



MEDINA COUNTY PLANNING COMMISSION
MINUTES OF MEETING
WEDNESDAY, JULY 2, 2014, 6:30 P.M.
PROFESSIONAL BUILDING, LOWER LEVEL CONFERENCE ROOM

Attendees / Representing (from sign-in sheet):

Judy Emrick, Montville Twp
Paul Jeffers, Montville Twp
Trina Devanney, Montville
Jason Brenner, Lewis Land Professionals
Joe Burgoon, Lewis Land Professionals
Dave Lewis, Lewis Land Professionals
Kathy Gibbons, York Twp
Greg Happ, Applicant
Gloria Neumann, Blue Heron
Guild F. Herrmann, Heron
Robert Herrirster, self
Russ and Debi Peterson, Blue Heron
Keith Mitchell, Ryan Homes
Andy Planet, Rolling and Hocevar
Andy Conrad, Highway Engineer
Alliss Strogin, Medina Twp
George Smerigan, York Twp
Colene Conley, York Twp
Richard Monroe, York Twp
Travis Crane, TGC Engineering

MCPC Members and Alternates in Attendance:

MCPC Members:

Martha Catherwood, Vice President
Jeff Brandon
Ray Jarrett
Christina Kusnerak
Val Jesionek
Mark Kolesar

MCPC Alternates:

Lynda Bowers, President, (for Pat Geissman)
Jason Stevenson, (for Steve Hambley)
Pam Plavecski, (for Pat McNamara)

MCDPS Staff:

Cheryl Heinly, Admin Assistant
Rob Henwood, Planning Director
Susan Hirsch, Principal Planner

Lynda Bowers called the meeting to order at 6:30 p.m. and began with the Roll Call.

I. ROLL CALL

Ms. Bowers, Ms. Catherwood, Mr. Jarrett, Ms. Jesionek, Mr. Kolesar, Mr. Brandon, Mr. Stevenson, Ms. Plavecski, and Ms. Kusnerak were all present at the time roll was called.

II. MINUTES

Ms. Bowers asked if there were any questions or comments regarding the June 4, 2014 minutes. There was none.

Martha Catherwood moved to approve the June 4, 2014 minutes as presented. Ray Jarrett seconded the motion. All voted AYE and the motion passes.

III. CORRESPONDENCE

There was no Correspondence

IV. CONSENT CALENDAR

A. Wedgewood Estates, 044-2014, PP-Ext, Preliminary Plan Ext, Lafayette Township

The subject site is located on the north side of Wedgewood Road (SR 162), west of Ryan Road, and east of Lake Road. The Preliminary Plan submitted for the extension is essentially unchanged from the previously approved plan.

The current proposal is for approval of a one year Preliminary Plan Extension for Wedgewood Estates Subdivision. The requested Preliminary Plan Extension will expire July 2, 2015.

B. Country Club Villas, 045-2014, PP, Preliminary Plan Ext, Lafayette Township

The subject site is located on the south side of Wedgewood Road (SR162) west of Ryan Road, east of Lake Road in Lafayette Township. The Preliminary Plan submitted with the extension request is unchanged from the previously approved Preliminary Plan.

The current proposal is for a Preliminary Plan Extension for Country Club Villas Subdivision. The Preliminary plan provides for 47 sublots along Granite Golf Drive, a public street with a 60-foot ROW. The extension would be for one year - until July 2, 2015. There are no proposed changes.

A. Chelsea Greens, Ph 2, 048-2014, FP, Final Plat, Brunswick Hills Township

The site is located on the south side of Center Road (SR 303) east of Marks Road and west of Substation Road. In Phase 2, the applicant proposes to develop 17 sublots along the southern end of Muirwood Drive, a 60-foot right-of-way (ROW) public street that accesses SR 303 and connects to Hartwell Lane in the Bramblewood Farms subdivision to the west.

The applicant proposes to develop 17 sublots on a public street with a 60-foot ROW that accesses SR 303 and connects to Hartwell Lane in the Bramblewood Farms Subdivision to the west. The subdivision will be serviced by central sewer and water

Discussion:

There was no discussion on any items from the Consent Calendar.

Ms. Catherwood moved to approve staff recommendations of Approval for all three subdivisions on the Consent Calendar. Mr. Stevenson seconded the motion. All voted AYE and the motion was approved.

V. OLD BUSINESS

There was no Old Business.

VI. NEW BUSINESS

Mr. Brandon, Planning Commission member and Montville Township Trustee, stepped out because of the upcoming subdivisions, 6:33 p.m.

A. Montville Lakes, 036-2014, RPP, Revised Preliminary Plan, Montville Township

Mr. Henwood presented the staff report to the Commission regarding the above captioned subdivision located on the north side of Sharon Copley Road (State Route [SR] 162), west of River Styx and Interstate 71 (I-71).

