

TOWNSHIP OF LOWER MAKEFIELD  
PLANNING COMMISSION  
MINUTES – SEPTEMBER 27, 2010

The regular meeting of the Planning Commission of the Township of Lower Makefield was held in the Municipal Building on September 27, 2010. Chairman Pazdera called the meeting to order at 7:40 p.m.

Those present:

Planning Commission:        John Pazdera, Chairman  
   Dean Dickson, Secretary  
   Tony Bush, Member  
   Karen Friedman, Member

Others:                            Nancy Frick, Director Zoning, Inspection & Planning  
   John Donaghy, Township Solicitor  
   James Majewski, Township Engineer  
   Dan McLaughlin, Supervisor Liaison

Absent:                             Mark Fried, Planning Commission Vice Chairman

APPROVAL OF MINUTES

Ms. Friedman moved and Mr. Dickson seconded to approve the Minutes of August 23, 2010 as written. Motion carried with Mr. Pazdera abstaining.

#562-A – HARMONY LANE (A/K/A DOGWOOD DRIVE) PRELIMINARY PLAN  
DISCUSSION AND RECOMMENDATION

Mr. Greg Glitzer and Mr. Eric Clase were present from Gilmore & Associates. Mr. Glitzer stated since the last meeting with the Planning Commission the Applicant needed to seek input from the Zoning Hearing Board. He stated they did seek a Variance to take advantage of the reduced front yard setback that was included in the LID Ordinance, and they did receive this Variance. Mr. Glitzer stated they also went to the Board of Supervisors where they asked for input on the alignment of the road and the sweep of Dogwood Drive to now connect back into Delaware Rim Drive. He stated the other item they discussed with the Board of Supervisors was the concept of green streets with stormwater management, infiltration, and rain garden systems integrated within the road right-of-way of the new cul-de-sac. He stated this allowed them to eliminate a conventional surface detention basin and save an additional quarter acre of existing trees.

Mr. Glitzer stated they are in receipt of consultant and staff reviews, and they have no substantial issues to discuss with the Planning Commission relative to Mr. Majewski's letter of 8/3 which was a check off of old items or the 8/30 letter which relates to the new Plan. Mr. Glitzer stated some of these comments relate to notes on the Plan, agreements, and easements; and they have no issue with any of the content of those review letters. Mr. Glitzer stated they also have no problem with the comments in the Traffic Planning & Design review letter.

Mr. Glitzer stated with regard to the Remington & Vernick review letter related to water and sewer infrastructure, they are at a point where they need to have a discussion with the Board of Supervisors, not related to how they will sewer the project itself, but with regard to the off-site extension along Delaware Rim Drive. Mr. Glitzer stated an earlier version of the Plan that proposed a more extensive infrastructure project had a higher density and needed additional relief from the Zoning Ordinance. He stated when they abandoned that Plan and stayed within the guidelines of the Ordinance, the density was cut almost in half and curtailed their ability to make a meaningful off site capital project for sewerage along Delaware Rim Drive. Mr. Glitzer stated they have extended sewer lines and connections along Dogwood Drive for the existing residences along the route of the sewer and to the end of the existing stub road. He stated the Applicant needs to discuss with the Board of Supervisors any extension down Delaware Rim Drive in the context of a possible Preliminary Approval.

Mr. Pazdera asked that Mr. Glitzer go over all of the review letters.

Mr. Glitzer noted the 8/3/10 review letter from Remington Vernick. He stated many of these items no longer apply since the Plans have been revised. Mr. Glitzer reviewed the list of Waivers being requested as noted in the letter. He stated they are requesting a Waiver for the excess length of the cul-de-sac. He stated with the road sweep configuration, they have a length of cul-de-sac from the intersection of Delaware Rim Drive and Dogwood Drive of about 700 feet; however, only about 300 feet of that is new alignment, and the rest covers the existing roadbed of Dogwood Drive. He stated if they were going to name that a contiguous named road, they would need a Waiver for the length. He stated in effect, they do have a compliant extension. Mr. Glitzer stated with regard to the Waiver for sidewalks, in pursuit of the low impact approach of the project in minimizing impervious surfaces and clearing for stormwater management, they are seeking a Waiver for sidewalks. He stated the detention basin has evolved from a surface basin which would have required mowing and more frequent maintenance of the outlet structure to a green street approach where stormwater management is provided underneath the road in perforated pipes and a crushed stone bed. He stated they have done some infiltration tests and also provided within the right-of-way some inflow points which are configured as rain gardens. He stated in lieu of a standard maintenance

procedure, it is proposed that they offer that for dedication to the Township along with the requisite fees that would accompany any dedication of stormwater management facilities. They do acknowledge the need for an Operations and Maintenance Manual.

Mr. Glitzer stated Item 2 of the letter discusses the Variance for the reduced front yard setback which they did successfully obtain. He stated there is also a comment in Mr. Majewski's letter of 8/30 that discussed the need to document that Zoning decision on the Plans, and they will comply with that.

