

MARYSVILLE BOROUGH PLANNING COMMISSION
WORK SESSION MEETING MINUTES
MAY 26, 2009

1. Rockville Estates Phase 1 Final Plan.

Mr. Altland stated that a staff meeting was held with the Borough Engineer, the developer's engineers and attorney to go over the plan. The meeting was held due to miscommunications and the confusion of the planning review process. It was suggested that the developer go to the Sewer Committee meeting to inform them of how the developer was planning to get rid of the sewer. Most of the engineering issues are resolved. The Sewer Committee is requiring new videos of the line since the last video was taken five years ago.

Mr. Brown stated that the ponding issue was discussed at the Sewer Committee meeting. The developer will address the issue and proposed the cost be shared on 50/50 or 75/25 basis. The Sewer Committee denied the request requiring the developer to pay the cost 100%. The developer is proposing slip lining the sewer from the Lady Finger factory to the Main Street interceptor and also agreed to replace the line behind the Lady Finger factory as part of Phase 2 but will provide a financial security to replace the line as part of Phase 1. The Sewer Committee requested that the line is filmed again since the original film was five years old. In return, the developer requested a conditional approval of Phase 1 Final Plan.

Mr. Altland stated that the line replacement will be bonded as part of Phase 1 and the work will be done in Phase 2.

Mrs. Stoner asked if the slip lining will be done as part of Phase 1.

Mr. Brown stated that the slip lining will be done as part of Phase 1. The cost for everything pertaining to the sewer is \$220,000.

Mr. Zehring asked about the line under Rts. 11/15.

Mr. Brown stated that the line under Rts. 11/15 is for storm water. The developer's engineers were able to correct the storm water issue by changing the slope.

(For the record, Ms. Mohr arrived at 6:43 pm).

Mr. Altland stated that the Planning Commission is concerned with competing principles. The MPC states that the plan cannot be held up because of the lack of third party approvals. They don't have to sign the plan until all conditions are fulfilled, therefore, the parcels couldn't be sold. Whenever the preliminary plan was recommended by the Planning Commission it was a condition that a developer's agreement was provided for restrictions and the homeowner's association bylaws. The restrictions were for controlling storm water, tree cutting, controls for motorized vehicles on public and private property and architectural controls. It would be unreasonable to ask for a completed developer's agreement and homeowners association bylaws at this time; however, it would be appropriate for the sections dealing with motorized vehicles, tree cutting and homeowner's association bylaws. Once the developer's agreement is signed, there is no more control.

Mrs. Stoner asked if the exact language be worked out at tonight's meeting.

Mr. Altland stated that it was requested that the developer's agreement go to Borough Solicitor for review and approval of the developer's agreement but he is not going to take this on without the Planning Commission's review and approval of each draft that is received.

Ms. Brock stated that in the end, the developer's agreement must come back to the Planning Commission and Borough Council in finished form. Then approval can be given to the plan and it can be signed. At that point the plan can be recorded.

Mr. Altland stated that the plan can be recorded if all conditions are satisfied.

Ms. Brock stated that the plan can go forward with the developer's agreement being a condition of approval.

Mr. Altland stated that the reason is miscommunication as to what was discussed on the plan from 2004. The developer's agreement is a good opportunity to cover bigger issues such as tapping fees for sewer, financial security for on-site, off-site and sewer improvements. These issues need documented so everyone can remember what was agreed upon. Also specifics on homeowner's association and private/public open space. These are all legitimate concerns. The Planning Commission wants to be sure that they are protecting the hillside.

Mrs. Simonetti asked about the televising of the sewer line and bonding for improvements in Phase 2. Will the improvements be required in Phase 1?

Mr. Brown stated that slip lining will not suffice for the area behind the Lady Finger factory. The Sewer Committee will be looking at the new video again to see if the whole section from Fishing Creek to interceptor needs slip lined. The developer agreed to do the whole section.

Mrs. Simonetti asked if they find, that when it is re-televised, there are significant holes; will it be addressed in the developer's agreement.

Mr. Altland stated that they will know the status of the sewer before the developer's agreement is completed.

Mrs. Simonetti asked how long it will take to finalize the developer's agreement.

Mr. Altland stated that the developer's agreement will be completed before they break ground.

Ms. Mohr asked how the plan can be approved before the developer's agreement is reviewed.

Mr. Altland stated that the conditions of the preliminary plan approval must be met. As long as the developer meets substance of those conditions, the plan should be fine.

Mrs. Stoner stated that Mr. Altland indicated that he will involve the Planning Commission in the review of the developer's agreement.

Mr. Altland stated that if the Planning Commission does not agree on the developer's agreement, the plan does not get signed or recorded.

Mrs. Stoner asked if the review process is the same for Borough Council.

Mr. Altland stated that he will start working on the developer's agreement if they are granted conditional approval. Also a time extension is needed from the developer. The Planning Commission is not asking for anything that not in line for Planning Commission approval. The Planning Commission did a good job with the conditions. It is hard to keep track of restrictions with staff changes throughout the years. The developer's agreement will be a good tool because everything will be spelled out.

Ms. Mohr stated that it is her opinion that everything is still not worked out, for example lighting details, placement, etc. The bigger things that haven't been identified are the storm water best management practices (BMP's). She asked Mr. Brown if he is aware of BMP's on the plan.

Mr. Brown stated that he is not aware of BMP's on the plan.

Ms. Mohr stated that they gave preliminary plan with storm water BMP's. She thinks the Planning Commission should see exactly what is proposed for BMP's. Also homeowner's association issues such as colors for homes.

Mr. Altland stated he is suggesting that the Planning Commission pick out the areas they want addressed in the developer's agreement.

Mr. Dillmann suggested that the timeframe for deeding over the open space and trail easement owned by Borough needs to be addressed. The deeding of the open space and trail easement should occur as part of Phase 1.

