

Maidencreek Township Planning Commission  
Tuesday, September 8, 2009

Attending: Jim Schoellkopf, Jr., David Brown, Joel High, David Anspach, Eugene Orlando, Jr. – Orlando Law Offices, Tom Unger– Systems Design Engineering, Inc., and Diane Hollenbach - recording secretary

Guests: Henry Koch, Dr. Robert Hanna, Craig Momose, Dan Becker, Tim Krall, Vicki Krall, Jason Shaner, Chris Bradley, Scott Miller

Jim Schoellkopf called the Maidencreek Township Planning Commission regular meeting to order at 7:30 p.m. in the Maidencreek Township Municipal Building and asked everyone to rise for the Pledge to the Flag.

**APPROVAL OF THE AGENDA**

A motion was made by David Anspach, seconded by Joel High, to approve the agenda for the Maidencreek Township Planning Commission regular meeting. The Chairman asked for public comment on the motion. Hearing none, all members voted, "Aye." Motion carried.

**APPROVAL OF PRIOR MEETING MINUTES**

A motion was made by Joel High, seconded by David Anspach, to waive the reading of the August 11, 2009 regular meeting minutes and approve the minutes as presented. The Chairman asked for public comment on the motion. Hearing none, all members voted, "Aye." Motion carried.

**ACCEPTANCE OF PLANS** – None.

**COMMUNICATIONS** – None.

**PUBLIC COMMENT** – None.

**ENGINEER'S AGENDA**

**Review Period Expiration Village at Summit Crest III Final Plan (public water system)-**

A motion was made by Joel High, seconded by Dave Anspach, to recommend the Board of Supervisors accept the developer's request for a 90 day extension to the review period until December 15, 2009 for the Village at Summit Crest III Final Land Development Plan. The Chairman asked for public comment on the motion. Hearing none, all members voted, "Aye." Motion carried.

**Review Period Expiration Village at Summit Crest III Preliminary Plan (Private Water System)-**

A motion was made by Joel High, seconded by Dave Anspach, to recommend the Board of Supervisors accept the developer's request for a 90 day extension to the review period until December 15, 2009 for the Village at Summit Crest III Preliminary Land Development Plan. The Chairman asked for public comment on the motion. Hearing none, all members voted, "Aye." Motion carried.

David Anspach commented that he does not like having the two different plans for the same property being reviewed at the same time.

## **PLAN REVIEWS**

### Custom Milling

A motion was made by David Anspach, seconded by Joel High, to recommend the Board of Supervisors approve the Custom Milling Final Land Development Plan conditional upon the developer installing bumper blocks on the new parking spaces. All members voted, "Aye." Motion carried.

James Hardie - Can Corporation solicitor, Henry Koch, stated that as Can Corporation has a vested interest in the proceeding because of storm water impacting their business, they brought a court reporter to record the Planning Commission meeting. Dan Becker requested a copy of the transcript.

Mr. Becker stated that he believes the September 2, 2009 Systems Design Engineering, Inc. review letter shows the James Hardie Land Development Plan complies with the Township Ordinances and all that remains outstanding are the legal issues. Mr. Becker stated that he is asking the Planning Commission for conditional final plan approval.

September 2, 2009 SDE Review Letter:  
There are no outstanding zoning issues.

Issue #1. Is the plan a preliminary plan or a final plan? Tom Unger of SDE stated that he has reviewed the plan as preliminary until the Board of Supervisors give direction on the issue.

Issue #2. Certificates of ownership and accuracy need to be signed. Mr. Becker stated that this can be taken care of easily.

Issue #3. Maidencreek Township Authority review and approval is needed. Dan Becker stated that approval was granted in August.

Issue #4. Erosion and Sedimentation Plan approval is outstanding. Dan Becker stated that the plan has been submitted to the Conservation District.

Issue #5. Storm water items that need to be addressed:

- Approval must be documented to install storm water pipe across other property owner's land. Dan Becker stated that he feels that James Hardie has rights in the existing easement and this can be negotiated or resolved in court.
- An agreement with the Buckeye Pipeline Company is outstanding for the storm water pipes to cross the existing Buckeye Pipeline. Dan Becker submitted a three page letter from the Buckeye Partners L.P. approving the pipe installation with conditions.
- Construction details on manholes and inlets have been resolved.
- Pipe trench, bedding and backfill details have been provided.
- A Storm Water Operation and Maintenance Plan is required. Dan Becker stated that James Hardie believes the storm water problem is a regional problem; however, they are willing to replace the storm water lines on Can Corporation's property. Mr. Becker stated that there is a concept that James Hardie has created more storm water and this is not true and

the engineering will prove it. Minutes in the 1980's show that there were flooding issues on the Can Corporation property. James Hardie will post security and enter into an improvement agreement for the storm water installation.