Mr. Glitzer stated Item 3 relates to the Waiver relative to off-site features within 200' of the site. He stated they do comply with the topographic detail. He stated their ability to secure all the underground utilities is limited so they are requesting a partial Waiver. He stated there is an existing storm pipe within Dogwood Drive, and the end point remains elusive despite several efforts to locate it. He stated they will defer this Waiver until the point when they get out in the field, dig the pipe up, and do something about it.

Mr. Glitzer noted Item #4 relates to the demands of the sewer system. They acknowledge that the Planning Module will be needed at some point. He stated until they have a firm plan for not only serving the five new lots and the homes on Dogwood Drive but also any extension of the sewer to existing homes of Delaware Rim Drive, this would impact the statement of flows and capacity needed to comply with this Section. He stated this would therefore be a deferral until agreement is reached on the sewer situation.

Mr. Glitzer stated they will comply with Item #5.

Mr. Glitzer stated with regard to Item #6, pursuant to the low-impact development approach, they have developed the Plan with a reduced cartway width of 26' down from 36', and this requires a Waiver. He stated they are also requesting a curbing Waiver. He stated they have developed a swale road cross-section with rain gardens integrated along the uphill side and infiltration points integrated on the down slope side and a rain garden within the central bulb of the cul-de-sac. He stated none of them work well with curbs; and since they are trying to encourage sheet flow, they are requesting a Waiver of curbing.

Mr. Glitzer stated along with the reduced cartway width there was some discussion about how to control on-street parking. He stated on the Plan being present now there is no parking permitted along the road, and it is signed as such. He stated they discussed this further with the Board of Supervisors to see if they want to consider this further as the developer did not want the streetscape dominated by "no parking" signs; and he does not feel the Township was interested in trying to enforce no parking along there. He stated while the Plan does include "no parking" signs, they are open to discussing this further

and would prefer that this be self-regulating and the signs be removed. Mr. Glitzer stated there is some concurrence about this from TPD, and the final decision would be made by the Township.

Mr. Glitzer stated with regard to house numbering and street names, this would be considered post Final or at the time of the Final Plan.

Mr. Glitzer stated they will comply with Items #9 and #10.

Mr. Glitzer noted Item #11, and stated that as it relates to any extensions along Delaware Rim Drive and to the extent that they do need to provide sanitary sewer easements, they may have to do those; but currently it is their desire to propose the sanitary sewer extensions as shown. He stated should the Water Company need an easement to extend down through the right-of-way of portions of the road that are not dedicated, they will have to secure those easements to provide service to the site.

Mr. Glitzer stated Item #12 was related to the previous design of a surface basin, and it is no longer applicable.

Item #13 was noted, and Mr. Glitzer stated revisions have been made and have been satisfied through Item H.

Mr. Glitzer stated with regard to the Operations and Maintenance Agreement, this will be done prior to final signing of mylars.

Mr. Glitzer stated reviews and approvals have come in with various submissions, and they are still waiting for the Conservation District and an updated NPDES review.

Mr. Glitzer noted the Remington & Vernick 8/30 letter. He stated they will comply with Item #1.

With regard to Item #2 they need to discuss this with Board of Supervisors with regard to the open space which is shown as Open Space Lot #6. He stated the Township must decide if they wish to take this into their open space system via acquisition of title or dedication of title to the Township. He stated they may also decide to put on a Conservation Easement, and the developer is open to suggestions on this. He stated they would need to document the outcome of this decision on the Final Plans.

Mr. Glitzer stated they will comply with Items #3, #4, and #5.

Mr. Glitzer stated Item #6 relates to the issue of the sanitary sewer extension, and they will discuss this with the Board of Supervisors.

Mr. Glitzer stated they will comply with Items #7, #8, and #9.

Mr. Glitzer noted the 8/11/10 Remington & Vernick letter related to the sewer extension and Planning Modules. He stated there is a difference of opinion as to what is the obligation of the developer with regard to the sewer extension. Mr. Majewski stated there has been discussion for some time, and the Applicant has been resistant to comply with the requirements from the Sewer Department; and they are currently at an impasse. Mr. Majewski stated it is the Township's position that they are not complying with the Ordinance and the standards that have been done by past developments.

Mr. Glitzer stated they did look into the possibility that if they were granted some design waivers, they could pick up another house via gravity flow along Dogwood Drive. He showed on the Plan the area where it could flow by gravity and also noted the Marrazzo property which they could possibly pick up via gravity. He stated the remaining properties on Dogwood Drive would have to have a grinder pump. He stated the way the profile of the road goes, the developer's five lots need grinder pumps as well. He stated the real issue is the suggestion to run a sewer line down Delaware Rim Drive. He stated one house is possible to tie in on Delaware Rim Drive, and he noted that property on the Plan. He stated the additional five properties are not proposed to be served by the developer.

Mr. Bush asked the cost if the properties on Dogwood Drive were to hook up with a grinder pump, but Mr. Glitzer did not know what this would cost. He stated it is their proposal to make that connection for them as well as the gravity laterals for the ones they can get in. He stated the homeowners' costs would be future sewer billings and electricity to run the grinders.