Railroad right-of-way owned by the Wheeling and Lake Erie Railroad traverses the subdivision. The first and second phases of Montville Lakes were reviewed and approved by the Medina County Planning Commission (MCPC) and constructed during the early 1990s. Phases 1 and 2 have access to Ridgewood Road and are located east of I-71 and north of the railroad tracks. The Blue Heron portion of the subdivision, Phases 3A-C, 4, and Lookout Pointe are located south and west of the railroad tracks and have access to SR 162.

The Revised Preliminary Plan and the Replat propose the following changes to the subdivision:

- Creation of five new sublots (307 through 311). Proposed Sublot 311 is comprised of existing Open Space Blocks RR and YY, which contain the clubhouse and a maintenance building.
- Creation of a new Block GG-1 for future development. The creation of this block will require modification or elimination of previously platted blocks.
- Creation of 10 new open space blocks (DD-1, EE-1, N-1, QQ-1, R-3, S-3, W-2, W-3, W-4, and X-1). The creation of these blocks will require modification or elimination of previously platted blocks.
- Reconfiguration of Sublots 239, 240, 262, 272, 274, and 290. The reconfiguration of these sublots will require modification of previously platted blocks. ¹

The Replat also proposes to remove a note that was included on the Final Plats of Montville Lakes Final Plats Phases 3B and 4: the note reads as follows, “golf course blocks are not to be transferred individually without Planning Commission approval.” The applicant proposes to file or record an affidavit or other document and include a recording reference on the Replat to effect the removal of the aforementioned note on the Phase 3B and 4 plats.

¹ For purposes of this staff review, the following documents are utilized: Revised Preliminary Plan: Montville Lakes Subdivision. Revision 3, 6/5/2014. Lewis Land Professionals, Inc. Sheet numbers 1 & 2. Submitted 6/19/2014 and Montville Lakes Subdivision Phase 5. Lewis Land Professionals, Inc. Sheet numbers 1 - 14. Submitted 6/19/2014.

Discussion:

Ms. Bowers asked Bill Thorne, Assistant Prosecutor, at what point was it appropriate for the Planning Commission to determine whether they believe there is harm based on the language. Mr. Thorne answered that before they move on that was the reason the neighbors and others were given notice. If someone has something, in his or her deed that guarantees them open space or a view, now would be the time for the neighbors to bring forward any comments to counteract the general covenants. Ms. Bowers asked if they should do it now. Mr. Thorne said yes. Ms. Bowers asked for a show of hands from property owners that wished to speak to whether they are being injured. No property owners wished to speak at this time regarding that language.

Ms. Catherwood asked if the covenants and deed restrictions supersede the ORC section. Mr. Thorne said no. He said if they have the legal right to replat then they could not be injured unless they can show they had some legal right to a view or a golf course lot. He said injurious is not something you do not like, it has to be a legal issue.

Ms. Catherwood asked who owned the open space and if it was a collective ownership with the HOA (homeowner's association). Greg Happ, representing Blue Heron, said it is still owned by the developer. Ms. Bowers said the language states the owner has the right to replat.

Ms. Bowers asked for a consensus from the Planning Commission if anyone disagreed with the staff's recommendation that no injurious affects to the homeowners would result from these changes. There was no comment. Ms. Bowers asked for a show of hands from the members who agree with the recommendation that no injurious affect to the homeowners will result from the changes. All members raised hands.

Mr. Henwood stated for the record, that the Planning Commission recommended that no injurious affects to homeowners result from changes proposed by either by the Revised Preliminary Plan or the Replat of the Montville Lakes subdivision. He asked if it was necessary for a vote. Mr. Thorne said that was sufficient.

Mr. Henwood went on by reading agency comments.

Paul Jeffers, Montville Township, said they had nothing to add.

Mr. Happ, representing the developer, said the recommendation to remove sublots 308 and 310 was something he wanted to address. He said this was Blue Heron golf course, 27 holes, that ranges from River Styx Road almost all the way to Boneta Road, which is now out of business. He said they tried to sell the golf course on numerous occasions with no buyers. Mr. Happ said then the idea was proposed to the trustees to make this a Township park and they liked the idea so they proceeded. He said there were objections by the homeowners that they did not want a public park scenario within the subdivision so the proposal was to create a buffer around the subdivision. In the old golf course within the subdivision itself, it would become part of the open space for the private homeowner association, but Mr. Happ said the problem with that is there are back taxes owed, costs to get the plat done, and, legal fees. In addition, the commercial property being suggested on subplot 311 actually owns the swimming pool and it was suggested that be available to the homeowners. He said you need the money to do that so the four lots were proposed and the money will be dedicated to what Mr. Happ just discussed. He said it would go to retire the debts that are necessary.