- Easements are needed for pipe that is outside of the road right of way. Dan Becker stated that all the work can be done within the existing easement
- The 30 foot easement does not show on the plan as going across the roadways. Dan Becker stated that he believes James Hardie has legal rights in the roads.

Dan Becker asked the Commission for final plan approval conditional upon Erosion and Sedimentation Plan approval, posting financial security and entering into an improvement agreement with the Township. Mr. Becker submitted a waiver from section 406.A. of the Maidencreek Township Subdivision and Land Development Ordinance to eliminate the one year time period for submission of a final plan.

Henry Koch, representing Can Corporation then addressed each of the points in the review letter.

Issue #1. Is the plan a preliminary plan or a final plan? The applicant has now requested a waiver to allow the plan to be a final plan. Mr. Koch pointed out that according to the Maidencreek Township Subdivision and Land Development Ordinance Section 702, waivers should only be granted if unique conditions exist and the waiver does not thwart the intent of the regulations.

Issue #3. Maidencreek Township Authority review and approval is needed. Craig Momose of Stackhouse Bensinger distributed a memo regarding a conversation he held with Patrick Donovan of the Authority. Mr. Momose stated that the Authority did not approve the method of construction nor did they review if they will allow equipment to travel over the sanitary sewer lines.

Issue #4. Erosion and Sedimentation Plan approval is outstanding. Mr. Koch stated that it should not be assumed that approval will be granted.

Issue #5. Storm water items that need to be addressed. Mr. Koch stated that Can Corporation never had flooding prior to the two additions being built on the James Hardie property. Can Corporation is asking for the temporary construction easement to be staked out and that James Hardie submits to them a detailed construction schedule. The letter from the Buckeye Pipeline must be reviewed by Mr. Momose. The Maidencreek Township Ordinances require that routine maintenance must be performed on storm water facilities. Can Corporation asked how the storm water lines will be accessed. Mr. Koch also stated that notes 8 and 12 be deleted from the plan and James Hardie should own and maintain what they install. Craig Momose presented an aerial photo of the easement and the roads. There are facilities outside the road right of ways that require permanent easements. Mr. Koch was not aware that rights in paper streets applied to utilities but believes rights only apply to private vehicular access.

Mr. Koch stated that Can Corporation is willing to continue to negotiate providing the temporary construction easement is staked out, they receive a detailed construction schedule and details on how sinkholes will be restored but feels that it would be premature for the Planning Commission to approve this plan.

Eugene Orlando, Township Solicitor, addressed both parties to try to understand the easement issues. Mr. Orlando noted that there were three entrances on the photo Mr. Momose distributed. Mr. Orlando understood that Can Corporation could not have their business interrupted during construction of the storm water facilities but asked if one entrance could be closed while the other remained open to allow Can Corporation access. Mr. Hanna of Can Corporation stated that the FDA would not permit employees and visitors to use the same road entrance as the materials to make the cans for any reason.

Tim Krall of Spotts, Stevens and McCoy, engineer for James Hardie, stated that the construction schedule depended on the start date and weather and if a temporary construction easement would be granted. Dan Becker stated that James Hardie was preparing to stake out the temporary construction easement this week, prior to the Board of Supervisors meeting but stopped when Can Corporation demanded it be staked out by last Friday. James Hardie will not stake out the temporary construction easement until they have a price from Can Corporation for the temporary construction easement.

Dave Brown suggested that the two parties take the remaining 30 days of the review period to work things out. The Planning Commission took no action on the plan. David Anspach stated for the record that he will continue to abstain from comment on this plan.

Village at Summit Crest, Phase 3 Preliminary Plan – The Commission discussed and approved the following waivers:

**Section 503.B.2.b Street Right of Way Width.**

A motion was made by David Brown, seconded by David Anspach, to recommend that the Board of Supervisors grant a waiver to section 503.B.2.b of the Subdivision and Land Development Ordinance to allow the street right of way to be 33 feet instead of 53 feet conditional upon the Village at Summit Crest III Private Water System Plan receiving Preliminary Plan approval and conditional upon the developer satisfying the conditions of approval in the May 22, 2006 letter from Maidencreek Township to Stackhouse Bensinger which is incorporated by reference. All members voted, "Aye." Motion carried.

