlow requested the recording secretary to contact Attorney McNamara for a legal ruling on whether these two plans should be considered “new” plans or replacements of the existing subdivision plans. Normally, because this legal determination needs to be obtained, discussion would be tabled on both of these sketch plans until that ruling was made. However, because of the time investment made by neighbors and their presence at this meeting, he will permit discussion of these sketch plans and public comment after the presentations.

Mr. Gundlach stated that his client would need this discussion, because without evidence of neighbor, Planning Commission and Board of Supervisors support for one or the other of these proposed sketch plans, his client would not move in that direction, but would revise the pending subdivision plan in line with the Township Engineer’s comments.

Jim Brownlow felt that *SK-H* gives up the scenic view on Route 212, but more agricultural soil is preserved; whereas, *SK-J* while it preserves more of the scenic view on Route 212, it does not preserve as much agricultural soil. Walt French does not feel either of the plans conform to our ordinances, but thinks that *SK-J* specifically does not conform with the spirit of the AD (agricultural district)—preserving maximum amounts of agricultural soil.

Mr. Gundlach shared that his understanding of the role of the Planning Commission was that they are not primarily to “preserve agricultural soils in the AD.” Rather, they are to balance the preservation of agriculture with the protection of property owners’ rights. Responding, Walt stressed that is why it is important that the Planning Commissions’ decisions must all be based upon the ordinances in place,

because these ordinances have been developed with community input. Mr. Gundlach stated that we could go to an ordinance that would protect 95% of the agricultural soils on properties, even though case law recently before the Pennsylvania Supreme Court only upheld 60% protection of land, while our newly passed ordinance calls for protection of 70% of the land as agricultural, which has not yet gone before the court, but most likely will in the future.

Barbara Lindtner does not care for *SK-J* for several reasons:

- maximum agricultural soils are not being protected
- state, county and local goals for land protection stress that preserved lands be contiguous when possible; this layout defeats that purpose
- the vista view is lost over a larger portion of the tract
- the two exits onto Slifer Valley and onto Route 212 create more potential for traffic hazards
- more open space is lost over the tract (affecting the Township as a whole), while protecting the rights of a few neighbors on the Route 212 portion of the tract.

Barbara prefers Sketch *SK-H* because it conforms more to the items noted above.

Bobb Carson asked for clarification about what surrounding properties are being farmed and/or are in conservation. Several neighbors provided information on this question. His concerns about *SK-J* are:

- open space should be laid out in accordance with the best principles of sight design; narrow strips or irregular shaped areas should not be permitted as open space. These appear throughout this plan. (There is only one, small irregular land piece on *SK-H* which may need to be discussed.)
- open space should be contiguous
- agricultural soils should be in a lot (or lots) that would permit soils to be used for agricultural purposes; they are not in *SK-J* but are in *SK-H*
- There are also restrictions on what can be considered open space; *SK-J* does not conform to the spirit of the ordinance regarding “open space”

Jim Brownlow opened the floor for public comments.

Patrice Ryan expressed her reasons for supporting *SK-J* over *SK-H*:

- the only exit/entrance for *SK-H* is onto Route 212, which is very dangerous; *SK-J* provides two exit/entrance points onto less dangerous road sites
- *SK-J* provides better protection to our watershed areas
- Homes are placed on *SK-J* to preserve three of the five scenic overlays of this important tract; *SK-H* preserves only two scenic vistas
- *SK-J* moves the new homes’ wells and septic systems further away from existing neighbors’ wells and thus, offers better protection against existing well contamination
- Stormwater issues are better addressed in *SK-J*, in part, because there are three retention basins rather than the one proposed in *SK-H* and the homes are better located on the lower portion in *SK-J*

Deborah Quinn expressed her reasons for supporting *SK-J* over *SK-H*:

- *SK-J* creates safer access from the homes than the access directly onto Route 212 in *SK-H*
- although she is personally not directly affected by this development, she is concerned about the impact of the *SK-H* proposed development on neighbors close to it
- Mrs. Quinn encouraged the Members to think about this plan as though they lived in the properties directly adjacent to where the development is proposed