Ms. Brock stated that the dedication of the trails should occur when the roads are open for public use. Open Space A is part of the top of the mountain and has access as part of Phase 1. Unfortunately, the big open space area doesn't have access until Phase 2.

Mr. Dillmann stated that the whole trail system is tied up in Phase 1. The trail should be open and contiguous by foot, otherwise the whole development will be fragmented. There is also risk if Phase 2 does not get developed for five years or more. The parceling divides the open space for storm water, open space, etc. There should be one parcel for open space for Marysville Borough.

Mr. Brown stated that the developer addressed that because they didn't want to turn open space tracts over to the Borough until work is done because it is not appropriate for people to be on a work site.

Ms. Brock stated that the open space could be dedicated to the Borough when the roads are open for public use.

Mr. Dillmann stated that the land could be dedicated to the Borough and the Borough can determine when it is open for the public. His concern is that the open space is dedicated to the Borough.

(For the record, Mr. Hepler, Mr. Troutman, Mr. Murphy, Mr. Castranio and Mr. Bilda arrived at 7:00 pm)

Ms. Brock stated that the Planning Commission has been discussing logistics and the developer's agreement as far as what to expect to have in it and how it would be done. A draft outline needs to be prepared on points that need to be covered in the developer's agreement.

Mr. Altland stated that they should start with open space.

Ms. Brock stated that there was a question as to what point in the process the open space is deeded to the Borough and at what point to open the open space to the public. The Planning Commission needs a termination in the developer's agreement as to when the public can access the open space. Obviously people cannot walk down the road when bulldozers are going but at the same time it could be 15 years before the development is built out. She is not willing to wait 15 years to access the Open Space so she is looking for a happy median. The issue is when access can be gotten to the property. The Open Space C access point is in Phase 5. Open Space A access is in Phase 1. Access to whole trail system is needed. She proposes that this is part of the developer's agreement, that the larger open space parcels are transferred to the Borough when the roads are open to the public. The Darlington Trail extension can be worked at the time the land is transferred.

Mr. Murphy asked if she was talking about Open Space A.

Ms. Brock stated that there is access through Open Space A to Open Space C.

Mr. Hepler asked that Ms. Brock clarify the exact location she is addressing.

Mr. Murphy asked if it is just Open Space A.

Ms. Brock stated she is referring to Open Space A across to Phase 1 which connects through between 1 and 2 behind Stewart Drive. All of Open Space A would connect into Open Space C.

Mr. Murphy stated that dedicating the open space before roads are dedicated would be a liability issue. Logistically at what point the open space is turned over for public use needs to be thought through. The majority of the work should be completed and the roads dedicated to the Borough. The completed work will show the demarcation of the open space.

(For the record, Mr. Vaccaro arrived at 7:15 pm).

Mrs. Stoner stated that they should look at the trails and put in trails long before trails are used by the public. The public could use the trail at a point when it is safe, liability wise.

Mr. Murphy stated that the design work and funding for trails could take several years. The trails could be phased in ongoing as development is ongoing.

Mr. Dillmann stated that grants must be applied for by the owner. Funding can't be obtained until the land is transferred.

Mr. Murphy stated that you can go through the grant process as long as documentation is in place.

Ms. Brock asked how would Kittochtinny Drive be dedicated since there will obviously be construction going on for years.

Mr. Murphy stated that the property wouldn't be dedicated until the phase is done so construction vehicles won't be going across it. He does not have an easy answer.

Mr. Brown stated that logistically, from a time stand point, when phasing is done, the road is not dedicated until final coat is done. Kittochtinny Drive wouldn't be done until Stone Arch Drive is done to keep construction vehicles off the road.

Mrs. Stoner stated that Kittochtinny Drive is in Phase 2.

Mr. Murphy stated that the cul-de-sac is in Phase 3.

Mr. Brown stated that the roads should not be dedicated until the loop street is done which could be some time in the future.

Mr. Murphy stated that the roads should be dedicated when the Rt. 11/15 entrance is done which will take heavy traffic off the roads.

Mr. Brown feels that realistically it would be easy for loop street to be done in Phase 2.

Ms. Brock stated lots on other side, lots 78, 77, 76, will be dependent on pressure sewer line which will need to be done before houses can be built. She is looking for some way to get a useful trail as soon as possible.

Mr. Troutman stated that he is not sure that access for personnel involved in doing the trail is a hang up for developer for liability because there are ways of working through that such as indemnity agreements. Opening the trail to the public is another issue that the developer doesn't want anything to do with because of liability. If you went to the mountain and tried to find the open space you won't be able to find it.

Ms. Brock stated the lots will need to be surveyed.

Mr. Troutman stated from a construction standpoint, when move into Phase 1, the whole mountain will not be surveyed. Open Space A won't be established for some time. There will only be open ground until the roadway is put in.

Mr. Murphy stated that there are two parts. When people are working on grants it is a different thing because access can be provided for the planning process. The issue is when the public can have access.

Mr. Troutman stated that the open space needs to be the Borough's property before access is permitted for the public.

Mrs. Stoner stated that Open Space C in Phase 4 could be included in Phase 2.

Mr. Murphy stated that it touches a portion on Stone Arch Drive.

Mr. Castranio stated that the open space is included in the phasing plan when everything is completed around it.

Ms. Brock stated that is what is bothering her because it could be 15 years before there is access to the open space. Something needs to be worked out to move the dedication of the open space up considerably. Phase 4 is steeper but the trails are in the lower area. When Phase 2 is substantially completed, the general public should be able to walk the trail.

Mr. Murphy stated that they can not give an exact answer at tonight's meeting. As they work through the developer's agreement they will be able to work on this issue so everyone is protected in the process.

Ms. Brock stated that she sees what they are saying that they wait until the end to get access. It is general public part that is causing concern. There should be a way to get around that to take liability. They will be more equipped to attempt a resolution when the trial is figured out.

(For the record, Mr. Kmiecinski arrived at 7:26 pm)

Ms. Brock stated that it is their preference that it happen after the Borough owns the open space so there is no liability.

