

I. **OPENING**

CALL TO ORDER: The Planning Commission meeting of Lower Saucon Township Council was called to order on Thursday, August 17, 2006, 7:00 P.M., at 3700 Old Philadelphia Pike, Bethlehem, PA, with Mr. John Landis, Chair, presiding.

ROLL CALL: Present: John Landis, Chair; Gerry Szakmeister, Vice Chair; Fran LaBuda, Secretary; Hazem Hijazi; Tom Maxfield; Brien Kocher, Engineer; Chris Garges, Zoning Officer; Marci Schneider, Solicitor; and Judy Stern Goldstein, Boucher & James.

PLEDGE OF ALLEGIANCE

II. **PUBLIC COMMENT/CITIZEN AGENDA ITEMS**

III. **BUSINESS ITEMS**

A. **REEN DEVELOPMENT CO., LLC/DAVE SELL – REDINGTON ESTATES AT LOWER SAUCON PRELIMINARY MAJOR SUBDIVISION #MAJ-03-06 – REDINGTON ROAD (TIME LIMIT 10/18/06)**

Present – John Hacker, Counsel for Reen; Larry Turoscy, Lehigh Engineering; and Dave Sell.

Mr. Landis said we have two review letters we have to cover. Attorney Hacker said the PC had asked them to look at cluster development, but they could not get any more lots out of it with cluster, so they choose not to proceed down that road. Mr. Turoscy said in the impact study, which included a traffic study, they did 24 counts out there. It was very, very low traffic volume. Based on that, they felt with the lot sizes they wanted, for the homes they wanted, that the driveways wouldn't be a problem, they'd be safe. They already met with PennDOT and they have no problem with the driveways. Putting a road in there would be a facility which would have to be maintained by the township forever. Not only is there yearly maintenance, but also eight to ten years resurfacing, all of which would put a burden on the taxpayers. With the situation out there, providing nine larger two-acre lots, with open space for their people, and behind, a creek flowing through it in the back. This was beautiful the way it was laid out. Because of the road situation being straight and being flat, safety for driveways like that, it was a solution that was better for both sides.

Going through the Boucher & James letter, Mr. Turoscy said in Section 1, Use, they have no comment on that, it was not a problem. They will comply. On Section 2, Lot Requirements, the only question he had was in 2C, which deals on them abutting I78 and they'd have to have a 50 foot side yard. Ms. Stern Goldstein said that's a front yard. Mr. Turoscy said because it fronts I78? Ms. Stern Goldstein said yes, by definition, it's a corner lot. Mr. Turoscy said we have no access to that road, and they'll never have any access to it. Ms. Stern Goldstein said often times on a corner lot, you only take access from the road, but it still fronts on that road, so technically, it's a corner lot. If you'd like to seek relief from that, you certainly can. That would be the Zoning Hearing Board. Mr. Turoscy said he doesn't think it fronts on I78, it fronts on a service road to PennDOT. Ms. Stern Goldstein said the plan shows it is fronting along a roadway. Mr. Turoscy said we have no access. Attorney Hacker said it is not a highway, it is not a street as classified in your ordinance. Mr. Garges said he could make that determination and they can appeal it at the ZHB and go that way. Mr. Turoscy said he doesn't think it affects them. They can live with it. Mr.

**Planning Commission Meeting
August 17, 2006**

Landis said it's a non-issue because you probably are not going to want to set things up all that close to I78 anyway. They will comply with Section 2.

Mr. Turoscy said No. 3, Natural Resource Requirements – when they had their meetings and looked at it and missed it that is was a 100 year flood plain, that should have been taken out of the calculations. Ms. Stern Goldstein said they are talking about the swale and are asking whether or not there are wetlands or waters present and that you'll account for whatever features may be attendant to that swale and water course. Attorney Hacker said he believes it is a dry stream or it may get water occasionally, but certainly not a prevalent part of the year. They have no problem. They are not planning to disturb it. They are not crossing it. Whatever buffers you require, they are happy to comply with. Ms. Stern Goldstein said the issues are that all of the natural features are required to be mapped and calculated in accordance with the zoning ordinance regulations. There is a site capacity calculation that gets you to your net buildable site area, and that area is the basis for calculating your impervious surface. It's all interrelated. Those items need to be calculated in accordance with the zoning ordinance.