Bart Fleishman expressed his concern about the *SK-J* (neighbor suggested plan):

- *SK-J* places the homes on the highest portion of this tract so that they would be seen by everyone, as opposed to having them more hidden as they would be in *SK-H*
- the conserved land as indicated in *SK-J* does not conform to Township ordinances

- the Township should have the best interests of the entire Township in mind and try to conserve property in a contiguous area, not as broken up in *SK-J*. *SK-H* creates a block of up to 120 acres of conserved land
- the developer is “giving” the Township a piece of land valued at a half-million dollars (the agricultural soils preserved in *SK-H*), as opposed to a piece of land half that size which is offered as preserved agricultural land in *SK-J*
- the presentation made to the Board tonight was presented as representing all the neighbors, when in fact, he was not given an opportunity to attend the meeting where this was discussed. He does not feel the proposal set forth fairly represents the views of “all” the neighbors.

David Baker did not sign the neighbor petition and presented his reasons for not signing:

- *SK-J* ruins the scenic corridor of Slifer Valley Road
- he feels there are a number of ordinances *SK-J* does not conform to which have previously been discussed by others, and does not like the plan at all

Jim Brownlow closed public comment and advised Attorney Gundlach that, with the permission of the Planning Commission, he would advise the Board of Supervisors that the question of whether *SK-H* and/or *SK-J* would be considered “new” plans requires a legal interpretation and for that reason, the Commission has referred the question to Attorney Jim McNamara for a legal ruling. Attorney McNamara will be asked to respond directly to the Board of Supervisors, with a copy to the Planning Commission, of his legal interpretation of this question.

Confirmed Appointments

Michael Rossetti 3-Lot Subdivision – Todd Myers, Cowan Associates, Inc., presented for the applicant. An existing dwelling occupies Lot 1 and two additional building lots of 2+ acres each are being proposed. Referencing the August 9, 2005, Township Engineer’s review letter, Todd indicated the applicant will comply with all the engineering comments. Todd presented a letter dated September 7, 2005, containing a revised list of waivers. Included in the updated waiver letter were two additional waiver requests regarding Section 504.2.D (lot lines intersecting street lines at right angles) and Section 504.2.J (residential lots created which front upon arterial or collector streets).

Bobb Carson suggested that the driveway now proposed for the east side of the property to serve Lots 2 and 3 be moved to the west side of Lot 2, so that it could be accessed from the existing driveway and provide potential access to the property that was subdivided off this property prior to this request. In this way, should further subdivision be undertaken at a later time, there would be access to an internal road. Todd indicated this change would be a positive one and that he would consider making that change.

Because of the need for additional work on this plan—discussion with the Township Engineer about what road improvements will be required on Route 412, review of sight distance from the proposed driveway, PennDOT approval of the proposed drainage facility at the driveway, review of driveway/frontage improvements will be required to meet conditions of prior lot-line adjustment approval—this application was tabled and a 90-day extension will be granted by the applicant.

Springtown Knoll [formerly Springtown Country Manor] (Drifting Drive) – Scott Mease, Mease Engineering, P.C., presented for the applicants. Robin and Rudy Reshetar, applicants, and Brad Lare, attorney for the applicants, were also present.

It was noted that the Resolution required as part of the Planning Module is scheduled to be adopted at the next Supervisors Meeting, and upon completion of that step, the entire Planning Module will be submitted to DEP with the newly adopted Resolution.

Responding to a question earlier in the meeting about the activity taking place on the subdivision site, Robin Reshetar indicated that they were preparing to screen the fill removed from Lot 2 with some special equipment they had obtained. Robin indicated that both the Township office and the Township Engineer had been notified that the work would be taking place. He estimated that the screening process would be completed in four days. The screened soil will be returned to the excavated area on Lot 2, per the Township Engineer's recommendation.

There was discussion about the possible lack of sufficient water pressure from time-to-time to enable use of the "bagged" fire hydrants in this development.