Mrs. Stoner stated that it is easier for grants and more money is available when you own the land. That is why she suggested that part of the open space in Phase 4 be put into Phase 2. It will facilitate the process.

Mr. Brown asked how the developer proposes to mark the trail and open space corners so someone could delineate the trails.

Mr. Murphy stated that the lots will be marked as they go.

Mr. Brown stated that putting physical corners on each lot would do it.

Ms. Brock stated that there are details to work out so trail access is early as possible.

Mr. Altland stated that putting Open Space A with Phase 1 is more problematic then Phase 2.

Mrs. Stoner stated that both connect to Phase 2 in places.

Mr. Troutman stated that he understands what the Planning Commission is asking. He will review it and come back with a proposal. It is too big of an issue to address tonight.

Mr. Hepler stated that it is a serious consideration as to when public improvements are turned over to the Borough. He understands that roads can be ready long before the phases are finished but there are liability issues and equipment intermingling with the public which is a safety issue. The public improvements need to be turned over in fine shape. Heavy equipment will be going

over the roads so they cannot get the final top coat done which is required to turn over a street to the Borough.

Mr. Altland asked if the developer would be amenable to including large Open Space C: and A when it is transferred in Phase 1. Transferring Open Space "C" with Phase 2 instead of Phase 4 will advance the dedication a bit. Mr. Altland asked if they are proposing to turn over the deed to Open Space "C" before the improvements around it is done?

Mr. Troutman stated that they would be amenable to including the large Open Space "C" and "A," when it is transferred in Phase 1.

Mr. Altland stated there could be issues of trespassing on Borough property.

Mr. Troutman stated that it is practical in defining boundaries. The roads are done first and they work from there. The open space will be defined after doing all that. There could be a way to work this out in the developer's agreement.

**MARYSVILLE BOROUGH PLANNING COMMISSION
REGULAR MEETING MINUTES
MAY 26, 2009**

Call to order and roll call. The meeting was called to order at 7:38 pm

Roll Call:

1. MEMBERS PRESENT

Jennifer Brock, Chairman
Stephanie Stoner
Shawn Vaccaro
Lori Mohr
James Zehring

STAFF PRESENT:

Janet Hardman, Code Enforcement Officer
Mike Kmiecinski, Tri County Planning Commission

OTHERS PRESENT:

Cliff Dillmann
Jean Raisner
Sherree Knight
Ann Simonetti
Forrest Troutman
Paul Hepler
Deb Hepler
John Murphy
Joe Bilda
Rick Castranio
Brian Morris

JoAnn Horanic
Erika Geserer
Delores Stephens
Thom Cosey
James Sabo

2. MINUTES:

a. May 26, 2009 Minutes

Page 6, 6.a.to read, “that public comment closed last year and was approved on February 2, 2009.

MOTION: Mr. Vaccaro moved, seconded by Mr. Shearer to approve the April 28, 2009 minutes as amended. The motion passed unanimously.

3. PUBLIC COMMENT.

- A. Mrs. Raisner questioned slip lining the sewer for Rockville Estates. The Borough Sewer Committee agreed to slip lining rather than replacement of sewer line with a new line from Lady Finger to Main Street.

Mr. Brown stated that the slip lining was based on a five year old video so the Sewer Committee is requiring a new video, which the developer agreed to do.

Mrs. Raisner stated that she feels slip lining is a band aid.

Mr. Brown stated that the existing line is an asphalt coated cement pipe. Slip lining will address infiltration that is caused from cracking of the pipe. If the new video shows a higher percentage of cracking, the Sewer Committee may require replacement. Another issue is that some of the line is in the creek.

Mrs. Raisner asked if in the event slip lining does not work and it fails or suppose Phase 2 does not come into fruition, it would be responsibility of the Borough residents to fix the sewer.

Mr. Brown stated that if Phase 2 does not come into fruition it will be covered by the Sewer Committee. Slip lining lasts 20 to 30 years. It is common practice to slip line before replacement unless the pipe is too small because of capacity. Slip lining is a good value. The line would need replaced eventually with or without the development.

- B. Mrs. Simonetti announced that Marysville Borough will hold a festival on Saturday from 9 am to 3pm with an antique car show.
- C. Mr. Dillmann stated the developer’s agreement needs to meet the Borough concerns and the trail group concerns. The Borough doesn’t want to be in a situation to risk losing the open space. The open space being dedicated to the Borough should be surveyed now and given to the Borough now. The lots, open space, roads, and trail easement should be surveyed now because it is wilderness land. The Borough needs protected so the

Borough gets all the open space and it is not renegotiated at a later date. It may be uneconomically feasible to finish the project.

D. OLD BUSINESS:

a. Subdivision Amendment -Plan Specifications and Procedures

Ms. Brock stated that the Planning Commission began review of Part 4 of the subdivision and land development ordinance at the May 13th workshop meeting. The Planning Commission will continue to review Article 4 at the next workshop meeting on June 10th.

b. Rockville Estates Phase I Subdivision Plan

Ms. Brock stated that when the work session ended with Mr. Brown explaining the hurdles of making sure the sewer line is in the shape we think it is and that the sewer slip lining and replacement is in the developer's agreement.

Mr. Brown stated that the Sewer Committee is asking that the line is re-videoed so they don't make final determination on old formation. The developer agreed to do that. There is also an understanding of cost incurred. The developer is bringing a proposal.

Mr. Murphy stated that they are finalizing negotiations with the Sewer Committee and the developer's agreement. The 2nd video will be done prior to the Borough Engineer agreeing to slip lining. He feels the negotiations are far enough to finalize the issue.

Mr. Brown stated that in Phase 1 the developer is doing slip lining.

Mr. Murphy stated that in Phase 2 the line will be replaced.

Ms. Brock asked if there are any other issues. Ms. Mohr brought up issues of BMP's at the work session. Has BMP's been identified.