Mr. Dave Sell, said at their last meeting, they had asked if Ms. Stern Goldstein reviewed their calculations, under this ordinance, and she said she did and found them to be correct. Ms. Stern Goldstein said she reviewed the information that was submitted to them, and based on the information provided at that time, they appeared to be correct. They did not have a full submittal. They did not have the full plans. Mr. Turoscy said just to clarify in your last sentence, "Additionally, natural resource protection calculations must be added to the plans". That stream, the amount of the 100 year flood plain has to be included in the calculations. Ms. Stern Goldstein said the 100 year flood plain and/or any wetlands or waters of the Commonwealth that are related to that stream. They need to be in the site capacity calculations and then also included in your natural resource protection calculations. You need to show them on the plans. The site plan calculations are separate from the natural resource protection calculations. You need to make sure you do both and they are on the plans. Mr. Turoscy said they will comply.

Mr. Turoscy said 3B, he wasn't exactly sure what they meant by that, and they have to have their Carbonate Geologist expert that prepared that look at it as he hasn't seen it yet. He may want to call Chris or Judy to talk about it. They will comply with it and if they have any questions, they will call.

Mr. Turoscy said on 4, Parking Requirements, they have to move the houses back so that the parking spaces are behind the side yard. They will comply.

Mr. Turoscy said on Section 5, Landscape Requirements, they will comply.

Mr. Turoscy said on Section 6, General Comments, they will comply.

Ms. Stern Goldstein said there are some things in the letter which are minor and some things a little more significant. The applicant has agreed to comply with all of them. There's a number of engineering issues to be addressed also.

Mr. Landis said we have the letter of August 9 from Hanover Engineering. Attorney Hacker said No. 1 and No. 2 are not issues. They are just observations. No. 3 is an issue. They have no intention of giving any land to anybody else. He doesn't know the basis of that request as far as the ordinances go. Mr. Kocher said the basis of the request, he wasn't sure where the property behind here got access, and he believes the ordinance would require if you build a road, the road has to go back to access properties, especially if they don't have frontage anywhere else. Attorney Hacker said they are not building a road. Mr. Kocher said he didn't know where the frontage of the back property came from. There wasn't enough show. Mr. Turoscy said they saw on the zoning map

there was a road that ended at their property. They felt, okay, at some point and time, it was either abandoned or vacated by the township, so they didn't worry about it. It's north of I78 and parallels I78 on the north side of the I78 right-of-way but ends at their property line. Mr. Garges said the lane that shows up on the map is actually closed in by the right-of-way fence for I78. When I78 came through, it cut all these properties in half. PennDOT actually constructed that for Mr. Fahs to have access back to his property. Mr. Turoscy said if you look at the I78 right-of-way plan for that area, on the right-of-way, right next to their property, there's a road that goes back and it's gated. They didn't think that was for access because it was gated. Mr. Garges said Mr. Fahs had a key. His access is now transferred down, but he doesn't know the legality, if it's a legal access that PennDOT granted him a right-of-way or if its actual title to access back there. Mr. Turoscy said the right-of-way plan sheet listed required right-of-way for a service road. Mr. Garges said you should actually get the plans for the 33 interchange because that changed when the 33 interchange was built, and the embankment was brought out. There's a ramp that comes from 33 south on to 78. Mr. Turoscy still doesn't understand why they would be required to do anything. They are not building a road. What is the basis of the request? Mr. Kocher said the ordinance requires that roads be extended through to other developable properties. Attorney Hacker said we are not building a road, that's his whole point. Mr. Maxfield said if it has historical access though, that should make a difference. Attorney Hacker said that's right. There's no indication on record of an easement to this property. He just doesn't think it's any jurisdiction for the township to get involved in this matter. Mr. Maxfield said you certainly don't want to isolate a property. Attorney Hacker said he doesn't want to either, but if there's a give and take at some point, that's fine. Mr. Garges said you could research the driveway next to it and see if there's legal access and the township's issue in the future. If Mr. Fahs doesn't have legal access, and we have lot widths at minimum lot widths standards and someone has to take access, then you are losing a required minimum lot width. Mr. Turoscy said by what means? Mr. Garges said by someone else potentially taking land and access and reducing the required basis. Attorney Hacker said on what basis could they take a lot? They have no obligation. They are not trying to be un-neighborly. If Mr. Fahs has an issue, they'd be glad to talk to him. This is not a township issue at this point, unless you can point him to a section in the ordinance that makes it one. Mr. Kocher said they can look at that. The section that requires it is 145.45 and it looks like 3C, Stub streets shall be provided to undeveloped land to meet the planning and design criteria of this chapter. Attorney Hacker said a stub street off of a street that we're building. We're not building any streets. Mr. Kocher said it doesn't mean you don't have to build a street, that's the issue. Attorney Hacker said no, clearly the intent of that section, is if you're taking a street to the border, you'd have to stub it to your neighbor. Attorney Schneider said we are not going to interpret what the ordinance says tonight. We need to find out if there's an issue or not and then we'll take it from there. Attorney Hacker said he just asked the basis of what the basis would be. Attorney Schneider said they can have a conversation about that.