Mr. Happ said these four lots are crucial to make the park viable. He said this is a unique opportunity for the Township and if some compromise cannot be made for the two objectionable lots then he was afraid that this would become impractical or improbable. He said two things

would happen. The land would remain private and no homeowner would have access to any of the land that adjoins their homes as common area, it will stay private, which is allowed under the PUD, or it would become a public park, which was objected to by the homeowners.

Mr. Happ added that no building will be done within 32 ½ feet from the centerline of any streams on the property. He said that is from the Army Corp of Engineers. Mr. Thorne asked if it said they could not be built on outside of that. Mr. Happ said outside of the 32 ½ feet. Paul Jeffers from Montville Township added that Chapter 570 of the Township code requires 25 feet from the high water mark. He explained if the river is 14 feet and not 7 feet under the 32 taken off, they are still 25 feet from the high water mark.

David Lewis, Lewis Land Professionals, said he would be sharing the master plan that the Township had approved, that included the Preliminary Plan and the Final Plat as well. He presented a colored drawing to the Planning Commission for better clarification. He said they are turning over 106 acres of private open space to the HOA. He said 250 acres would be the public park if this goes through. Mr. Lewis added that the clubhouse would be used for offices.

Mr. Lewis stated that he has developers waiting to put homes in as the zoning allows 3.3 units per acre. Ms. Bowers asked if the land was originally reserved as open space with the original plan. Mr. Lewis said yes, as a golf course use. The purpose of the master plan was to change the use to allow public parks and to change the other golf course area around the lake to private open space for the HOA.

Mr. Lewis said that the developer has already lost eight million dollars and they are incurring tens of thousands of dollars going through this process so the four lots are the only thing that will fund accomplishing this goal. He said Mr. Conrad is here this evening and they did spend the better part of the day discussing similar problems they had regarding rainfall and flooding basements so his comments are taken seriously. Mr. Lewis said they did offer some conditions to put on the plat starrng the lots, with conditions that say, 'no disturbing activity shall occur within the riparian setback in accordance with township zoning'. He said another note that would pertain to the lot, 'no basement opening shall be constructed below the 100-year flood elevation of the stream plus two feet as determined by a professional engineer'. In addition, he said no drains come from the house discharge directly to the stream, which typically results in erosion and river scouring from the stream.

Mr. Lewis said the proposed four lots front on an existing stream with existing sanitary and storm sewer along with water. He said the conditions he just read regarding subplot 308 he would let Mr. Conrad add anything if he would like. Mr. Lewis said on subplot 310 they offered similar concessions, no disturbing activity shall occur within the riparian setback in accordance with Montville township zoning. He showed a map with a storm sewer to the PC saying that the concern was a driveway crosses the storm sewer and what if at some point, maintenance is needed or the drive cracks because the sewer trench settles. Mr. Lewis suggested a note on the plat saying, "no improvements including driveways, landscaping, irrigation systems, etc., shall be permitted in the storm sewer easement without prior approval from the county engineer." He said that seemed to protect his interest of the storm sewer and allow them to continue with the lot. Mr. Lewis felt that was a reasonable compromise for the lot.

Ms. Bower asked Andy Conrad, Highway Engineer's office, to comment on Mr. Lewis' compromise to keep the two lots. Mr. Conrad stated on subplot 308 there would be added notes on protecting the outlets, a sump pump was going to be required for the drains if they choose to outlet anything to the ravine and also where there was to be a backflow valve. He thought that Dave was willing to add that note.

He said the trickier one is where a subplot is being proposed where one was not prior. His issue was that it was if they were creating a new Preliminary Plan and engineering drawings, they would not accept the layout having a public storm sewer coming through someone's front yard. He said they would be forced to relocate it, redesign it, something along those lines. Mr. Conrad offered, as a compromise was that they could keep it in place, but have it replaced with concrete. He said there would be less maintenance problems in the future. Mr. Conrad also said or they could redesign the layout of the storm sewer and take it to another location. He said there are other options but at this point, those options were not something that were not entertained. Ms. Bowers asked if it could be made part of the dedicated road ROW. Mr. Conrad said there is an easement and they could run a parallel storm sewer back and pull it out if they so choose.

Mr. Kolesar asked what the material was at present. Mr. Conrad answered that it was plastic, high-density polyethylene corrugated.

Ms. Catherwood stated that she has seen many problems in the last month and a half that were recorded on the deeds and septic systems that were built on storm water easements. She said as years go by there is a lack of oversight on what is on the plans. She said she was sure their intentions were good but reality is counter to that sometimes.

Ms. Jesionek asked if the notation were on the plat, how they would make sure the builder would see it. She also asked does the engineer have to approve the building before it is built. Mr. Conrad answered that his office sees many improvement plans, which shows the footprint of the building and the general grading. He said the problem they get is, 'my realtor never told me that or I would never have never bought the lot'. Ms. Bowers said they have had that problem so they have a policy (PC) that the lots be starred in the Records office so when the deeds come in that is pulled out. She said they could not guarantee the homeowner is notified but at least the title company would be.