Mr. Castranio stated the storm water plan and erosion and sedimentation control plan has been submitted and they have addressed two reviews with Perry County Conservation District and the Department of Environmental Protection (DEP).

Ms. Mohr stated that the Planning Commission asked for BMP's over and above the E&S plan. The developer agreed to do BMP's for storm water and on each phase.

Mr. Castranio stated that they met with DEP and Perry County Conservation District three times and came up with a post construction management plan with rain gardens on the roads. DEP did not want to see rain gardens on the mountain. They added four bays and micro pools on the ponds. Water quality put on inlets and outfall structures.

Ms. Mohr stated that Mr. Castranio is talking about storm water. What is being done for BMP's?

Mr. Castranio stated that they are limited by DEP's requirements. There are minimal BMP's in this project. The site work is delineated on the plan

Mr. Brown asked where they stand on approval of the E&S and storm water management plans.

Mr. Castranio stated they made the second submission and should be getting approval shortly.

Ms. Brock stated that the BMP's for individual lots and off right of way areas should be in the homeowner's association bylaws so people who buy the lots are aware of the requirements and know how to maintain them.

Mr. Murphy stated it is most important on how they limit disturbance on a per lot basis.

Ms. Mohr asked where the BMP's are on the plan.

Mr. Murphy stated that it will be in the homeowner's association documents to make sure the owner knows how to implement it.

Ms. Brock stated that in some areas it will be in the developer's agreement.

Ms. Mohr stated that she would like to see specific treatments.

Ms. Brock stated that the topics for the developers agreement are bonding for sewer line and other off site improvements such as traffic light, tree cutting, land clearing, motor vehicle access on private and public open spaced, demarcation of areas of disturbance on each lot, sewer off site improvements, what and when land is transferred to the Borough, Darlington Trail extension right of way timing and dedication, aesthetics and lighting.

Mr. Altland stated that aesthetics and lighting should be under the homeowner's association bylaws.

Ms. Mohr stated that approval of plan with the condition of the Borough Solicitor's review is not how the Planning Commission has approved plans. The Planning Commission should work on details ahead of time with the Borough Solicitor's ultimate approval.

Ms. Brock stated that what needs done for things to move ahead is for the developer to work with the Borough Engineer and Borough Solicitor to draft a developer's agreement and work with the Planning Commission on an ongoing basis until everything is finalized on the plan. The plan won't be signed until the developers agreement is finalized so the plan cannot be recorded.

Mr. Troutman stated that is exactly what they had anticipated. He is working to make the developer's agreement enforceable and understandable so it can be carried on in the future. It is not their intension to exclude input from the Planning Commission or Borough Council but to include them. They can't iron out details until they have an approval and can't record the plan until all details are worked out. A lot of things need done with the use restrictions.

Ms. Mohr stated that the Planning Commission is looking for details. Can you lay out what is? expected to be seen.

Mr. Troutman stated that an outline to lay out points is a very good road map to follow. He Realizes that they need to put more down in different areas when they submitted Phase 1.

Mrs. Stoner stated if the Planning Commission acts on the plan tonight, the Borough Council is the next step. Where in the process does the developer see going to Borough Council before or after the developer's agreement is finalized.

Mr. Altland stated that it would be proper to go to the Borough Council the first time before the developer's agreement is done with no expectation of approval. Everyone would prefer to see the developer's agreement first.

Ms. Mohr asked why they need the Planning Commission's vote before they see the developer's agreement. She would prefer the Planning Commission see the developer's agreement first. The Planning Commission won't have a say in anything if it is out of their hands. Why should the Planning Commission take a vote without the finalized developer's agreement.

Mr. Altland stated that if the Planning Commission takes a vote, the Borough Council will decide the issues instead of the Planning Commission.

Ms. Mohr stated that preliminary approval was given without details being worked out because they were to be worked at the final plan stage. The details need worked out in advance of voting for the plan.

Mr. Troutman stated that the developer needs to find out what the Borough Council has to say to get their comments in the developer's agreement.

Ms. Mohr stated that the Borough Council can come to the Planning Commission meetings so it is worked out at the Planning Commission, then the plan would go to the Borough Council.

Mr. Troutman stated that once the plan moves out of the Planning Commission to the Borough Council they can start to work in earnest on the details of the developer's agreement. They need to talk to the Borough Council as a group. The recommendation that the developer's agreement is part of the plan is the Planning Commission's protection. If the plan doesn't get recorded it doesn't do the developer any good.

Ms. Brock stated that if the developer's agreement is part of Phase 1, it is not separate. The maps, hydraulic calculations, United Water's ability to serve the development are all a part of the plan. But the developer's agreement is very important. This is a big development. It is not a separate item. They are talking about good faith negotiations. What needs to be settled is the developer's agreement. It is scary to say that we are assuming everyone will come to an agreement. The developer's agreement is very much a part of Phase 1. Maybe it is a good idea That the developer spends some time with the Borough Council and move forward that way.

Mr. Altland stated that if the hang up is the developer's agreement, don't expect to have a complete document because they can't do it yet; for example, the financial security is for public improvements and the sewer line in Phase 1. Maybe the Planning Commission can review the big areas such as BMP's, tree cutting, architectural review committee which is one thing but he don't suggest getting the whole developer's agreement done.

Ms. Mohr stated that she assumed the framework is standard.

Mr. Altland stated that a developer's agreement has never been done in Marysville Borough.

Ms. Mohr stated that before the Planning Commission gave approval for a final phase, they saw details. They don't have an outline or a draft to review.

Ms. Brock asked if it is feasible for the developer to have an outline of basic developer's agreement by next month.

Mr. Altland stated that the formula is 110% of an estimate approved by Borough Council which is boiler plate and statutory. The developer wants to focus on restrictions rather than boiler plate items which is where the difficulty will be.

