

**EAST MANCHESTER TOWNSHIP  
PLANNING COMMISSION  
JUNE 24, 2008**

At a regular meeting held at the township building, the following members were in attendance: Robert Nace, Edward Hewitt, and Mike McCowan.  
Also in attendance were Engineer Laymon Mortorff of Gordon L. Brown & Associates and Zoning & Codes Enforcement Officer Katrina Rife.

Call to order 7:00pm by Vice-Chairman Nace.

The minutes of 5/27/08 were approved as presented.

Bob acknowledged one plan for this meeting, the Musser Manor and to clarify a few things. He understand they have revised plans that were received by the office just prior to 4:00pm this afternoon, the Planning Commission does not know what the changes are and did not have time to look at them, so they will have to be brought up to date on that.  
They do not have the York County Planning Commission and Gordon L. Brown & Associates comment letters, they do have the summary Planning Commission report from the last meeting this plan was presented which included the County and Brown comment letters.  
They just received a letter from Lake Roeder, which addresses some comments.  
Bob stated that they are willing to work through some of these gray areas.

***Update for Musser Manor townhomes***

This plan was previously tabled May 2, 2007

Dave Kegerize of Lake Roeder Hillard & Associates presented the Final subdivision and land development plan #564100 dated 4/27/07 revision 2 dated 6/24/08 for a townhouse project.

A subdivision of an 8+ acre parcel 26000MI01340000000 into four lots that will be developed into 48 townhouses with cul-de-sacs and stormwater management on adjacent property currently owned by Paul & Helen Musser. The site is zoned Apartment Office (AO) and will be served by public water and sewer. The site is on the west side of Board Road just south of St. Paul United Methodist Church.

Bob asked of the 7/3/07 revision, which Dave explained was an E&S revision for resubmission.

Dave presented a Planning Commission report of 6/8/06 on a final plan for this exact same property. The Musser Manor aka Anna Musser property transferred to Snyder Developers and was a 2 phase final plan submission. This report is on phase 1 was approved with various conditions namely improvements along Board Road for 39 townhouses.

The Planning Commission report of 5/23/07 shows no phasing due to gravity sewer for the plan as presented this meeting.

Bob asked if Paul and Helen Musser still owned the adjoining property. Yes, as confirmed by Mussers who were in attendance.

Temporary cul-de-sacs and stormwater are shown on the Paul and Helen Musser property.

A review of Planning Commission report dated 5/23/07 was held.  
48 townhomes are proposed.

REASONS FOR DISAPPROVAL OR CONDITIONS OF APPROVAL: numerous OPEN items per Gordon L. Brown & Associates, Inc. letter of 5/11/07:

1. Agreements must be executed with the Musser's for the location of the cul-de-sacs and the stormwater management facilities on their property and for the continuing maintenance of those facilities (s.6.1.1.B(1)o).

OPEN see \*\*\* below for discussion

2. The following information should be provided on/or with the plan:
  - A. Sewer Authority representative signature (s.6.2.3.4). - OPEN
  - B. York County Conservation District updated approval of the Erosion and Sedimentation Control Plan and NPDES Permit (s.5.1.1.C(1)l). - OPEN
  - C. UPI numbers (s.6.1.1.B(1)x). – to be assigned by York County mapping
  - D. Home Owners' Association documents (s.1.14). – OPEN provided, need to meet Attorney Andrew Miller comments
  - E. Highway Occupancy Permit (s.6.1.1.B(1)v). – OPEN, see \*\*\*\*below
3. Stormwater Management Plan review will be by separate letter (s.6.1.1.C(1)j). – OPEN, comment letter dated 7/3/07

per York County Planning Commission letter of 1/9/06:

1. Township Officials should determine whether, in addition to the landscaping indicated on the plan, the required fifteen foot (15') buffer strip should be shown adjacent to the Residential - Medium Density (R-2) District (s.430.A).
2. The following information should be shown on or provided with the plan:
  - A. A completed notarized statement of ownership (s.5.1.1.B.1.c).
  - B. A Sewage Facilities Planning Module for approval by the Pennsylvania Department of Environmental Protection (s.5.1.1.B.1.f).
  - C. E and S control plan approval will be required by the York County Conservation District (s.5.1.1.B.1.g). -OPEN
  - D. A copy of any deed restrictions associated with the tract (s.5.1.1.B.1.w).
  - E. A copy of the Homeowner's Association Agreement for review by the Township Solicitor (s.5.1.1.B).- OPEN
  - F. The Uniform Parcel Identifier Number (UPIN) assigned to the tract (s.5.1.1.B.x). OPEN
  - G. The location of all lot line monuments (s.9.9.1.A).