Mr. Glitzer noted the letter regarding fire protection and stated all comments have been addressed, and they defer to TPD relative to roadway turning radii. He stated TPD did run the turning templates and acknowledged that the Plan is sufficient in that aspect. He stated Mr. Yates indicated that the fire hydrant is compliant with Township Ordinance and recommends approval.

Mr. Glitzer noted the 8/6/10 letter from the Bucks County Planning Commission relative to open space, and they have commented on the ultimate destiny of the open space lot and recommended that a Conservation Easement would be the best instrument as opposed to a Deed Restriction. He stated the lots that will be developed have significant natural resource protection areas on them, and Conservation Easements on those lots are probably appropriate as well. He stated they have also commented on the sidewalk Waiver which has been requested by the developer, and have indicated that the Township should determine if sidewalks should be required. With regard to the Traffic Impact

Study, they have deferred to TPD's review of the Plan. Mr. Glitzer stated they acknowledge the need for appropriate Sewer Module once it is determined who will be tying into the sewer.

Mr. Glitzer noted the EAC letter of 8/10/10 which references the low-impact design approach and the recent change away from a surface-graded basin and the preservation of one quarter acre of woodlands. He stated the EAC has supported this as well as the green street system. Mr. Glitzer stated it was a recommendation from the EAC that caused the developer to explore this system as a way of doing a low-impact type development and not take down any more trees than needed. Mr. Glitzer stated the EAC has asked for some additional details and calculations. Mr. Glitzer stated when they did the infiltration testing, they found one very high rate, and one or two marginal rates. He stated in the area where they had the very high rate, they had a fracture in the rock which provides very high level of infiltration. He stated they still designed to a much lower level of infiltration. He stated they could put in a sand filter underneath the bed to provide additional filtration. Mr. Glitzer stated the EAC also made some comments on loading ratios, but he added in this case they are passing a large off-site area through the system. He stated the alternate to reducing the loading rates is to make the system sprawl and cut down more trees, which he does not feel would be appropriate. Mr. Glitzer stated the EAC has also indicated they feel there may be a watercourse on the northern boundary line which is basically a ditch along Dogwood Drive. Mr. Glitzer stated the site has been investigated, and their consultant believes that they have identified all the jurisdictional waterways on the site; and the specific area noted by the EAC did not qualify.

Mr. Glitzer stated the EAC also discussed Deed Restrictions and Conservation Easements, and Mr. Glitzer stated he feels they can come up with a Conservation Easement in a form satisfactory to the Township for any on-site areas if the Township does not take the open space lot.

Mr. Pazdera noted the Bucks County Conservation District letter, and asked if they have re-applied; and Mr. Glitzer stated they did in May. Mr. Pazdera stated he is reading a letter from July 30 that indicated it was not re-submitted for review. Mr. Clase stated they made a re-submission and the NPDES was sent back, and they are in the process of returning the NPDES. He stated they do have the Conservation District portion of it.

Ms. Friedman stated the Police indicated they did not want this to be called Dogwood Drive, and she asked the name of the road. Mr. Glitzer stated they are open to suggestion on this.

Mr. Bush asked if Mr. Donaghy could provide a legal opinion with regard to Lot #6. Mr. Bush stated it appears that it is landlocked and would not be accessible from any road. Mr. Majewski stated it is accessible from the stub road at the end of Dogwood Drive and also by Spur Land which is on the other side of the creek. Mr. Donaghy stated

if Lot #6 were to be accepted by the Township, the Township would then be responsible to maintain it. He stated if the Township accepts this, the Applicant could be required to provide sufficient funds to cover maintenance over a period of time. He stated if the Township does not accept it as open space, there must be provisions made as to who will be responsible for its maintenance – the applicants, homeowners, or some other entity. Mr. Glitzer stated the three lots that abut the open space could each get one third of it. Mr. Donaghy stated there is not an easy answer to this issue, and there is always a problem when the responsibility is put on lot owners as to whether or not they will actually maintain it.

Ms. Friedman asked the maintenance issues involved, and Mr. Donaghy stated there is a stream/swale that runs through it so someone would have to keep this clear. Mr. Glitzer stated they would also have to keep the area clean and keep structures out of it.

Mr. Donaghy stated whenever there is a water flow, there are potential issues from flooding, siltation, etc. that could become a problem for upstream or downstream owners. Mr. Donaghy stated he feels that if it is going to go to the homeowners, they should form an Association. Ms. Friedman asked what would happen if the Homeowners Association were to dissolve as has happened in other developments. Mr. Donaghy stated there would be a Declaration that would have to be approved by the Township if there were to be a Homeowners Association which would require that maintenance responsibility would be placed on the owners of various lots by way of an Association; and if they choose to do away with the Association, the lot owners would personally have the liability. He stated they would also set it up so that the Township would have enforcement authority. He stated there can be problems when some of the homeowners do not want to pay their assessment, etc. Mr. Donaghy stated while the Township could take over the area, they want to make sure that they have sufficient funds on hand to cover maintenance.