Mr. Murphy stated that the Planning Commission's concerns are dully noted but the developer would like recommendations to Borough Councils so they can finalize things. They will be at the Borough Council for a couple meetings finalizing sewer, developer's agreement or he feels they are in a position to get to Borough Council to discuss issues to move forward. The Planning Commission can continue to have input.

Mr. Troutman stated that a framework was established with the approval of the preliminary plan. The Planning Commission worked very hard to identify specific items.

Ms. Mohr agreed that the issues were discussed but the Planning Commission is saying they want to see the documents in writing before they recommend approval of Phase 1. A lot of discussion is riding on the developer's agreement. Right now they don't have a formal document. They want to see items that has been discussed in writing before the plan is moved forward.

Mrs. Stoner stated that there are the conditions of the preliminary plan. Is there anything that should be in the developer's agreement from the preliminary plan.

Mr. Altland stated that the timing of the dedication of the open space needs to be addressed in the developer's agreement.

Ms. Mohr stated she feels the Planning Commission deserves further review on the storm water and erosion and sedimentation control plan. The discussion has been that it requires approval by DEP but the Planning Commission does not know what the storm water control entails.

Mr. Troutman stated that the storm water plan is driven by outside agency approval.

Ms. Mohr stated that there should be discussion on what the plans show. The BMP's need to be shown on the plan and how they are going above and beyond the standards. They deserve to see the BMP's and have discussion on the storm water impacts.

Mr. Troutman stated that they rely on their engineer and the Borough Engineer to determine if the storm water plan will work. The developer is required to make it work out. It is up to the experts to tell us that it will work. There should be trust in the experts.

Mr. Castranio stated that they have received approval of the preliminary plan and get separate approval from DEP and the Perry County Conservation District. There are two copies of the storm water plan and the erosion and sedimentation control plan available for the Planning

Commission's review.

Ms. Mohr stated she would like to see the information for education of the homeowner's in the homeowner's association bylaws.

Mr. Castranio stated that the storm water plan and the erosion and sedimentation control plan are way over the minimum requirements.

Mr. Murphy stated that the storm water plan and the erosion and sedimentation control plan were submitted for review. They would be happy to discuss them.

Ms. Mohr stated that she wants to see the education plans for homeowners, the selective tree cutting requirements, berms, where the steep slope starts. The storm water plan is not enough. BMPs are needed. Is this information in the storm water plan?

Mr. Brown stated that there should be an education component.

Ms. Mohr asked when do they find out what the tree cover will be on individual lots.

Mr. Murphy stated that this was discussed at the preliminary plan level. They are specific on the top lots and on the protection of private open space.

Ms. Brock stated that they are just not comfortable with the level of information at this point. It was stated that information was going to be spelled out in the homeowner's association bylaws and developers agreement. What will make it happen?

Mr. Murphy stated that the information will be reviewed by the staff and the Borough Engineer. The Planning Commission could make a recommendation that the developer's agreement must come back to the Planning Commission for review and approval.

Mr. Altland stated that if the developer agrees to the recommendation of the developer's agreement being approval by Planning Commission it would be acceptable. He was not present at every Planning Commission meeting so he must involve the Planning Commission. Making a condition that the Planning Commission must review and approve the developer's agreement is a way to go. If it goes to the Borough Council and they vote on it, there is nothing that the Planning Commission can do. Some areas need to be addressed as to what will be in the developer's agreement. There could be a workshop meeting to discuss the BMP's. There was a lot accomplished when there was a meeting a few months ago. BMP's may need to be included in the review process with DEP and Perry County Conservation District.

Ms. Brock suggested meeting on the developer's agreement at the June 10th workshop meeting to establish a framework for the developer's agreement.

Mr. Murphy stated that it is very important that the plan go Borough Council. There are timing issues with the highway occupancy permit and a lot of other issues they are dealing with.

Mrs. Simonetti stated that since the Borough Council meeting is June 8th, the meeting could be reconvened on June 10th for a meeting with the Planning Commission.

Ms. Brock stated that Borough Council may not be able to digest everything at one meeting.

There is no reason why Borough Council can't look at the plan. It takes a lot of discussion. One issue that can be discussed is the developer's agreement or discuss the plans in general.

Mrs. Simonetti stated that they don't need to talk about the plans in general. The Borough Council members should be attending the Planning Commission meetings to keep themselves abreast.

Ms. Mohr stated that the Planning Commission needs to know what the details are. They are asking for things that aren't unreasonable. They are asking for a little more than what the engineer requires.

Mr. Brown stated that there needs to be an agreement on what the BMP's are and the BMP's must be turned over to the homeowner's association when the project is done. The BMP's must be maintained and the homeowner's association must know that it is a crucial component to the storm water management plan.

Ms. Mohr stated that as time progresses, the Planning Commission may need to help the homeowner's association on enforcing these issues.

Mr. Brown stated that he is suggesting that the BMPS be incidental to the developer's agreement and there is language for maintenance so you do need to come to terms on what BMP's are acceptable for this development.

Ms. Mohr stated that she has requested again and again details on the BMP's and again and again she is told that it will be reviewed by DEP and the Perry County Conservation District. She looked at the storm water plan and she did not see anything on BMP's.

Mr. Murphy stated that there is also an erosion and sedimentation control plan submittal that would be appropriate for her to look at.

Mrs. Stoner asked what other details need discussed for the developer's agreement.

Mr. Altland stated that he knows the subjects the Planning Commission wants covered. It is a matter of putting the language on paper and sharing it.

Mrs. Stoner asked Mr. Altland what are looking for from the Planning Commission.

Mr. Altland stated he is asking for thoughts from the Planning Commission on BMP's.

Ms. Mohr stated that from the idea of green infrastructure improvements. Green improvements help retain storm water and can be more than a traditional storm water plan.

Mr. Dillmann stated that there are many different structures. There is a separate deciding group from the group that needs to look at details. The Planning Commission is expected to look at details. Many green technologies require less maintenance over time. They get better over time. The idea is low maintenance.