**Section 503.J.1. Single Access Street Limited to 20 Units and No Greater Than 500 Feet.**

A motion was made by David Brown, seconded by Joel High, to recommend that the Board of Supervisors grant a waiver to section 503.J.1 of the Subdivision and Land Development Ordinance to allow a single access street to serve 23 units and to be 1752 feet long conditional upon the Village at Summit Crest III Private Water System Plan receiving Preliminary Plan approval and conditional upon the developer satisfying the conditions of approval in the May 22, 2006 letter from Maidencreek Township to Stackhouse Bensinger which is incorporated by reference. All members voted, "Aye." Motion carried.

**Section 503.J.5. Single Access Street Not To Be Dead End Street**

A motion was made by David Brown, seconded by Joel High, to recommend that the Board of Supervisors grant a waiver to section 503.J.5 of the Subdivision and Land Development Ordinance to allow a single access street to be a dead end street conditional upon the Village at Summit Crest III Private Water System Plan receiving Preliminary Plan approval and conditional upon the developer satisfying the conditions of approval in the May 22, 2006 letter from Maidencreek Township to Stackhouse Bensinger which is incorporated by reference. All members voted, "Aye." Motion carried.

**Section 503.J.8. Maximum Centerline Grade for a Single Access Street Not To Exceed 10%.**

A motion was made by David Brown, seconded by Joel High, to recommend that the Board of Supervisors grant a waiver to section 503.J.8 of the Subdivision and Land Development Ordinance to allow the maximum centerline grade of a single access street to be no greater than 12% conditional upon the Village at Summit Crest III Private Water System Plan receiving Preliminary Plan approval and conditional upon the developer satisfying the conditions of approval in the May 22, 2006 letter from Maidencreek Township to Stackhouse Bensinger which is incorporated by reference. All members voted, "Aye." Motion carried.

**Section 601.B. Required Side Yard Set Back. – Tabled.**

The developer has asked for a waiver to the required 15 foot side yard set back. The plan before the Commission was laid out with 10 foot side yards. Tom Unger asked how this would apply to the duplex buildings on the plan as they would need a 0 foot side yard setback. The Commission stipulated that duplexes must be built in tandem and if a unit were ever removed, it must be replaced within a certain time period that was not yet determined. Gene Orlando had some concerns about the duplexes shown with basements and questioned who owned the basement. The Commission felt it could grant a waiver for the 10 foot side yard and the 0 foot side yard if the lots on which the duplexes were to be built were listed. Mr. Bradley informed the Commission that he did not necessarily intend to build duplexes exactly on the lots where they were shown on the plan but felt he could put a duplex anywhere he wants on the plan. The engineer and the manager disagreed. The plan must be built as approved and recorded. Mr. Bradley stated that the Plan states the location of the unit are typical and the lots lines are completely imaginary and shown only for compliance with the 5,000 square foot minimum. Gene Orlando reviewed the Zoning Hearing Board Findings of Fact, Conclusion of Law and Decision. The Zoning Hearing Board gave approval "as depicted on the plan" for duplexes whose placement meets the approval of the Planning Commission and Board of Supervisors and all land development requirements.

**Section 602.A. Mobile Home Unit To Be Placed On 6 Inch Thick Level Concrete Pad.**

A motion was made by David Brown, seconded by Joel High, to recommend that the Board of Supervisors grant a waiver to section 602.A of the Subdivision and Land Development Ordinance to allow mobile homes to be installed on a foundation that meets state and federal regulations conditional upon the Village at Summit Crest III Private Water System Plan receiving Preliminary Plan approval and conditional upon the developer satisfying the conditions of approval in the May 22, 2006 letter from Maidencreek Township to Stackhouse Bensinger which is incorporated by reference. All members voted, "Aye." Motion carried.

**Section 603.B, 505.A, 505.D.1 and 503.M.3 Sidewalks To Conform To Township Standards, Set 36" From Edge of Cartway and On Both Sides Of The Road.**

A motion was made by David Brown, seconded by Joel High, to recommend that the Board of Supervisors grant a waiver to sections 603.B, 505.D.1, 505.A, and 503.M.3 of the Subdivision and Land Development Ordinance to allow sidewalks to be installed on one side of the road and constructed of macadam conditional upon the Village at Summit Crest III Private Water System Plan receiving Preliminary Plan approval and conditional upon the developer satisfying the conditions of approval in the May 22, 2006 letter from Maidencreek Township to Stackhouse Bensinger which is incorporated by reference. All members voted, "Aye." Motion carried.