Mr. Jeffers stated that when the Township gets the topo for the lot they go back to the final master plan and compare it each time for each subplot that comes in so that is indicated on the plat.

Mr. Stevenson said one of the fixes was to take the plastic corrugated to a concrete storm drainpipe, as it was less likely to break down. He asked someone to comment on the expense of changing that for the developers. Mr. Conrad answered \$4,000. Mr. Stevenson said so \$4,000 could alleviate the concern for ongoing maintenance. Mr. Conrad said yes.

Mr. Lewis said you could not get a permit to build a house without a lot improvement plan approved by Montville Township and the Highway Engineer's office and prepared by a professional engineer. He felt there are checks there so that it is done. He said as far as changing the pipe to concrete... Mr. Happ asked if they want the pipe under the drive to be changed to concrete. Mr. Conrad answered they need either a financial guarantee for the work or the work to be completed before they would sign. Mr. Lewis asked if they would withhold the building permit instead. Mr. Conrad said the signature block on the plan for him means that all improvements are completed or a financial guarantee is in place.

Ms. Bowers felt the Commission understood what was going on. Mr. Henwood said regarding the notes on the final plat, his concern was while they would be updating the replat and the notations that require it that the notes will not make it on the approved site plan. Mr. Jeffers said the plans are compared to the replat every time somebody comes to the Township.

Ms. Bowers asked Mr. Thorne if the Commission approved the application it was up to the agencies to figure out the signatures, that really is not a Planning Commission concern. Mr. Henwood said he agreed with Andy Conrad and said the subdivision regulations and the

engineering code are very specific. Financial guarantees must be in place or it must be built, as Mr. Henwood understands it that is not negotiable.

Mr. Lewis said they might have another option, which is to change the lot line so that it comes down to the easement line and angles across so that the easement is left as open space. He said this way the lot still meets zoning. Ms. Bowers said that still does not solve the problem of construction vehicles driving over. Mr. Lewis said it technically removes it from his problem. Mr. Conrad said it would be a Township problem.

Mr. Kolesar said he was dumbfounded that they are stuck on 100-feet of plastic pipe. He felt this is a great project for Montville Township.

Mr. Stevenson said the most logical compromises are that they agree at some rate to put in concrete pipe because it solves some problems. He also said they could reduce the size of the lot so that would get rid of the problem altogether. He asked if there was a reason they could not cut off a corner of the lot. Ms. Bowers said it does shift the responsibility to the Township. Mr. Stevenson said it still is a \$4,000 problem. Mr. Lewis said it would be in the HOA documents.

Mr. Lewis stated that if he had the authority to make the compromise; his client has instructed him, no, that they are tapped out, they are done. He pointed out that the 100 or so homes in this subdivision, half of them have storm sewer running along the sidewalk. He said the pipe is the same black corrugated plastic pipe as discussed earlier so there are 50 other driveways that cross the same type of pipe. He did not understand why it was such a big deal to allow this.

Ms. Bowers said because the Township is “part and parcel” to this because of the park aspect, if the holdup is because they do not have the funds to do this now but once the lots sell they would have the funds. She asked if the Township could post the \$4,000 financial guarantee for the project to occur. David Lewis said no. He said if they go in and tear out the pipe they will have to deal with the homeowner, front yard, landscaping, etc.

Mr. Stevenson said that the Township seems motivated to make this work. If the developer is willing to cut off part of the lot, which makes the potential for a storm sewer issue for the Township later, would the Township want to take on the potential problem later. He said it seems like a small problem relative to the size of what they are trying to accomplish. Trina Devanney, attorney representing the Township, said that is not a decision that the zoning office or herself as the attorney for the Township can make without it going before the trustees.

Jason Brenner, Lewis Land Professionals, said the storm pipe is in open space and according to Andy; the pipe belongs to the Township. He said it is approximately six feet deep, not three feet deep. He said it could be handled at the time of construction whether it was damaged or not. If it were damaged by the homeowner or the builder, they would be required to fix it as it is in the highway easement. Mr. Brenner said they could reconfigure the lot and leave it in the open space. He said whether construction vehicles drive over it as open space or a lot, it was out of their control. He could show them numerous locations where bulldozers have crossed over lines that are storm sewers within this development.

Mr. Kolesar asked Mr. Conrad if he knew when the pipe was installed and if it had the proper backfill. Mr. Conrad said there are probably eight pipes that fail per year.

Mr. Stevenson said if they reconfigured subplot 310 and eliminated the storm drain itself; it would stay in the common area and not increase the Township’s potential liability or risk because they already bear the risk presently. He said they would not have an argument over who is responsible because it would not change who is presently responsible. He asked if that was a fair statement. Mr. Brenner said in a sense. He said leaving it in open space, it is the Township’s responsibility.