Mr. Troutman stated that they are present at the meeting tonight on the first phase and asking for approval of the first phase. The Plan was submitted in good faith. The preliminary plan had a

number of conditions on it. The #3 condition was the approval of the erosion and sedimentation control plan and NPDES approval from Perry County Conservation District which is what they intend to get. They don't need to have green technologies.

Mrs. Mohr stated that this is exactly why she wants details and not good faith.

Mr. Troutman stated that the developer's agreement will state that they must get approval of DEP and Perry County Conservation District. The approval of the Preliminary Plan was specific that when the conditions of approval were met, the developer was entitled to final plan approval.

Ms. Brock stated that other conditions were restrictions on motor vehicles and tree cutting. They are only asking that the restrictions are spelled out for the developer's agreement. They are not disputing that DEP and Dauphin County Conservation District approvals are needed. They are talking about other conditions that they are not getting anywhere with.

Mr. Troutman stated that with all due respect, he has trouble believing that the information that has been submitted is beyond what was originally required. They were doing that because that is what they thought the Planning Commission wanted.

Mrs. Brock asked if the NPDES approval has tree cutting spelled out.

Mr. Troutman stated that the NPDES approval does not have tree cutting spelled out.

Ms. Brock stated that this is a condition that is a strategic improvement for stopping water.

Mr. Troutman stated that there will be language on tree cutting in writing.

Ms. Mohr stated that she does not feel the developer's agreement is separate from the plan approval. At least they need a draft of the developer's agreement that has the major components in it before she would feel comfortable with it. There is still a lot of vagueness.

Mr. Murphy stated that there are still financial agreements to be worked out with the Borough Council.

Ms. Mohr asked why they can't take the plan before Borough Council now without the Planning Commission's approval.

Ms. Brock asked how the time frame is speed up if the plan can't be recorded until the conditions are met.

Mr. Murphy stated that since the Borough Council is making all the final decision on financing, and other issues, it is far more appropriate as far as a time prospective to get done.

Mrs. Horanic stated that she attended a Planning Commission meeting where a number of waivers were granted that she is very much afraid of. She feels the developer is trying to get to Borough Council because they will approve the plan. She plans to attend every Borough Council meeting. The Chesapeake Bay Foundation will hold the residents of Marysville feet to the fire if water from this project runs into the river. The river is a trout stream and is down hill from

Marysville.

Mrs. Knight stated that she hears frustration from the Planning Commission and she is not comfortable with the plan being passed on to Borough Council. The Planning Commission has not received answers and feels pressured.

Mrs. Horanic stated that this is not how things were done in the past. Changes need made es that are good for everyone not just the developers.

Ms. Brock stated that the Planning Commission would like to see a draft of the developer's agreement. They have spent a lot of time going over what needs to be in the developer's agreement. They need a draft to send to Borough Council. The plans and maps have been reviewed so they don't need to spend any time on that.

Ms. Brock stated that the Borough Council only has one more meeting before the plan expires or a time extension is granted by the developer.

Ms. Mohr stated that they also need to talk about parceling.

Mrs. Brock stated that they would appreciate an explanation on parceling because there is a homeowner's association for the 55 and over housing and they must say what land is with what group. What isn't on the plan is specifications as to which parcels are for 55 and over housing and which parcels are for private open space and public open space. There is no delineation as to what parcels go with what phases? She would like to see a column showing phasing and parceling on page 1.

Mrs. Stoner stated that the column should be on the page that shows parceling. There are a few odd ball parcels that it is not clear what the purpose is such as parcel CC.

Mr. Murphy stated that parcel CC is an encroachment by the neighbor.

Mr. Zehring asked if lot 33 was a 55 and over lot

Mr. Murphy stated that it is a 55 and over lot.

Ms. Brock stated she is not sure which lots are 55 and over and which ones are not.

Mr. Troutman stated that there are three lots that are not 55 and over. He has no problem doing a chart. He thinks that they can list the purpose.

Ms. Brock asked what the primary purpose of the three lots is.

Mr. Troutman stated that the purpose is so they won't be a part of Rockville Estates. Eventually they will need to do something with them.

Ms. Brock stated that the three parcels were once roads.

Mr. Troutman stated that there can't be a lot because the preliminary plan does not permit a lot there.

Ms. Brock asked if they are asking the Planning Commission to create another road.

Mr. Troutman stated that the status of the parcels will not change.

Ms. Brock stated that one is Open Space I and the other two are not delineated. What will happen to that land? Will it be retained by adjacent land owners? What will happen to these parcels when the land is platted off.

Mr. Troutman stated that they are not parcels.

Ms. Brock stated that a lot is a piece of land that someone owns.

Mrs. Stoner stated that they all appear to be encroachments. What will happen to these parcels?

Mr. Troutman stated that nothing will happen with these parcels.

Mrs. Stoner asked who will own them.

Mr. Troutman stated that Yingst Homes Inc. will own them.

Mr. Murphy stated that they do not qualify as lots.

Ms. Brock stated that because of that they cannot allow it to be created.

Mr. Murphy stated that they are not lots, they are parcels.

Mr. Castranio stated that if these easements are not parceled they will be considered part of Rockville Estates and the homeowner's association will be responsible for them.

Mr. Murphy stated it will allow future transfer of these parcels since they are not a part of Rockville Estates.

Ms. Brock asked what will happen to these parcels.

Mr. Hepler stated that these parcels are land that is useless to them. They don't know what they are going to do with them.