Mr. Dickson stated the open space is landlocked, and it would be of no benefit to the Township for recreation. Mr. Donaghy stated Mr. Majewski has indicated that there are two points of access to get to that open space; but they need to consider if it is going to be passive open space, if it is going to be open to the public, etc. and must determine the benefit of this open space to the Township. Mr. Dickson stated the Bucks County Planning Commission is recommending a Conservation Easement. Mr. Glitzer stated this is just a mechanism by which it is preserved and does not address ownership and maintenance.

Mr. Bush asked the developer if they have had any conversations with the last three property owners on existing Dogwood Drive about the change in the roadway. Mr. Glitzer stated they brought this matter up with the Board of Supervisors last December. He stated he personally has not had conversations specifically with those three property owners, although some of those homeowners were present at a prior meeting of the Planning Commission. Mr. Bush stated the last three homes are effected more than anyone, and this proposal will change how they access their homes.

Mr. Jeff Fogel, 12 Dogwood Drive, stated he still has the same concerns he has had previously. He stated he has three small children and everyone is concerned about the street. He stated it has never been answered why they went with a “sweep” rather than a “T.” Mr. Glitzer stated this was a recommendation several revisions ago from the Township staff and Township consultants, and they felt it was the preference at that time. He stated the prior plan had a cul-de-sac at the end of the existing portion of Dogwood Drive, and it was suggested that they not waste impervious surface and instead channel everyone down into the new part. He stated they also felt it would enhance safety because it would no longer be a “straight shot.” He stated there had been complaints about the existing high-speed traffic on the road, and they felt this proposal would improve that situation particularly for those at the end. Mr. Bush stated it is currently a dead end street. Mr. Glitzer stated while this is correct, at a previous meeting there was testimony that someone was speeding down the street. Mr. Fogel stated this is one of their neighbors. Mr. Fogel stated they are concerned that there will now be five more homes, and it is a dangerous situation.

Mr. John Flynn, 4 Dogwood Drive, stated his home is right at the “sweep,” and this will make it more dangerous for his home. He stated they do not understand why the Board of Supervisors pushed for the sweep as opposed to the “T,” and he feels the “T” intersection is much safer and forces traffic to go slower than a “sweep” would. He stated the only concern that may be alleviated by the “sweep” may have been the headlight glare, and Mr. Glitzer stated this was discussed at one point. Mr. Flynn stated there is a fairly large area between the Marrazzo’s and the adjacent home further down Dogwood where the “T” could be constructed in a manner so that the headlights would not impact their homes.

Mr. Glitzer noted a location on the Plan where there is a steep slope which has been forested in, which they were encouraged to preserve. Mr. Flynn stated possibly they could shift it down two more homes if the berm needs to be retained.

Mr. Pazdera asked what staff directed them this way, and Mr. Glitzer stated they had a meeting with Mr. Fedorchak, Mr. Majewski, Mr. Hoffmeister and the attorneys; and they were discussing the cul-de-sac length Waiver and the need to balance the issues of slope preservation, berm preservation, headlights, and what they believed would be a benefit to a bulk of the owners on Dogwood Drive. Mr. Majewski stated the issue he recalls was people were flying up and down the hill because it was a straightaway; and by putting a curve in the road, they could not fly all the way up or down the hill. For the last three houses, you would come to a stop and then go forward and the other five houses are on a curve; and you cannot go as fast on a curve as you can on a straightaway.

Mr. Pazdera stated this would also be fixed by having a three-way stop sign at a “T” intersection, but Mr. Majewski stated he does not feel it would quality under PennDOT regulations for a three-way stop. He stated there is a stop sign proposed for the three houses on the old part of Dogwood Drive. He stated those three houses would come up, stop, and then go to the left on Dogwood Drive. Mr. Flynn asked if there was not going to be a stop sign coming out of the cul-de-sac, and Mr. Majewski stated it would only be when you get to the end of Delaware Rim Drive. He stated the existing Dogwood Drive is turned slightly, and there is a stop sign there. Coming out of the existing part of Dogwood Drive, the last three houses would hit a stop sign; but the people coming out of the new homes would not have a stop sign. Mr. Flynn stated he feels this is “insane” and they will have people merging from one roadway onto another with no stop sign.

Mr. Dickson asked if there would be a stop sign if there was a “T,” and Mr. Majewski stated there would, but then they would have the same situation of a straightaway going all the way down Dogwood Drive. Mr. Majewski stated the Plans were revised based on the concern for speed, and now there is a concern being voiced that a curve is worse than a straightaway.

Mr. Glace asked if they considered speed humps, and Ms. Friedman suggested they put in road bumps in a few areas to slow down the traffic. She suggested the area by the Marrazzo property prior to entering the cul-de-sac. Mr. Majewski stated in order to do this, they would need the concurrence of all the property owners on Dogwood Drive. Mr. Flynn stated he feels this would help the situation. Ms. Friedman stated this would be an alternative to having the three-way stop sign which may result in headlights going into someone’s home, and it would help slow down the speed. Mr. Fogel stated if the issue were just headlights, he feels those people should be present at the meeting and express their concerns. Mr. Flynn stated he questions if the headlights were the only rationale for this change since it seems that the change was made when the Plans were changed from ten homes to five homes.