Ms. Devanney clarified that they are still not convinced it is the Townships issue. She said whosever issue it is remains their issue. Mr. Stevenson said fair enough, but if the design of subplot 310 is changed, where ever the potential liability and responsibility is now will retain that potential liability which would eliminate this whole concern.

Mr. Happ stated that the deed restrictions they have, once it is declared open space, they can do nothing with it except grow grass; that is the way it is drafted. He said right now it is part of a golf course and heavy equipment go across it all the time. Originally, he said two bathrooms were going to be built for the course on that lot.

Mr. Thorne stated that generally when there is open space it goes to the homeowners association. He said they (HOA) would be responsible for maintaining the drainage, easements, which would benefit the subdivision, not the Township. Ms. Bowers summarized saying that whomever has responsibility now it would still be their responsibility regardless of what happens with the lot. Mr. Thorne stated he did not say it was going to go to the HOA. Mr. Happ said that is correct, but currently it is open space. Mr. Thorne said it was intended to be turned over to the HOA eventually. Mr. Happ said that is correct.

Mr. Brenner said there was heavy equipment on the trench on subplot 310 prior to closing it. He was sure there was an assessment for the storm drainage in the subdivision, which would include that piece of pipe (?) so wherever that assessment goes to would be the responsible party.

Ms. Bowers asked if the Commission needed further dialog. All members said they were clear. Ms. Bowers asked if anyone had any other questions.

Gail Houk, resident of Blue Heron, said she lives adjacent to subplot 308. She appreciated all the work that has been done and said she is not here to speak against the project. She is here to say as an adjacent homeowner to be sure if subplot 308 is allowed to go through that, she has some assurance it is the right thing. Whether that thing could have been added in the last day, last 10 minutes, she said if they were in her shoes, they would feel the same. Ms. Bowers said her comments are on the record. Ms. Houk said she understood the financial fees riding on this and people wanting their money from the property, but make the decision based on what the right thing to do is for the property and the surrounding homeowners.

Ms. Catherwood asked about the proximity of the streams to subplot 308. Ms. Houk added that they have lived there two years and seen significant increase in the volume of water in the stream. She said they are personally paying to have a retaining wall put in an area where there is some erosion because of the increase of water. She said she had called the County Engineer and discussed it with them prior to proceeding. Judy Emrick, Montville Township Zoning Inspector, told Ms. Houk if she is doing the retaining wall she will need to contact the zoning office.

Ms. Catherwood asked Judy and Paul what the riparian setback was for a stream that size. Mr. Jeffers said it is 25-feet from the high water mark.

Mr. Thorne stated that there appears to be drainage maintenance fund already established which means the maintenance would not be the responsibility of the Township. He said it might be a question of how to reassess each of the areas because of this. He added that these are common and every property benefitted is to pay into the fund until it reaches a certain amount for repairs of this type. Mr. Conrad said each phase of every subdivision has storm sewer improvements and when the developer comes in with the plat, they set up a drainage maintenance fund. He said his office is tasked with managing the funds but the storm sewers along a Township road are a Township storm sewer. He said the homeowners and the township pay into that fund so there is some money to help offset some costs.

Ms. Bowers said she saw some hands up in the audience and wanted them to speak so their comments were on the record. She informed them that the authority of the PC is to consider the project within the scope of the subdivision regulations. She knew there might be community issues but that needs to be taken care of at the Township level.

Debbie Peterson, resident of Blue Heron, said she lives close to subplot 310. She said it was upsetting that this was all going to happen as she bought her lot directly from Gary (?) Hoffman and he told her that her lot would never have anything behind it. She said there was a petition formed and it was going to be brought before the PC but they were told it could ruin the whole deal. She asked Mr. Happ if those four lots were the breaking point if it did not happen exactly as he stated. She asked if the lots did not sell would the property be forced into bankruptcy or be kept as private property. She also asked Mr. Happ if the developer had unsold lots at this time.

Mr. Happ asked if Ms. Peterson was done interrogating him. Ms. Peterson said this has been very upsetting for her and the developer told her she would not have a lot behind her. Mr. Happ said she does not have a lot behind her. He said one point of her lot is adjacent to the other lot. He went on to say that all the lots have been contracted to be sold, there was an agreement with the mortgage that was assigned to a group of creditors, and that money is already spoken for. Ms. Peterson asked where the money would go for the four lots. Mr. Happ answered they would be handled by Blue Heron Lakes, which now manages the swimming pool, etc. and will deed the recipient of that to use the money exactly the way he had stated. Ms. Bowers interjected saying this was over the scope of the Planning Commission.

Mr. Henwood stated for purposes of clarification, could the applicant or the engineer send the language that will be in the notes as that will be part of the motion and the record. Mr. Lewis produced a copy of the language.