Mr. Turoscy said No. 4 is something they'll do. Attorney Hacker said again, we're looking for a section in the ordinance where this issue comes up? Mr. Kocher said it's a general comment that they get into sometime later as far as soil testing goes. Mr. Landis said it's going to result in soil testing.

Attorney Hacker said No. 5, we're proposing to follow a planned community, ownership regime here. Each lot would be a unit in the community and the open space shown on the plan would be a common element. Even though they are not under the cluster zoning ordinance which would deal with open space, they are going to have a similar arrangement. They are willing to put whatever covenants in there, within reason, to keep that as open space and preserved and keep people out of environmentally sensitive areas similar to the covenants you require when you have cluster zoning with open space. Mr. Landis said this is not cluster. What applies is what applies for single lots, doesn't it? Attorney Hacker said this is not cluster. It's not a buildable lot. Mr. Landis said he's talking about the other lots. Attorney Hacker said yes. What we have on Lots 1 and 2 is on lot

sewage systems and the rest are being served by a community system which will be located in the open space.

Mr. Turoscy said No. 5, it's just correcting parts of the plan and then both attorney's should work out requirements for maintenance, ownership, and public community system, and the open space areas that Attorney Hacker just spoke about. Attorney Hacker said your ordinance requires them to offer this community system to the seven lots. The township can make us or request us to give them to the authority. That's what the ordinance says, and he doesn't think the Authority wants it, but he doesn't want to presume to speak for them. This would be a common element in a planned community which is the answer to the ownership and the maintenance. Mr. Maxfield said we are going to need a lot of maintenance details on that. Mr. Kocher said your sewer ordinance does allow it. There are requirements they have to follow and he tried to list what those requirements are. He's not sure that the sewer ordinance prohibits that. Linc and Marci haven't dubbed into some of those things yet. Attorney Hacker said from a legal perspective, on our next go around, what would you like to see as far as the planned community regime? A declaration? Attorney Schneider said ultimately we will need to review a declaration. Ultimately, we'll have to talk about some issues that have come up historically in similar situations. For instance, the ongoing maintenance of the open space and who's going to have ownership over that? There will be conservation easement documents and they will all have to be cross referenced in the declaration. Ms. Stern Goldstein said in addition, the other thing, will be that the open space is not a building lot and that will have to be clearly stated that it's not a building lot as your site capacity calculations permit you to have nine dwelling units, which you are, so it needs to be clear. Attorney Hacker said they have no issue with that.

Attorney Hacker said No. 6. It's the same issue. Suitable access is raised here and there is a proposed access way between Lots 2 and 3. Mr. Turoscy said they had planned for a roadway for anyone who wants to get back there. He thought only people who would want to get back there would be people who would maintain or monitor the system or possibly if there was some kind of active recreation as we get through the recreation that was built somewhere on that site. They were only going to stone it. They didn't want easy access back there for the rest of the public. Mr. Maxfield said if covenants and easements go on to the open space, eventually that space will need to be monitored on a yearly basis, so you'll have to provide access for a monitoring agency or conservancy who holds the easement. Mr. Turoscy said it will be a graded stone road to get back to the property. Mr. Kocher said make sure it drains properly as we don't want it eroded. Mr. Turoscy said they would like to request a meeting with staff to go through items in here. Attorney Hacker said could he ask Mr. Maxfield a follow up on what he just said. They were proposing covenants that would be building on record. They were not looking to go to a conservancy. Mr. Maxfield said usually when the township is looking at open space, they prefer an easement over covenants as covenants can change, HOA's can change. They want to make sure that open space stays open space and the only way to do that is through a monitoring program which conservancies offer. Attorney Hacker said he's had experience with a conservancy where the financial request was more than outlandish. Mr. Maxfield said the expense at the township, the request for monitoring fees have been very reasonable and they can guide them to some conservancies.