Ms. Friedman stated she felt that they previously voiced a concern that even before this development was being considered, there was an existing problem with someone speeding straight down to the end. Ms. Friedman asked if a road bump would not prevent that individual from doing this. Mr. Flynn stated he feels that individual will still speed. Ms. Friedman stated she still feels it will help with speeding; and by providing the “sweep,” they will not have the issue with headlights.

Mr. Fogel stated he is still concerned with his children playing in the area. Mr. Flynn stated currently they are lucky since they live on a dead end road with trees across the street, and they are not that concerned with traffic; but now they will add a number of cars, and they would like to add them in the safest manner possible which he feels is for people to come down the road and make a hard almost 90 degree turn into the cul-de-sac.

Ms. Friedman stated the development where she lives has a “T” intersection going onto Big Oak Road, and not many people exiting that development stop at the stop sign when making a right-hand turn. Mr. Flynn stated that while he understands this, he feels they will go slower to make a 90 degree turn than they would with the “sweep.”

Mr. Pazdera stated he feels that if they came straight out to a “T” from where they have the cul-de-sac set now, they would be between houses anyway and lights would not go into anyone’s house. He stated it would also slightly reduce the impervious surface.

Mr. Majewski stated he feels either way there will be the same impact on speeds and traffic, and there are pluses and minuses with both options. Ms. Friedman stated if they are both equal, and the neighbors are more comfortable with one option, she would opt to go with the option that makes the neighbors more comfortable. Mr. Flynn stated they were questioning why the change was made; and Mr. Majewski stated as previously noted there had been prior discussion that there was concern about speeding on the straightaway, and they felt that by curving the road it would slow the traffic down. He stated there was also the headlight issue, discussion about impervious surface, and water run off. Mr. Glitzer stated it grew out of the issue of the cul-de-sac at the end and that there would still be the existing straight road; and it was suggested that they direct the traffic into the development.

Mr. Pazdera asked if the developer cares whether it is a sweep or a “T;” and Mr. Glitzer stated his concern is that they were present last year with this same question and it was passed onto the Board of Supervisors. Mr. Bush stated he feels the developer chose to go to the Board of Supervisors. Mr. Glitzer stated there was not a consensus as the neighbors felt one way, and the Planning Commission did not have a strong feeling for it and felt it was best to go to the Board of Supervisors. Mr. Glitzer stated they had to go to the Board anyway to discuss the green street. He stated after their discussions with the Board of Supervisors they moved ahead with the design, and now they are being asked to go back and do it differently again.

Mr. Fogel asked if there is a financial impact to the developer to change the Plan, and Mr. Glitzer stated there are financial impacts to changing Plans, although the cost may be offset a little bit by the impervious surface reduction. He stated they also want to move ahead. Mr. Majewski stated financially, from a construction standpoint, there is little or no difference in cost; but there are additional engineering costs. He added there may be less construction to be done with the “T.”

Mr. Alan Dresser, EAC, noted comment #3 in the 8/10 EAC letter and asked if there will be a Deed Restriction on removing the trees on Lots #1 through #5. Mr. Glitzer stated this is part of the discussion whether there will be a Conservation Easement or a Deed Restriction, and he feels it will take the form of a Conservation Easement if it makes sense to have a Grantee and a Grantor recognizing that someone would have to enforce the Conservation Easement. He stated there will be some mechanism of resource protection. He stated there needs to be a broader discussion as to what happens on Lot #6, and they could extend this to include the trees on Lots #1 through #5.

Mr. Dresser stated the EAC does support the infiltration basin, but they want to make sure that it works as planned because if they do not get the infiltration, there will be a lot more stormwater runoff. He stated if it turns out it is just a detention basin and there is no infiltration, the water will be three times what is in the Stormwater Management Plan. Mr. Glitzer stated they did test throughout the area. Mr. Dresser stated at the location for the infiltration basin, they did two tests; and one got a huge amount of infiltration which is very unusual so he feels this raised a flag since the other location was zero. Mr. Glitzer noted Location #101 and stated if you were doing a fracture trace analysis to find a well, you would look on the trace that defines Test Pit #1 and Test Pit #101 as there is a natural draw in this area. He stated this is a zone of increased fracturing in the area. He stated they did greatly diminish the infiltration rate in the design and divided it by ten. Mr. Majewski stated that area has a lot of fractured shale so water does pour right through as opposed to most of Lower Makefield which has clay-type soils. Mr. Majewski stated as with all projects, during construction they will monitor the project and will write the Development Agreement so that the Township reserves the right to ask for additional stormwater management features to be installed to be sure that the project will work as designed. Mr. Glitzer stated if they have too rapid a rate sometimes they will put in a layer of sand wrapped in fabric for extra pollutant removal to offset the rapid flow into the fracture, decomposed material. Mr. Dresser asked if leaves could not clog up the system, and Mr. Glitzer stated they do not expect this to occur, and they have raised grates. He stated leaves, etc. decompose in the rain gardens and there will be natural filtration. Mr. Dresser asked if the EAC will get a written response, and Mr. Glitzer agreed to provide a written response as they move forward.