Mr. Stevenson moved to approve staff recommendations of Approval with Modifications for the Montville Lakes Revised Preliminary Plan with the following recommendations:

1. *Sublot 308 is encumbered with the following conditions of approval:*
 - a. *No earth disturbing activity shall occur within the riparian setback in accordance with Montville Township zoning.*
 - b. *No basement foundation opening shall be constructed below the 100-year stream flood elevation plus two feet as determined by a professional engineer and as approved by the office of the Medina County Engineer.*
 - c. *No drains from the house shall discharge to the ravine without the installation of a sump pump and a backflow preventer*
2. *Sublot 310 shall be reconfigured to exclude the storm water easement area.*

Mr. Kolesar seconded the motion. Ms. Catherwood and Ms. Kusnerak voted NAY. All other members voted AYE and the motion was approved.

B. Montville Lakes, 037-2014 R, Replat, Montville Township

Mr. Henwood presented the staff report to the Commission regarding the above captioned subdivision located on the north side of Sharon Copley Road (State Route [SR] 162), west of River Styx and Interstate 71 (I-71).

The Replat also proposes to remove a note that was included on the Final Plats of Montville Lakes Final Plats Phases 3B and 4: the note reads as follows, “golf course blocks are not to be transferred individually without Planning Commission approval.” The applicant proposes to file

or record an affidavit or other document and include a recording reference on the Replat to effect the removal of the aforementioned note on the Phase 3B and 4 plats.

Discussion:

Ms. Bowers asked if the Township had any concerns regarding the comments that have not already been heard. Ms. Devanney was concerned about the notarized signatures of owners saying there are no unpaid taxes or assessments against the land. She did not know how that could be done with that many homes. There are additional unpaid taxes on a significant portion of the land and a way to pay for them has been accounted for. Ms. Devanney was not sure how that could be addressed. Ms. Bowers asked if that was a requirement of the subdivision regulations. Mr. Henwood said yes.

Mr. Happ said there are two agreements with the Prosecutor's office to pay the taxes over the next 60 months. He said they have initiated discussions to go on a similar plan for the rest of it. He asked if they have these agreements in place with the Prosecutor's office would that be sufficient. Ms. Bowers tried to clarify what the criteria was for the subdivision regulations. Mr. Henwood said in this instance his "hands were tied." He said he could not recommend approving something he does not have the authority to vary from the subdivision regulations. He added that he could look to his attorney. Ms. Bowers asked if it required a variance. Mr. Thorne said that generally the applicant would ask for the variance.

Mr. Happ asked about the notes and a resolution. Ms. Bowers told him the recommendation was to remove them. Mr. Henwood said he was told that the resolution in lieu of the replat was not appropriate. Mr. Thorne agreed saying a replat is what controls it. He said if they want a separate resolution that was up to the PC. Mr. Henwood clarified saying that the resolution/affidavit document could not suffice for not doing it by replat. Ms. Bowers said if the replat is approved then the PC could add a recommendation that there is an authority to sign the resolution so they have it for title purposes. Mr. Henwood said the resolution does not show a signatory line for the Planning Commission.

Mr. Stevenson asked Ms. Devanney to explain the comment regarding many homeowners and other landowners that could owe taxes. Ms. Devanney said her understanding was that the replat will include all of the existing homes in the subdivision and she did not know how the developer could sign off that the taxes are paid and current for people who own individual lots. Mr. Stevenson asked if that was accurate. Mr. Henwood said yes.

Joe Burgoon, Lewis Land Professionals, said those sublots were not part of this plat. Only sublots that are unsold within Phase 3A, 3B, 3C, and 4 are part of this plat. He said nothing owned by an individual is part of this plat and that is stated on the cover sheet of the replat. Ms. Bowers said that solves one problem but not the variance issue.

Mr. Thorne said the PC might consider this a slight modification to the submittal requirements that are a substantial conformity to the requirements of the regulations, which would otherwise inhibit the PC from rendering a decision. Ms. Bowers said this was not a submittal issue.

Ms. Bowers asked Mr. Happ if the taxes would be paid before the signature of the director is required. Mr. Henwood said no. Mr. Happ said there would be an agreement and a payment schedule through the Prosecutor's office. Ms. Bowers asked Mr. Thorne if he thought the PC had that authority. Mr. Thorne said it would be a slight modification, not the application; it is the plat or the submittal requirement. He read, "minor modifications to a final plat after PC approval or before recording." He said that would be the only one that would fit a minor modification. Ms. Bowers said procedurally they really have to do a variance to be able to consider that. Mr. Thorne said, or determine that the administrator can grant an administrative waiver pursuant to that section. Ms. Bowers asked Mr. Thorne if he thought the PC had that authority. Mr. Thorne said

he that was not something he had looked into and was not sure if the waiver of that provision would be considered a minor modification.

Ms. Bowers asked what the best course of action would be to ask for a table, bring the variance back, and do the proper publication. If there is a timeline issue, she said they could fit a meeting in to try to move it forward. Mr. Happ asked if they could approve the plat and when they go to get final signature, if the administrative waiver does not apply, they can apply for the variance.