Mr. Turoscy said No. 7, at the north portion of the site, there was an office trailer there for I78 or 33. They obviously put stone down for parking, so there's some gravel out there, but they will remove it and put topsoil and place notes on the plan in which that area will be put back into top soil. Attorney Hacker said he'd have an objection to the last sentence in No. 7 about the township should determine whether a plan note or covenant is necessary. If we have to sell these lots, we will put topsoil and whatever we need to have grass. Mr. Kocher said if you're going to take it and put topsoil on it, there's no need to do that. Mr. Hijazi said even if that material is behind the lots where you are building the houses, not in the open space area? Mr. Dave Sell said there is no ground in the open space area. It's close to Redington Road.

**Planning Commission Meeting
August 17, 2006**

Mr. Turoscy said No. 8, obviously they don't want to put a fence back in the open space. He didn't think there was any issue back there where you'd need a fence on this open space area. It's not hazardous. Mr. Kocher said the lots actually run to the top of the bank, so you, as a builder, are not planning on any fence or anything else like that back there. It was more of a question for them and to see if the township felt that was okay. Ms. Stern Goldstein said some portions of the site are very steep and she's concerned about the safety. It's not a township ordinance requirement, but just as a general concern, they'd like to think about safety to the residences once they leave their properties and are on the open space which is rather steep. Mr. Turoscy said they'll look at it again.

Mr. Turoscy said B1 is okay with them. B2, he doesn't know if they heard from the Fire Chief. Mr. Garges said they haven't gotten anything back from the Fire Chief. Attorney Hacker said he assumes they'll have comments on this item at the next meeting. Attorney Schneider said that's an item on the tank that also will ultimately, if required, show up again in the documents. Attorney Hacker asked where are the tanks required in your ordinance? Mr. Kocher said he doesn't think the tanks are required. They have been recommendations of the Fire Chief for safety reasons. Mr. Landis said let's see what the Fire Chief says first about this.

Attorney Hacker said No. 3 they are okay with. No. 4 there was a wetland study done. They will comply. No. 5 they are back at Fahs Lane again and he doesn't know if there's anything further to discuss at this point. As far as the title search, there's a very vague agreement with the township that says there's this private right-of-way that the township apparently owns that will be fenced off. He assumes that might have been taken by PennDOT. Mr. Kocher said he's not sure of it either and that's what he wanted to the attorney's to look at.

Attorney Hacker said No. 6, 7, 8, and 9 they have no issues with. There's a citation in No. 9, what is that in reference to? Mr. Kocher said that's the township code Chapter 130 that deals with sewer and the design standards for this community sewer system. It's a stand alone ordinance.

Mr. Turoscy said No. 9f, they have three sites that have been tested and passed and are all in ground. Being in ground means they don't need 3x the number of lots. Mr. Kocher said if they are indeed in ground, that's correct. Mr. Maxfield said he thought we weren't permitting in ground systems in carbonate anymore. Mr. Kocher said that's a good question. Mr. Maxfield said he doesn't think the SEO permitted an in ground carbonate for quite some time. Mr. Kocher said if you look a 9e, setback from carbonate features must be followed. We obviously need to see what those carbonate features are. He also didn't realize all three were in ground. They will have to look at that detail.

Mr. Turoscy said No. 10 and 11 they have no issues with. Mr. Turoscy said No. 12, they can't address as they haven't seen the plans yet.

Attorney Hacker said No. 13 is the improvement of Redington Road. Mr. Turoscy said they spoke to PennDOT and they are okay with their dual driveways. They indicated they didn't want to see any additional widening. PennDOT wouldn't do 14 feet as you have listed. They would do 12 feet plus an 8 foot shoulder for 20 feet. They don't want that maintenance issue out there. They are happy with the road now. They have to work that out now as to what they can do within what PennDOT would accept. That's why we need a meeting on that to go over that. They are proposing swale improvements so it's away from the roadway. They need to meet with the staff and see if the staff recommends any improvements to that road. If the staff is okay, it's a non-issue. If they think improvements are needed, then you will have to talk to PennDOT.