Ms. Friedman stated with regard to the sewers, she remembers that the reason that they were now going across Dogwood Drive toward Delaware Rim was because the Planning Commission had requested that they not go straight through the protected area.; and Mr. Glitzer agreed. Ms. Friedman asked to be shown how the sewer line will run, and Mr. Glitzer showed this on the Plan. He stated the terminal manhole that they connect to is on the Chanticleer site. He stated there is a gravity line that they will be extending to the terminal line in Chanticleer, down Delaware Rim Drive to a manhole at the intersection. He stated it will then turn and run down. He stated the Plan currently shows 170' of sewer; and with some modifications to the sewer design standards, they can extend that to 260' from the manhole by gravity. He stated they want to get as much by gravity as possible. He stated they also propose to provide grinder pumps into a common force main for the development and grinder pumps from wherever they cannot get into by gravity. He noted on the Plan which properties can be served by gravity and which will need grinder pumps. Ms. Friedman asked if they are providing the grinders for the three other homes, and Mr. Glitzer stated if it is along their route and the extension of their route, they will provide them. He stated there was a request that the developer do the same thing down Delaware Rim Drive, and this is where they are at an impasse.

Ms. Friedman stated she knows that there is an Ordinance about this. Mr. Glitzer stated it is a requirement for those properties that are along the developer's route. He stated Delaware Rim is off the route. Ms. Friedman stated she does not understand why the developer is liable for going any further down since that is not part of the development. She stated it seems the developer is being asked to go out of their development zone and go around into another development area. She stated if the sewer system were all addressed from inside the new development she could see going off to the right from the new houses. She does not understand why the developer is being asked to extend the sewers that much further out.

Mr. Majewski stated the Ordinance is clear how it is stated, and he feels there is a difference of opinion between the Sewer Department/Sewer engineer and the Applicant. Mr. Majewski stated SALDO 178-104 states, "Where a proposed Subdivision or Land Development adjoins other properties which are not served by public water or public sewer, utility installations necessary to provide services to such properties shall be constructed to the boundary lines of the Subdivision and/or Land Development within an easement." Mr. Majewski stated one of his concerns is that when you go to the left of the Plan, across the stream, you have the area on Spur Road and Sunnyside Lane; and that entire Subdivision is not served by public sewer and water. He stated by Ordinance, the developer should be required to extend the sewer and water to the end of their property to serve those properties. He stated there is still some debate in the Sewer Department as to what exactly they want the developer to do. Ms. Friedman asked if they would then have to extend it through Lot #6, and Mr. Majewski agreed. Mr. Glitzer stated they have left an easement through Lot #6 for future extensions, but it is not their proposal to plumb that up and provide the sewers.

Mr. Donaghy stated if it were not for the protected area, they would not be required under the Ordinance to connect to the first four lots along Delaware Rim and possibly the fifth. Mr. Glitzer stated you can also interpret what Mr. Majewski has read to provide sewer to the boundary.

Ms. Friedman asked how the homes on the right are part of the developmental boundary. She stated those are already developed and are someone else's property. Mr. Donaghy stated they are trying to make provision for access to sewer and water for adjoining properties that are not currently served. Ms. Friedman stated they have made access to the top in the corner. Ms. Friedman stated the Planning Commission had asked that they not go through the protected area.

Mr. McLaughlin asked if they could bring it down the boundary line, and Mr. Glitzer stated it is resource protected woods, and the berm would have to be cut through. Mr. McLaughlin asked how they would hook it up if they could and not disturb this, and Mr. Glitzer stated it would have to be run down Delaware Rim. He stated down the boundary it would be a 30' swath through the woods, and the berm would be cut through and compromised.

Mr. Bush stated they have been discussing this project for a number of years, and three to four years ago a lot of the homeowners from Delaware Rim were in attendance at the Planning Commission meeting and were very concerned about disturbance of the area behind their homes and wanted to make sure that it was undisturbed. He stated many of them are not present this evening, and he assumes that is because they feel that this is no longer an issue.

Mr. Majewski stated it may have been thought that a low-pressure sewer system would be installed in that area; and if that was the case, this is done a lot shallower, and the disturbance is not a 30' wide swath, and is much less disturbance.

Mr. McLaughlin stated he understood that the Act 537 required that they serve the area, and Mr. Majewski agreed.