Ms. Devanney asked if this was a requirement. Ms. Bowers said yes, it is in the subdivision regulations. Mr. Thorne said he did not see a reason why they could not come back after the fact.

Mr. Henwood asked for a summary. Ms. Bowers said they are going to “entertain” the plat with all of the conditions including the taxes be paid. The Planning Director does not have the authority to sign until taxes are paid or until he comes back and gets a variance for that. She explained that Mr. Henwood would withhold his signature until the taxes were paid or he gets a variance. Mr. Henwood thought the taxes could not be paid before he signed the plat. Ms. Bowers said he could get a variance after the fact.

Ms. Bowers asked if a member of the board would like to make a motion to approve staff recommendations including the resolution removing the notes, including the requirement that the taxes be paid and the director of DPS withhold signature until such time as those taxes are paid or a variance is obtained from that regulation. Mr. Thorne added the determination that there are no adversely affected properties (owners).

Mr. Kolesar moved to approve staff recommendations of Approval with Modifications for the Montville Lakes Revised Preliminary Plan with the following recommendations:

The Planning Director will not sign the Replat until such time as the outstanding taxes owing on the land contained in the Replat are paid per Subdivision Regulation section 404(D)(2)f.17 or until the applicant obtains a variance from said section. Additionally, the Planning Commission determined that no property is “injuriously affected” by changes proposed in the Replat per Ohio Revised Code section 711.24.

3. *Sublot 308 is subject to the following conditions of approval:*
 - a. *No earth disturbing activity shall occur within the riparian setback in accordance with Montville Township zoning.*
 - b. *No basement foundation opening shall be constructed below the 100-year stream flood elevation plus two feet as determined by a professional engineer and as approved by the office of the Medina County Engineer.*
 - c. *No drains from the house shall discharge to the ravine without the installation of a sump pump and a backflow preventer*
4. *Sublot 310 shall be reconfigured to exclude the storm water easement area.*

Mr. Stevenson seconded the motion. Ms. Catherwood and Ms. Kusnerak voted NAY. All other members voted AYE and the motion was approved.

C. Cobblestone Park, Ph 3A, 046-2014, FP, Final Plat, Montville Township

Mr. Henwood presented the staff report to the Commission regarding the above captioned subdivision located on the east side of Wooster Pike Road (SR 3) between Sharon Copley (SR 162) and Poe Roads.

The final plat proposes the following:

- Create 19 sublots served by central sewer and water.
- Extend Brownstone Lane, a public street with 60 feet of right-of-way (ROW), to the south and west terminating in a temporary cul-de-sac.
- Create Luckystone Way a public street with 60 feet of ROW.
Create Blocks FF, GG, and HH. Blocks GG (0.0737 acres) and HH (0.0746 acres) are Open Space Blocks and Block FF (13.0875 acres) contains both land for future development (Phase 3B) and future open space (see attached GIS map and Final Plat.

Discussion:

Judy Emrick, Montville Township, said the Township had no concerns. Paul Jeffers, Montville Township, asked that the swale between Phases 2 and 3 be maintained.

Mr. Stevenson moved to approve staff recommendations of Approval with Modifications for the Cobblestone Park Final Plat, Phase 3a, with the additional recommendation that the swale be maintained between Phases 3 and 4. Ms. Plavecski seconded the motion. All voted AYE and the motion was approved.

******Jeff Brandon returned and Christina Kusnerak, Planning Commission member and Brunswick Hills Township Trustee, stepped out because of the upcoming subdivision, 7:49 p.m.

D. Bramblewood Farm, Ph 4, 047-2014, FP, Final Plat, Brunswick Hills Township

Mr. Henwood presented the staff report to the Commission regarding the above captioned subdivision located at the southeast corner of Center & Marks Roads.

The applicant proposes to subdivide the site as follows:

- Extend Easton Way, a public street with a 60-foot right-of-way (ROW), to the south terminating in a temporary street stub.
- Extend Hartwell Lane, a public street with a 60-foot right-of-way (ROW), to the west terminating in a temporary stub street.
- Create 13 sublots and 2 open space blocks.

Discussion:

Andy Planet, Rolling and Hocesvar, said he was in agreement with staff comments.

Ms. Catherwood moved to approve staff recommendations of Approval with Modifications for the Bramblewood Farms Final Plat, Phase 4 Subdivision. Mr. Jarrett seconded the motion. All voted AYE and the motion was approved.

******Christina Kusnerak returns to the Planning Commission, 7:54 p.m.

E. York Township Map Amendment, 049-2014, MA

Mr. Henwood presented the staff report to the Commission regarding the above captioned map amendment located on the east side of Abbeyville Road north of Chadwick Drive and immediately north of the City of Medina. The applicant proposes to rezone the site from R-2 Medium Density Residential to R-1 PUD Planned Unit Development Overlay District.