Attorney Hacker said No. 14 is an issue – classifying the open space is a lot. When you, in your cluster ordinance, deal with open space, you don't call it a lot and you don't require any road

**Planning Commission Meeting
August 17, 2006**

frontage, and that obviously is the issue. If you call it a lot, they have to provide road frontage and they can't do that. It's not a reasonable interpretation. Ms. Stern Goldstein said right now the way it's shown on the plans, it's shown as a separate lot. It's a parcel of land that is not one of the numbered ones. Her recommendation was you call it an open space parcel with no further development and note it on the plan, have conservations on it, etc., and document it that it's not a lot. We still need road frontage to access it. Even the open space required as a cluster, does have access requirements, minimum lot width along the road, so you still need to provide bon a fide access to the open space. Attorney Hacker said even if we're not putting recreation back there, he doesn't think there is any requirement for frontage in your ordinance. Ms. Stern Goldstein said you need to provide some access to it. Attorney Hacker said that's a legal issue whether or not that's a lot under your ordinance. The point is it's a regulation you'd have a very hard time supporting in front of a Judge. Mr. Turoscy said they can comply with that.

Mr. Turoscy said No. 15, they are okay with except he doesn't think they meet Lower Saucon Road, it's Redington.

Mr. Turoscy said No. 16, there are two pipes being discussed. He showed the Planning Commission where these pipes were and explained about the pipes. Mr. Kocher said the key to the pipes along the road is they want to make sure the water crossing Redington Road stays in whatever drainage system is either there. That deals with the pipes along the street. Regarding the one in the back, we need to try to figure out why it's there and then determine whether or not you can take it out. He doesn't know of any reason why they would have to keep it. It looks like a temporary construction issue.

Attorney Hacker said No. 17 is okay. No. 18 they will comply with. They would like to talk about the infiltration issue. They don't feel the soils here are subject to successful infiltration. Mr. Turoscy said that's why they didn't infiltrate. Some of the soils out there from the fill would come back so densely and you can't get systems. They wouldn't perk, but that's not to say you couldn't do it in the back, but you'd have to run long lines through there to infiltrate. Over the 32 acres, they have a couple of driveways and some homes. They are in a conditional no detention area. They thought if they took the storm water back to the creek in the east side, that between the township and LVPC Act 167, they could get a workable system. That remains to be seen. They thought they could do it without infiltration. Mr. Kocher said if we think ahead to the NPDES requirements, where they want you to infiltrate, one of the things, with a subdivision of this size without major road improvements, if you could get dry wells for the houses, that would satisfy the houses. If you can look at that and show us you can put dry wells in for the houses, then you met the intent of where the ordinance is now. Where the site is not appropriate, the ordinance does not make you infiltrate.

Attorney Hacker said No. 19 they will comply.

Attorney Hacker said No. 20 as far as the recreation. This is obviously a small subdivision and they are quite willing to pay the township fee. If the township is going to insist they do something on their site, they were looking for some feedback from the PC on that issue. Mr. Landis said it's more of a Council issue. Ms. Stern Goldstein said when you come in, you can talk to the Township Manager to find out if it should go in front of Council.

Mr. Maxfield said does the staff have any issues with No. 21 and the proposed recreation payment phased out through the owners? Ms. Stern Goldstein said she would hesitate to go with their suggested option of passing it on later. If it ends up of being a fee in lieu, she would prefer that to be done in the standard method which the township conducts business. The standard method as opposed to passing it on to future home owners when the lots are built. Mr. Maxfield said if one option was chosen, he wanted Council to know that was the method.

**Planning Commission Meeting
August 17, 2006**

Mr. Maxfield said No. 24, which acreage are we talking about? The 16.63 or the 12.63? Mr. Turoscy said it's 12.63.

Mr. LaBuda said you did that traffic study, how about when Redington Road is inaccessible – the time limit from getting from the firehouse to the properties. Did you do any type of study about taking an alternative route? How long it would take to get there? How do you provide water? Mr. Turoscy said they looked at the travel times for all the four fire companies going on roads other than Redington and they were all in the range from 9 to 15 minutes. They are waiting for the Fire Chief to comment on that also. Mr. LaBuda said you need to check into that one.

Mr. LaBuda said this community service type of thing, how would you get back to service that area? Would it be going into the open space? Mr. Turoscy said that would go into the open space. Mr. LaBuda said you talked about sand mounds. Attorney Hacker said if it was sand mounds, then there would be additional requirements. They don't have sand mounds. Mr. LaBuda said you did leave it up to the community sewer system to be left up to Council if they were to accept it which is a no-no. They would accept that – no way. He wouldn't pay for it as a taxpayer. Mr. Turoscy said they are going to keep it as HOA. Mr. LaBuda said you said PennDOT doesn't mind having all those driveways going out there. Usually when we pass a development, we want the least amount of driveways to go on a major road. What kind of road is this called? Mr. Turoscy said it's a local road.