Transportation Comments:

3. The PennDOT Highway Occupancy Permit (HOP) application prepared for the proposed intersections with Board Road (SR1031) *shall* receive a "review of awareness" from the YCPC Transportation Department. The HOP application must be signed, stamped and dated as proof of our review. PennDOT District 8-4 will not accept a HOP application without this evidence of our review.
4. A Traffic and Engineering (T and E) Study is required for the posting of stop signs in this development. The YCPC Transportation Department conducts such studies upon request by the Township for local streets. Our staff also conducts T and E studies for the posting of speed limit signs on these roads. Both types of studies will be conducted when the roads are constructed. Additional Traffic Impact Study Comments included in letter.

Planning Commission comments:

- q Have two plans filed for this property – withdrawal one of the plans
- q Satisfy questions regarding agreements with Musser's – legal issue
- q Note current recreation fee of \$1,200.00 per unit
- q address corrections
- q page SM1 – change note referring to easement granted by East Manchester Township
- q reword note 16 - nothing to be placed within easements
- q right-of-way from Bixlers' cannot be obtained – acknowledge HOP revision

A packet that was delivered along with plan this date was discussed along with the Planning Commission report.

It included:

- A letter from Richard Snyder, developer, 11/29/07 to Mussers to terminate the agreement for purchase of the 13-acre pending subdivision
- Drainage easement agreement dated 5/21/07 with attachments showing meets and bounds of area
- Temporary turn around agreement dated 5/21/07 with description of areas.

Dave explained that he asked the client's lawyers to attend but they had previous engagement.

\*\*\*Bob commented that since the Musser's are present, he sees that they signed the agreements and asked if that indicated everything is resolved and is everything ok there?

Helen - I'm confused, we were thinking that when the contract was cancelled, that cancelled the detention pond on our property.

Paul – What's the idea of putting your retaining pond on another man's property, Orchard View they put theirs over there, now I take their water. I don't want that retaining pond on my ground.  
Helen – If you guys aren't paying for the ground, why should we have that retention pond on our ground.

Dave commented that he is being told that there is an agreement for an easement to use that property. It is a lawyer to lawyer issue.

Bob stated that they have presented an agreement signed by Paul and Helen in May and the Planning Commission is not to be involved in legal determination.

Helen commented that she has unsigned copies of these papers and agrees that it is her signature but she does not recall signing.

It was noted that the agreement was notarized by a York County notary (Bryan Schaffner) who had to be in Berks County where he witnessed Paul and Helen sign the document according to the venue, which places the signing in Berks County.

Katrina relayed per Attorney Andrew Miller's initial comments and making clear that it is under further review, it seems that the stormwater agreement was questioned as to the calling out of a legal description of a property and conveying rights (other than an easement) as to that being a subdivision in itself, and he also questioned that an agreement cannot have unlimited terms on an agreement there should be an ending date.

\*\*\*\*had to taper improvements due to lack of right-of-way from both adjoining property owners, Bixler's, located across the street, PennDOT is technically ok with the plan, Board of Supervisors indicated that they would deal with this issue after the other items are taken care of when Dave was at the 6/10/08 meeting, they did not look at the plan.

Bob added that the Board of Supervisors really have an objective to have curb and sidewalk with development. He hears that Dave is saying the plan does not have the right-of-way to complete this, but he does not know how they will handle that so there is really not much reason to continue discussion on it.

Mike confused as to where we stand with our responsibility with this plan. I don't see plans going back and forth from Planning Commission to Board of Supervisors to Planning Commission like kickball. It confuses me and there's probably a reason, so I'm kind of lost, there's some facts we don't know.

Ed agreed, he is unsure of what to say.

Bob stated that the Planning Commission would like to see sidewalks installed.

Dave commented on the June 06 approval of phase 1 where there were no cul-de-sacs or pond on the adjoining Musser tract, the comments basically addressed the HOP issue.

Question was asked if that is a different plan

Dave answered that it is a different plan, on hold as far as he knows. They had to submit a new plan showing phases combined. They had action on the final phase 1 plan.

Laymon reiterated that the May 23, 2007 Planning Commission action is for this plan. This situation was that stormwater management on that other plan was on this property, so you guys (developer/engineer) decided to eliminate the phases when the subdivision sketch plan that we looked at for the 13 acres of Musser's property was developed and the pond was put back there, so you guys took the opportunity at that point to eliminate the 2-phase plan.

Dave – that's correct, the reason why the first plan wasn't just amended to take the phasing out and why we have that plan sitting over here and now we have a new plan with a new date, it because we were told by the township it could be cleaner to do it that way.