Ms. Mohr read #4 of the parceling email from Mr. Troutman as follows, *“Can a parcel be conveyed to a third-party and if so, what affects, if any would that action cause? Yes, a parcel could be conveyed to a third-party, at least in theory, but no ill effects will be created by such action. More accurately, there is no legal basis to prevent the conveyance of a parcel to a third party. However, no conveyance could work to create a land-locked parcel and to the extent the Borough needs assurance of that fact, I would suggest an outright restriction of such result be included in the parceling section of the Development Agreement. Outside the developer's intention to convey in the future certain parcels as open space areas to the applicable homeowners association entity, and to convey a security interest in such parcels for financing purposes, there is no present intention to convey any parcel to a third-party. If such intention every arose, access to a public road would be required either by operation of law, by a title*

insurance requirement, by a financial institution requirement, by a Developer Agreement provision, or the combination of one or all of these reasons.” Her concern is that if a parcel is transferred to a third party, that it must conform to the new ordinance or ordinance in effect.

Mr. Troutman stated that it will be required to conform to the new ordinance or the ordinance in effect.

Ms. Mohr asked if a parcel is transferred and must seek final approval and they want to be a part of the Rockville Estates, would they fall under the Rockville Estates regulations or the new ordinance.

Mr. Kmiecinski stated a new plan must be submitted and fall under the new ordinance. The developer is saying that it is not a part of Rockville Estates so it does not have to conform to the plan. He feels it is a nonconforming lot and is not permitted to be created. He does not feel it is appropriate to say that they are not creating a right to develop. If it is nonconforming it can't be created and if it is land locked it can't be created.

Mr. Zehring stated that lot 15 and 16 shows a pool on the line. The lots cannot be approved if they don't meet ordinance requirements.

Mr. Brown stated that the three parcels look like un-open streets. If the previous subdivision plan shows these as un-open streets it is established. A note can be put on the plan that they can only be transferred as lot additions. He is not sure if people can acquire it as adverse possession.

Mr. Altland stated that a note on the plan makes sense for these three parcels. Mr. Troutman's email memo was addressing other parcels.

Mr. Kmiecinski stated that parceling is creating isolated parcels which is not permitted to be created with no access. There is nothing in the ordinance that says a lot and parcel is different. That is the County's concern.

Mr. Troutman stated the legal document is the preliminary plan where the parceling was created. Parcel CC is the only parcel that was not on the preliminary plan. He can add a note that these parcels can only be transferred to adjacent property owners.

Mr. Zehring stated that every piece of land is taxed.

Mr. Troutman stated when the property was purchased it was six or seven parcels of land that were land locked. This plan will consolidate them into one parcel. The source of title is still six or seven parcels. The Planned Community Act states only a whole parcel can be submitted for a planned community. The only way to do a planned community is to take away the parcels that is not part of it.

Mr. Kmiecinski asked if the land that is not part of the planned community will be removed by phases.

Mr. Troutman stated that the restrictions are done at the beginning of the development.

Ms. Brock stated that if creating parcels there will be no homeowner's association or developers

agreement which doesn't make sense.

Mr. Dillmann stated that there are a few legal cases regarding demanding a right of way through adjacent property for access if a parcel is landlocked.

Ms. Brock stated she does not see why Parcel O is not in Phase 1 (it is in Phase 2). Parcel O as depicted on the map is part of Rockville Estates.

Mr. Troutman stated that at that point it will be platted and filed.

Ms. Brock asked when the homeowner's association for each group of lots will be created.

Mr. Troutman stated that after the final plan for Phase 1 is recorded.

Ms. Brock asked if the homeowner's association would have control of the lots that are landlocked and not connected to a road.

Mr. Altland stated that Parcel O will not be created until approval of the final plan for Phase 2.

Mr. Troutman stated that creation of parceling doesn't follow phases. There may be 30 parcels created. The parcels must be created and identified so they can be described in a declaration that creates the planned community.

Ms. Brock stated the lots in Phase 1 may be part of the planned community but it is because the development plan was not filed for it because they haven't gotten there yet and it is landlocked. When Phase 2 is done and accepted that is when the land is part of the planned community.

Mr. Troutman stated that it is a development processes on what is included in Planned Community Act which is only limited by it being a complete parcel to be identified or subjected.

Ms. Mohr stated the 55 and over is the planned community and the rest of the lots are not part of the planned community.

Mr. Brown stated that the parcels that are no a part of the planned community should be identified.

Mr. Troutman stated that the Planned Community Act will require parcels to be in the planned community in order for the lot owner can contribute to the homeowner association dues and because of duration it takes to build a house.

Mr. Altland asked if Parcel M is part of the 55 and over community.

Mr. Troutman stated that Parcel M is part of the 55 and over community.

Mr. Altland asked if Parcel 0 is part of the 55 and over community.

Mr. Troutman stated that Parcel 0 is not part of the 55 and over community.

Mr. Altland stated that parceling is needed to identify what lots are in the planned community and what lots are not in the planned community. So not all the building lots are connected to the open space.

Ms. Brock stated that if a parcel is not developed in five years it becomes open space.

Mr. Troutman stated that in this particular case it is 7 years. It does not apply to the development. It is that parcels are created. The whole idea is to conform to the Planned Community Act. It is a very complex statute and this is the only way to deal with it.

Mr. Kmiecinski asked what can be done to protect the Borough.

Ms. Brock asked if the parcel has a deed.

Mr. Troutman stated that the parcel does not have a deed.

Mr. Kmiecinski stated that the bottom line is how we can stop someone from selling a parcel off and having it landlocked.

Mr. Altland stated that it is not yet a platted lot.

Mr. Troutman stated that Parcel W if recorded becomes part of the recorded plan. Two years down the road and they are not doing phase, and they sell Parcel W off, that person must go through the process. Parcel W is not the only parcel that is a part of that phase.

Mr. Kmiecinski asked why they couldn't develop.

Mr. Troutman stated they then must comply with the new ordinance.

Ms. Mohr stated if the parcel is conveyed to a new owner, the Borough would want them to conform to the new ordinance.

Mr. Murphy stated that they would have to do what is approved as part of Rockville Estates or start the process again.

Mr. Altland stated that Rockville Estates has approval for a period of time under the MPC. There would be no approval specific to one parcel.