Jim Brownlow **moved**, Pete Lamana **seconded**, motion **passed** unanimously, to recommend that final approval be granted conditioned upon completion of all outstanding items listed in the engineering review dated August 9, 2005. Additionally, approval was conditioned upon a requirement that prior to issuance of a zoning/building permit for dwellings on Lots 14, 16, 17, and 18, the applicant must resolve uninvestigated anomalies or voids to the satisfaction of SAIC, Township Geologist, and ensure that compaction grouting is completed and its effectiveness is evaluated by a licensed professional engineer. Further, a note regarding requirements specific to Lots 14, 16, 17, and 18 must be included on the plan to alert any future buyers of obligations prior to issuance of a zoning/building permit by the Township.

Sienicki Subdivision (Mink Road) – Scott Mease, Mease Engineering, P.C., presented for the applicant.

Referring to the Township Engineer's August 19, 2005, review letter, Item 2, it was pointed out that the #8 plan note had to be corrected to read: "The lots are deed restricted from further subdivision with the exception of a lot line adjustment where no new lot is created." This change will be made.

It was noted by our Township Engineer's office that they had recently received information from Scott Mease relating to Item 6 (sight distance from proposed driveway locations), but had not had an opportunity to review it prior to this meeting.

This plan was tabled until these plan details are completed.

Reese Subdivision (Nemeth Road) – John Anderson, Cornerstone Consulting Engineers and Architectural, Inc., presented for the applicant. This 14.8 acre property is proposed for subdivision into three lots. An existing dwelling is located on the central portion of the property. Several stormwater issues discussed last month have been addressed and the applicant is formally applying for another waiver relating to the stormwater management design.

Referring to the August 17, 2005, Township Engineer's review letter, the applicant will provide the topographic information noted in 1.B. They will also comply with 3.A & C, and are requesting a waiver for depth of the proposed stormwater basin. Pete Lamana **moved**, Walt French **seconded**, motion **passed** (1 opposed [Barbara Lindtner], 6 for the motion), to recommend approval of an additional waiver permitting the depth within the basin to exceed the maximum allowable depth specified in the Stormwater Management Ordinance, as described in Item 3.B in the 8/17/05 Township Engineer's review letter.

The Planning Module is currently being reviewed by the BCHD; therefore, further discussion on this plan was tabled. The applicant granted an extension until October 12, 2005.

New Business – None

Old Business – There will be two Joint Meetings of the Zoning Revision Team in September—15th and 22nd—at 7:00 p.m.

Correspondence – Rolling Hills correspondence of 7/21/05 was covered in earlier discussion of the sketch plan.

Public Comments

Carol Mease – Asked “Who approved the supplying of public water and the design of the public water system for the Springtown Knoll subdivision?” The answer to this was that the former water authority approved both of these items. The Members were not certain of the engineering company that approved the design of the system.

Planning Commission Comments

Walt French will not be able to attend the two September Joint Zoning Revision meetings.

Bobb Carson raised his concerns about the discrepancy in the ordinance pertaining to farm lots. He is concerned that because in the newly passed Ordinance we no longer define the clusters and associated open space, but just refer to this as a farmland lot, we no longer restrict putting detention basins and all manner of other structures on what is supposed to be “open space.” Secondly, the determination about whether you can actually build a new home on a farm lot or whether the real intended meaning was to permit an “existing” home on the farm lot but no new construction of a “residence” needs to be addressed when we finalize the ordinances.

Barbara Lindtner suggested that what goes into the open space section needs also to be included in the farmland lot description under open space. She felt that Members understanding when this was originally discussed was that it would be covered in that area.

Jim Brownlow directed Bryan McAdam to suggest possible rewording for this section to cover these concerns. Bryan will confer with Jim McNamara and will submit alternate wording for this section. Jim Brownlow said that a determination would have to be made quickly as to whether this “loophole” is serious enough to warrant needing to go through the process of a public hearing and amendment of Ordinance 129, or whether it can wait and be changed when the entire Zoning Ordinance book is adopted.

Adjournment

At 10:00 p.m., Pete Lamana **moved** to adjourn the meeting, Walt French **seconded** the motion and it **passed** unanimously.

Respectfully submitted,

Sandra L. Everitt, Secretary
Next Meeting: October 5, 2005