Laymon – exactly

Mike M. – so we treat this like a new plan.

Laymon – yes, and this was our action on this plan, not the other plan. Except that this has a revision to it. It has been revised between the 5/23/07 meeting and right now. The other plan was the one that was conditionally approved and the other thing with that plan is, before this plan can be considered at the Supervisors meeting is that they have to request that other plan be withdrawn. You can't have 2 plans on the same tract.

Dave felt there would be no problem with that.

Laymon added that they are saying that the changes they made to this plan that was acted on 5/23/07 are diminimus, it only involves the sidewalk on Board Road.

Bob – apparently the Supervisors said they could come with this item open if all the other items, miscellaneous items closed. You still have open items from May 23<sup>rd</sup>, 2007.

Laymon – I appreciate the way you guys are saying about them having a drainage easement over the Musser's property the Musser's don't believe they have a drainage easement over their property. When you start reading all these where as, one of those says, the development of grantee's tract will aid in the development of the grantor's property. Well, when this agreement was executed that was true because they had an agreement to sell that property to Snyder, well when Snyder reneged on the purchase, at that point in time, I don't think the grantors enjoy that same advantage. I mean, why would you for a dollar, which this thing does, give those people acres of land that kind of thing. To me, I don't think that agreement is worth the paper it is written on, right now, and I am not a lawyer.

Mike M. feels that it an issue for the lawyers but it is the carriage before the horse here.

Dave was instructed to show easements on the plan, he is being told they have easement.

Laymon reiterated that the people who gave easements are here and they don't think you have easements any longer.

Stan Musser added that they are not here to stop the development of the front 8 acres.

Bob summarized for all members that until the easement situation is cleared up, they are not comfortable looking at this plan. They really do not know what they are being asked to look at. If easement is not obtained where will stormwater go?

Mike M. added that he is not in position to be comfortable about this plan. With items 2A through E open, it would not be recommended to go to Board of Supervisors for approval.

Ed had concerns with plan being sold, then someone else stuck with that property and where's the water going to go if the easements are not there.

Bob explained that with the discussion tonight on this plan, and the items that are open, they could spend another half hour on discussion and go to a vote for recommendation, it may not be the vote you want. It might be to your advantage to table this plan until the issues are resolved, but I can't tell you to do that.

Dave certainly do not want an unfavorable recommendation.

Bob stated that in no way, Board telling you to table. I am making that clear. If get stormwater resolved all other item can get cleared up. That is a big issue. I don't know what you expect us to do tonight.

Dave can understand Planning Commission position.

Laymon asked if phase 1 of the 2-phase plan was conditionally approved by the Board of Supervisors. Dave answered yes.

Laymon commented that he thinks the situation here is that you've recommended this plan be conditionally approved for this property and now they are asking you for conditional approval of this other plan.

I think you guys need to make up your mind which plan we are actually dealing with and one of these plans needs to be withdrawn. We don't want to be in a situation as a Planning Commission where we granted you approval for two plans and then you are going to go the Board of Supervisors and say well if this doesn't happen then we want this plan, but if this happens then we want this plan here. I think you guys need to get out of starting blocks and figure out which one of these plans is going to be the one that you are finally going to ask the Planning Commission to approve. I was a little surprised about this issue with the stormwater agreements being as contentious as it appears to be. Your owners need to take care of this situation. Other than that I don't see any issues with both of these plans, but from what I am hearing from those people they don't care about the area out front being developed. They have a vision of how it should happen and it seems to be different than this plan that we have here, so you guys need to resolve that. The Board already conditionally approved the other plan, I don't think you can ask them to approve the same property.

Additional comments to review of plan:

note 16 - nothing shall be placed or planted within any easement that would adversely effect its function. The zoning ordinance states that nothing shall be placed within easements. Amend note

note 27 - no lot should be altered to have an adverse impact on the stormwater management plan. Question as to why written this way. There should be no alterations.

note 43 - contribution of \$14, 161.00 for traffic signal for Board Road and Willow Springs Lane –

note that light is going in. condition of recording plan

note 44 – recreation fees of \$700.00 is now \$1,200.00 – that was fee at time of preliminary submission. Current litigation on another plan will determine amount.

on SM1 - new note easement granted by East Manchester Township - reword

Dave - given discussion, request TABLE

After discussion and deliberation with consideration of comments, Mike motioned to accept the table request, Ed seconded and it carried unanimously.

Upcoming plans

NEYCSA land development plan for plant upgrade to meet DEP requirements.

Adjournment at 8:08pm