Mr. Scott Fegley stated he is present this evening and had commented on the survey that had been sent out that he does not want the sewer down the middle of Delaware Rim Drive. Mr. Fegley stated his septic system works fine. Mr. McLaughlin stated he felt the Act 537 Plan will require the Township to hook up the properties eventually. Mr. Glitzer stated if there were a certain number of failing systems, DEP would have a Consent Order that indicates the Township has a certain number of days to come into compliance. Mr. Majewski stated in 1999 the Township in their Act 537 Plan had committed to bringing public sewer and water to the Delaware Rim area in five years so they are at least five years behind that projection. Mr. Fegley stated he also has a 300' well that will

never run dry. Mr. Donaghy asked if there have been failures along this area; and Mr. Fogel stated there were, and they were caused by the Golf Course. Mr. Majewski stated there were also septic failures; and Mr. Glitzer stated septic failures are usually due to someone not maintaining their system or pumping them out. Mr. Majewski stated a lot of them are older system built in the 1960's, and they are not up to current standards. He stated the lots are small so that there is not sufficient room to upgrade them to current standards. Mr. Fegley stated if they do run it down, he hopes that they will not require people to hook up if their systems are working. Mr. Donaghy stated at some point if the Township has to run the line, it may be an even greater expense. Mr. Fegley stated his concern is that if the developer were to put the sewers in as proposed, the only cost for the people at the end of the street would be when they turn the systems on. He stated everyone else in his area would have to pay for the extension from the street all the way up to the house. Mr. Donaghy stated there could also be a front footage assessment if the Municipality has to put them in so it could be a lot more expensive.

Mr. Pazdera asked Mr. Donaghy if it would be better to get the sewer issues resolved before they proceed on the Plan. Mr. Pazdera stated he would like the developer to go back to the Board of Supervisors to get the sewer matter resolved. Mr. Donaghy suggested that if they are going to do this, they should also ask the Board of Supervisors to consider any other outstanding issues such as the intersection and the open space. Mr. Pazdera stated he would like the Board of Supervisors to address the "T" intersection to address the neighbors concerns, resolve the sewer issue, and consider Lot #6.

Mr. Dickson stated he and Mr. Bush are not in favor of the Township taking over Lot #6. Mr. Dickson stated he feels it should be divided between Lots #3, #4, and #5 or a Homeowners Association. Mr. Donaghy stated based on past experience, dividing it among the Lots is the worst alternative. He stated he feels there would be better results by doing it with the entire Development and having a Conservation Easement in favor of the Township so the Township has enforcement authority. Mr. Donaghy stated he does not feel the homeowners would want to have the public going through that area.

Mr. Fogel stated he has attended most of the meetings when this matter was discussed, and he asked when Lot #6 became available for open space, and Mr. Glitzer stated they had previously called it Parcel A. He stated it is not a building lot and it is for open space. Mr. Glitzer stated they need to decide to whom it will be conveyed.

Mr. Fogel asked about the roadway reduction from 36' to 26' and asked about the existing width. Mr. Majewski stated Delaware Rim is 26' wide currently. He stated once you get partway down Dogwood Drive it changes from 26' to approximately 20'. Mr. Flynn asked if it is proposed to be 26' all the way to the "T;" and Mr. Majewski agreed. Mr. Flynn asked if it would be curbed, and Mr. Glitzer stated it will not be curbed. Mr. Majewski stated previously the Township standard was 36' wide, but whenever there is a real wide road, people tend to drive fast, and it is more dangerous

to have a wider road. He stated it also costs the Township more in snow plowing, salting, and repaving costs. Mr. Flynn stated if you come down Delaware Rim Drive with cars parked on both sides, a fire truck cannot get through, and Mr. Majewski agreed that 20' is too narrow. Mr. Flynn stated one home did burn down because the fire trucks could not get to the house.

Mr. Flynn stated he is still concerned about who owns their road; and asked if this development goes through, will the Township take ownership of all of Dogwood Drive. He stated at this time when the snow plows get to his mailbox, they stop plowing and salting. He stated if the developer is going to go back to the Board of Supervisors with regard to the sewers and the "T" intersection, he feels they should determine who owns the road and what the plan is going forward with regard to ownership. Mr. Majewski stated he feels the developer should add this to their list of items to discuss with the Supervisors. Mr. Donaghy stated this will be an issue because to the extent that any portion of the roadway is offered for dedication and the Township agrees to accept it, they will have to receive Title insurance that they are getting good Title with the conveyance of the dedication. He stated he believes the Applicant was asked to try to determine the answer to the question of who owns the road. Mr. Flynn stated currently the Township plows to his mailbox, but his driveway and nothing past his driveway gets plowed. Mr. Donaghy stated unless the Township does a taking, they will not get the private road area unless it is offered to the Township for dedication. He stated they will have to determine who is in a position to offer it, and he stated the residents have a certain responsibility on this as well. Mr. Flynn stated he feels the Township probably has better resources than they do. He stated it is not on his Deed. Mr. Glitzer stated they did talk to the Applicant about commissioning a Title Report for this even though it was off-site. Mr. Glitzer stated he understands the Township will want clear Title if it is going to the Township. Mr. Donaghy stated the Board of Supervisors cannot make a decision until they know who is entitled to this area. Mr. Donaghy stated if it is found out that the residents are entitled to a portion of the road, those at the far end may choose not to dedicate it to the Township.