**Section 503.M.3 and 603.A.1. Curbs To Comply With Township Specifications.**

A motion was made by David Brown, seconded by Joel High, to recommend that the Board of Supervisors grant a waiver to section 503.M.3 and 603.A.1 of the Subdivision and Land Development Ordinance to allow installation of slant curbs conditional upon the Village at Summit Crest III Private Water System Plan receiving Preliminary Plan approval and conditional upon the developer satisfying the conditions of approval in the May 22, 2006 letter from Maidencreek Township to Stackhouse Bensinger which is incorporated by reference. All members voted, "Aye." Motion carried.

**Section 505.M.5. Street Lights May Be Required.**

A motion was made by David Brown, seconded by Joel High, to recommend that the Board of Supervisors grant a waiver to section 505.M.5 of the Subdivision and Land Development Ordinance to allow installation on each lot of decorative, photo sensor post lights instead of street lights with the exception of streetlights being required at parking areas and at the intersection of Lee Spring Road conditional upon the Village at Summit Crest III Private Water System Plan receiving Preliminary Plan approval and conditional upon the developer satisfying the conditions of approval in the May 22, 2006 letter from Maidencreek Township to Stackhouse Bensinger which is incorporated by reference. All members voted, "Aye." Motion carried.

**Section 513.A.5 Roof Leaders Required.**

A motion was made by David Brown, seconded by Joel High, to recommend that the Board of Supervisors grant a waiver to section 513.A.5 of the Subdivision and Land Development Ordinance to allow infiltration trenches on some units where topography allows instead of roof leaders diverting rain water to gutters or the storm sewer conditional upon the Village at Summit Crest III Private Water System Plan receiving Preliminary Plan approval and conditional upon the developer satisfying the conditions of approval in the May 22, 2006 letter from Maidencreek Township to Stackhouse Bensinger which is incorporated by reference. All members voted, "Aye." Motion carried.

**Section 513.F.2.d. 24 Hour Storage in Detention Basin.**

A motion was made by David Brown, seconded by Joel High, to recommend that the Board of Supervisors grant a waiver to section 513.F.2.d of the Subdivision and Land Development Ordinance to allow greater than 24 hour storage in a detention basin to comply with Department of Environmental Protection criteria conditional upon the Village at Summit Crest III Private Water System Plan receiving Preliminary Plan approval and conditional upon the developer

satisfying the conditions of approval in the May 22, 2006 letter from Maidencreek Township to Stackhouse Bensinger which is incorporated by reference. All members voted, "Aye." Motion carried.

**Section 513.F.4.a Dam Height Not To Exceed Six Feet.**

A motion was made by David Brown, seconded by Joel High, to recommend that the Board of Supervisors grant a waiver to section 513.F.4.a of the Subdivision and Land Development Ordinance to allow a dam (detention basin berm) height of ten feet conditional upon the Village at Summit Crest III Private Water System Plan receiving Preliminary Plan approval and conditional upon the developer satisfying the conditions of approval in the May 22, 2006 letter from Maidencreek Township to Stackhouse Bensinger which is incorporated by reference. All members voted, "Aye." Motion carried.

**Section 515.F.2.c Screen Planting To Be Provided Around Perimeter of Mobile Home Park.**

A motion was made by David Brown, seconded by Joel High, to recommend that the Board of Supervisors grant a waiver to section 515.F.2.c of the Subdivision and Land Development Ordinance to allow the existing tree lines to act as the screen planting on three sides and consider an alternate planting design along Lee Spring Road conditional upon the Village at Summit Crest III Private Water System Plan receiving Preliminary Plan approval and conditional upon the developer satisfying the conditions of approval in the May 22, 2006 letter from Maidencreek Township to Stackhouse Bensinger which is incorporated by reference. All members voted, "Aye." Motion carried.

**SOLICITOR'S COMMENTS** – Mr. Orlando commented that he is not going to stay at a Planning Commission meeting past 11 p.m. and asked that the Commission adopt a Rule of Practice to limit comments from interested parties to five minutes.

**OLD BUSINESS** – Tabled.

**NEW BUSINESS** - Tabled.

Having no other business, a motion was made by David Anspach, seconded by Joel High, to adjourn the September 7, 2009 Planning Commission meeting. The Chairman asked for public comment on the motion. Hearing none, all members voted, "Aye." Motion carried. Meeting adjourned at 12:05 a.m.

Respectfully Submitted,

Diane E. Hollenbach, secretary

CC:	Board of Supervisors	Tom Unger, SDE	Barbara Hassler
	Planning Commission	Eugene Orlando, Solicitor	Chief Scott Eaken
	Park & Recreation	Patrick Donovan	Dan Miller
	Authority	Zoning Hearing Board & Alt.	