Section 302.01 of the York Township Zoning Resolution states that the purpose of the R-2 district “is to accommodate a more dense style of residential development than provided in the Township’s R-1 zones, in areas which will not adversely affect the township’s rural character.” Single family and two-family uses, and uses ancillary to single-family uses are permitted.

Planned Development Overlays are also permitted.

Discussion:

George Smerigan, representing the York Township Trustees, said that the intent is to cluster all the units in the northern portion of the property, which is currently, zoned R-1. He said all of the land that is now zoned R-2 would be part of the open space. He said the difficulty with that is if you read Section 302.12D it clearly states that while you can do a subdivision with mixed R-1 and R-2. The maximum density in the R-1 portion cannot exceed one dwelling unit per acre, which will be exceeded if they move the R-2 density into the R-1 portion. Mr. Smerigan stated the Township is interested in reducing from the higher density, R-2 to the lower density, R-1. He said the property owner had agreed to the lower density development as well.

Mr. Smerigan pointed out that they cannot move the units from the R-2 portion to the R-1 portion without violating the code; that transfer of density is not permitted by the regulations. He said they are asking the PC to approve the request by the Township in order for them to accomplish reducing from a higher density.

Mr. Henwood said this is one of the cases that the PC could disagree with his finding, as he did not have all the information.

Mr. Kolesar moved to approve the application as submitted for the York Township Map Amendment, rezoning R-2, Medium Density Residential to R-1 PUD. Ms. Kusnerak seconded the motion. All voted AYE and the motion was approved.

F. York Township Map Amendment, 050-2014, MA

Mr. Henwood presented the staff report to the Commission regarding the above captioned map amendment located on the east side of Abbeyville Road north of Chadwick Drive and immediately north of the City of Medina. The applicant proposes to rezone the site from R-2 Low Density Residential to R-1 PUD Planned Unit Development Overlay District.

Section 302.01 of the York Township Zoning Resolution states that the purpose of the R-2 district “is to accommodate a more dense style of residential development than provided in the Township’s R-1 zones, in areas which will not adversely affect the township’s rural character.” Single family and two-family uses, and uses ancillary to single-family uses are permitted.

Planned Development Overlays are also permitted.

Discussion:

George Smerigan, representing the York Township Trustees, said that the property owners approached the Township with problems selling and refinancing [their properties], as they were not in the correct zoning classification. The owners asked if they could be returned to the R-1 zoning classification and the Township initiated the process of making that zoning change happen. Mr. Smerigan understood the concern regarding the lot sizes, but by rezoning it all to R-2, they would create 30 developable waivers at the higher density (R-2), and that is not something the Township would find desirable. He said only rezoning the lots along the frontage would mean a delay to the homeowners due to starting the process again. He added that the Township would be opposed to rezoning the entire 38 acres, for them it did not make sense.

Colene Conley, York Township Trustee, said what occurred with the banking and financing industry is they used to look at a residential home in a commercial district and they would finance it accordingly. She said since the government changed it they [the bank] only finance to the highest and best use. A homeowner is not able to get financing so they can keep their land or the people who are trying to sell their house on the market for a long time.

Ms. Bowers suggested that they put together a district that allows for an overlay of the commercial so the underlying zoning is not commercial but that the property owner has a choice to convert without a long drawn out process.

Mr. Stevenson asked how long would the process take. Mr. Smerigan said the process ends up taking several months due to advertising and coming back to several boards.

Ms. Plavecski questioned the sanitary sewer with the higher density. Ms. Bowers answered that certainly the health department would not approve this so it gives the Township alternative zoning to protect existing residents but encourages the transition that they want.

Mr. Stevenson wanted to know if approving staff recommendations of disapproval would affect the property owners with regard to the timing. Ms. Bowers asked if four months would damage the sale of his property. Robert Heffinger, property owner, stated that he does not know if four months would damage him, but he knows of one homeowner whose home is on the market that has been damaged badly and another who is talking about putting their house up for sale.

Ms. Catherwood moved to approve the application as submitted for the York Township Map Amendment, rezoning R-2, Low Density Residential to R-1 PUD. Mr. Brandon seconded the motion.

Mr. Heffinger asked if by going back to the R-1 and creating non-conforming lots would it cause problems selling their house. Ms. Catherwood said no. Ms. Hirsch said it could. Ms. Bowers said it would not stop the Township from getting their zoning.

All voted AYE and the motion was approved.

VII. PLANNING DIRECTOR'S REPORT

Mr. Henwood said he had nothing to add for the director's report.

VIII. PUBLIC PARTICIPATION

There was no Public Participation.

IX. OTHER BUSINESS

There was no Other Business.

X. ADJOURNMENT

Ms. Bowers moved to adjourn the July 2, 2014 MCPC meeting at 9:01 p.m.

Lynda Bowers, President

Cheryl Heinly, Admin Asst.