Ms. Brock asked what if another developer wanted to buy Parcel Q and there is a note that says that a parcel cannot be conveyed to another party, then it can't be development.

Mr. Castranio stated that the developer must build Phases 4 and 2.

Mr. Troutman stated that #4 explains it as follows, "*However, no conveyance could work to create a land-locked parcel and to the extent the Borough needs assurance of that fact, I would suggest an outright restriction of such result be included in the parceling section of the Development Agreement.* It should be in the developer's agreement to prohibit transfer of land locked parcels.

Ms. Brock stated that a landlocked parcel could not be sold until it is un-landlocked.

Mr. Troutman stated that all parcels in that phase must be submitted at one time.

Mr. Kmiecinski stated that the nonconforming lots must be taken care of.

Mr. Troutman stated that they are not lots they are open space.

Ms. Brock stated that is why they need a table explaining what each parcel is for. The nonbuilding parcels cannot be transferred without the proper deed restrictions.

Mr. Troutman stated that it will be put in the developer's agreement to address those comments.

Ms. Brock stated that she ran into a situation that odd ball lots were created and they were permitted to building a house on it.

Mr. Murphy asked how the Planning Commission wants the protection they are looking for.

Mr. Kmiecinski stated that Open Space E and F are small parcels. Marysville does not want those small pieces of open space.

Ms. Mohr asked why the parcels could not be larger pieces of land instead of all the small ones.

Ms. Brock stated that everything is landlocked until the road is constructed.

Mr. Brown stated that when the Planning Commission and Borough Council give approval of Phase 1, shouldn't they mention in the motion the parcels they are approving.

Mr. Murphy stated that it should be explained in the developer's agreement.

Mr. Altland stated that on the Phasing Sheet 3 it references Open Space C on Caroline Drive and Kittochtinny.

Mr. Murphy stated that is where the detention facility is.

Mr. Altland stated that it is where the detention facility is. Shouldn't Open Space C and the detention pond be called something different.

Mr. Murphy stated that Open Space C is not meant to be conveyed. It does need renamed.

Mr. Castranio stated that they have other detention ponds.

Mr. Murphy stated that they are on separate parcels but on the same open space.

Mr. Kmiecinski asked if it is possible to not permit conveyance of any parcel that does not have access.

Mr. Murphy stated that the concept is accurate.

Mr. Dillmann asked if there was liability involved with no conveyance.

Mr. Altland stated that it would need to be subject to restrictions. There could be conveyance under certain circumstances.

Ms. Brock stated that the Planning Commission is required to make a recommendation to Borough Council unless a time extension is granted at this meeting because the time extension expires on June 26th. Ms. Brock asked the developer if they could give a time extension now.

Mr. Troutman stated that he is not prepared to give a time extension now.

MOTION: Mr. Vaccaro moved, seconded by Mr. Zehring to recommend approval of waiver of Section 22-405.I. DD (10 requiring a profile scale of 1" to 40' for the horizontal scale and 1" to 4' for the vertical scale based on the fact that the topography of the site would require additional plan sheets and the scale provided of 1" = 50' for horizontal scale and 1" = 5' for vertical scale is an acceptable standard and approval of the plan with the following conditions: 1. Verification of survey monuments and markers by the Borough Engineer or submission of a cost estimate and submission of financial security for each monument and marker. 2. Certification of ownership and dedicatory statement are signed by the owners prior to plan recording. 3. Submission of a cost estimate for the Borough Engineer's review and submission of a letter of credit for on-site improvements prior to final plan approval by the Borough Council, 4. Corrections recommended by the Borough Staff, Borough Engineer and Perry County Planning Commission are incorporated into the plan and reviewed by staff before being placed on the Borough Council's agenda, 5. The HOP for the drainage under Rts. 11/15 is approved by PennDOT prior to approval of the plan by the Borough Council, 6. The sewage plan is approved by the Sewer Committee prior to the plan being approved by Borough Council, 7. Legal documents are submitted for easements, covenants and homeowner's association bylaws. 8. An easement is shown on the plan for the trail connection. 9. The Developers Agreement and any other unsatisfied conditions in the preliminary plan approval as approved by Borough Council is submitted. The motion failed with roll call vote as follows: Mr. Vaccaro and Mr. Zehring voting yes and Ms. Brock, Mrs. Stoner and Ms. Mohr voting no. The motion failed.

Discussion:

Ms. Brock asked for a motion to reject the plan as submitted because they were unable to come to terms on the developer's agreement.

Mr. Altland stated that inaction does make action. No recommendation will put pressure on Borough Council

Ms. Brock stated that there needs to be a motion to recommend to Borough Council that the Final Phase 1 Plan is rejected because they don't have specifics on the developer's agreement to iron out conditions of preliminary plan until there is a time extension granted.

MOTION: Mrs. Stoner moved, seconded by Ms. Mohr to reject the plan because a developers Agreement and a time extension have not been provided. The motion passed with Ms. Brock, Mrs. Stoner and Ms. Mohr voting yes and Mr. Vaccaro and Mr. Zehring voting no. The motion passed.

5. NEW BUSINESS: Suspended

6. GENERAL ANNOUNCEMENTS. Suspended

7. Report on Borough Council Meeting (Next Council Meeting 5/11/09): Suspended

**8. ADJOURNMENT/NEXT SPECIAL MEETING DATE 6/10/09 @ 6:30pm/NEXT
REGULAR MEETING 6/23/09 @ 7:30 pm, WORK SESSION @ 6:30 pm.**

MOTION: Mr. Vaccaro moved, seconded by Mrs. Stoner to suspend the remaining agenda items and adjourn the meeting at 10:20 pm.

Respectfully Submitted,

Janet Hardman,
Code Enforcement Officer

Addendum added 8/25/09 – Rockville Estates Preliminary Plan – Clarification on any statement regarding the Sewer Committee was that they were in advisement of the sewer plan. Any statement in the minutes was not to imply that the Sewer Committee gave their endorsement of the sewer plan.