Mr. McLaughlin asked how they can have a development accessing onto a private road. Mr. Flynn stated he has raised this question before. Mr. Donaghy stated he feels when the lots were created that road was part of the Subdivision. Mr. Donaghy stated it may be that it was offered for dedication and the Township did not take it. Mr. Majewski stated he has included a comment about this issue in all of his review letters. Mr. Donaghy stated he feels the Applicant is going to have to carry the burden on this since they are going to want to be in a position to make sure they can use a portion of that road. Mr. Glitzer stated it is their opinion that they have rights to the road as well, and Mr. Donaghy stated he feels they will have to establish this. Mr. Donaghy stated it is possible that even if they are an abutting owner, if their portion was never part of the tract that created the Subdivision, rights would not necessarily go to them as the abutting owner. He does suspect however, that it was all part of the same tract and then they would have rights to it.

Mr. Dickson asked if all the owners have the same feeling about the “sweep” versus the “T” intersection as Mr. Flynn does, and while Mr. Flynn listed a number of homeowners who agreed with them; Mr. Glitzer stated the do not know this for a fact if they are not present. Mr. Dickson noted the properties which would be most impacted by the headlights if there was a “T” intersection. Mr. Flynn stated there is a large space between those homes.

Mr. Glitzer stated he feels it is important that the Planning Commission make a Motion to the Board of Supervisors regarding their preferences.

Mr. Dickson moved, Mr. Bush seconded and it was unanimously carried that a memo should be sent to the Board of Supervisors that the Applicant has been referred to the Board of Supervisors for additional guidance in the following three areas:

- 1) T-intersection, 2) Lot #6, and 3) Sewer.

The Planning Commission consensus regarding same is as follows:

- 1) With regard to the T-intersection, the Planning Commission endorses the T-intersection with the caveat that there be input from all homeowners;
- 2) With regard to Lot #6, the Planning Commission does not want the land dedicated over to the Township, and that a Homeowners Association take responsibility with a satisfactory Declaration of Covenants regarding use of the area including possibly a Conservation Easement in favor of the Township
- 3) With regard to Item #3, there are two issues to be considered by the Board of Supervisors regarding sewer and water lines. One would be should the developer be required to install sewer and water lines in Delaware Rim Drive that would serve the lots abutting the property being developed and it would be approximately five lots. The second issue is should the developer be required to extend sewer and water lines within the property easement area leading to Spur Road or would the Board of Supervisors be satisfied with just the easement area without the installation of the lines.

Mr. Donaghy stated this does not constitute an action on the actual requested Preliminary Plan nor to any portion of it, and it is just for guidance from the Board of Supervisors on those issues. Mr. Flynn asked when they might get before the Board of Supervisors on this, and Mr. Majewski stated they would have to check the Board's Agenda to see when the next available time would be for the Board and the developer. Mr. Donaghy stated he feels going before the Board on these issues may actually speed things up; and he noted particularly the "T" intersection where the developer has been told one thing and now they are being told something else. Mr. Glitzer stated that is why this is frustrating because they were told one thing last year, and now they are being told something else after having had a discussion with the Board of Supervisors on this same issue which resulted in going through a number of design details. Mr. Pazdera stated after reviewing past Minutes, it did indicate that one of the neighbors did indicate he wanted the "T" intersection.

Mr. Donaghy asked Mr. Glitzer to try to get an answer with regard to title of the roadway.

Mr. Flynn stated they have worked well with the Planning Commission, and they hope this will happen with the Board of Supervisors as well. He stated they have never been made aware of the fact that the Board of Supervisors were discussing this.

Mr. McLaughlin stated the Agenda is on the Website, and Ms. Frick stated she will discuss this with the Township Manager and advise him that the residents would like to be notified.

Mr. Fogel stated if there is information in support of the "sweep," he would like to get this; but he feels the "T" is the safest for their children. Mr. Majewski stated he feels it would be good to have the Township traffic engineer weigh in on as to which alternative is preferable from a safety standpoint. Mr. Fogel stated with regard to the issue of the open space being conveyed to the Homeowners Association, he stated they have a HOA, and the developer's lot is not maintained. He stated dumping is taking place, and some of the neighbors have been picking up trash from it. He stated he is concerned that if Lot #6 is owned by a Homeowners' Association, they may not take care of it. Mr. Donaghy stated there is no easy answer on this. He stated if the Township is responsible for it, even if they create a fund to pay for maintenance costs, it may not be sufficient in the long run as has happened in the past. Ms. Friedman also noted that Township land implies public use.

September 27, 2010

Planning Commission – page 18 of 18

OTHER BUSINESS

It was noted that there will be no meeting on Monday, October 11 as the Township Office is closed that day for Columbus Day.

There being no further business, Mr. Dickson moved, Mr. Bush seconded and it was unanimously carried to adjourn the meeting at 9:45 p.m.

Respectfully Submitted,

Dean Dickson, Secretary