Mr. Landis said on the shared driveway, is it a common driveway between the two right at the end? Mr. Turoscy said they have it shown that way, but PennDOT is requiring them. The driveways are close, but each guy has their own driveway.

Mr. Maxfield said the area that is shown as woodland and on the NW side of the site where that one leg of woods come down towards the road, usually those sort of things are left because there is something there. Is there anything in there? Mr. Turoscy said they tested in that area and there was nothing in that area. Some of this was changed in there with the grading. Mr. Maxfield said maybe it's an old remnant of a fence row or something.

MOTION BY: Mr. LaBuda moved to table.

SECOND BY: Mr. Maxfield

Mr. Landis asked if anyone in the audience had any questions or comments? No one raised their hand.

ROLL CALL: 5-0-2 (Mr. Kologie and Mr. Noble – Absent)

B. BRANDON KAZAN – KAZAN INFORMAL SKETCH PLAN – 4133 LOWER SAUCON ROAD

Mr. Brandon Kazan was present. He said he would like to get as much information as he can. He and his wife would like to subdivide 11 acres to build a home from a property from his parents. They'd like to maintain all of the property in family name as long as possible. They would like to build one home. The entire thing is 50 acres and they are chopping off 11 and the only reason they are doing that is they are under the Act 319 Farm Act, and in order to do that, you have to keep at least 10 plus acres not to break the covenant. They'd like to keep it all forest anyway. Mr. Maxfield said any plans for a subdivision? Mr. Kazan said no. The only reason they are doing this area is they were told they need 200 feet of road frontage. Mr. Landis said you are sort of carving the property out of the middle of the other property. Mr. Kazan said they want to build back off the road and be in the middle of the property because of all the development in the area. They'd like to be surrounded by woods. They also are by an existing lane and they wouldn't have to create a driveway opening and not clear out any woods. Mr. Maxfield said the problem is from a township

viewpoint, the remaining lot that would be left would be a non standard shape and size lot. Would that be a wavier or variance? Ms. Stern Goldstein said that would be a waiver.

Ms. Stern Goldstein said the whole lot is in Act 319. Mr. Kazan said it's in 515 presently and we were told that it's very easy through Northampton to move to 319, so they are in the process. Ms. Stern Goldstein said the portion of the lot that is surrounding the residence is not part of the acreage that's in the agricultural security anyway? Mr. Kazan said to their understanding right now, they say there is one acre, but it doesn't necessarily have to be the one acre around the house, it's just a said one acre. Ms. Stern Goldstein said that's what she understands, one acre, generally around the house. The concern she said is the same as Tom's – taking the piece out of the middle and creating a separate lot and everything else is sort of left over in a remnant. She'd love to find a way to tuck your little corner of the world adjacent to a property line so we're not creating more convoluted lots to deal with in the future.

Attorney Schneider said what he's trying to do is lay the lot up against the existing lane so he doesn't have to create a lengthy driveway. If you'd move his whole drawing to the left, you are going to wind up with him needing to construct an access driveway that's very lengthy. That's probably what the thinking was. Ms. Stern Goldstein said it doesn't have to be lengthy, she's thinking doing a lot up closer to the road. Mr. Kazan said it's cost effective using the old lane and also the fact it's less trees for him to take down. His parents will still own the existing. Mr. Maxfield said if we were going to oppose this configuration, maybe we could come to some kind of deal where if your parents were to agree that there is no further subdivision on that lot to create even funkier shaped lots. We've done that before. We'd be more favorable if we could get an agreement like that. Mr. Kazan said you would be perfectly fine with it, from a sketch perspective, if he shifted it over to the left and put it up against the edge? Ms. Stern Goldstein said she hasn't seen the site, so she doesn't know exactly. Mr. Maxfield said you'd still be leaving a strangely shaped lot. Mr. Landis said they could take the long section and just extend it to the road. Mr. Kazan said they would be near other properties and who knows who could build a home right up against the edge. Ms. Stern Goldstein said the area that would be the simplest to subdivide from the rest is the area where your parents house is. If that was the piece that was being subdivided off the main one, that would be simple, but that's not your intent. Mr. Kazan said they would love to pass it on to their children and so on. Mr. LaBuda said it would be a good idea to go into Mr. Garges and talk to him. Mr. Garges said he has spoken to Mr. Kazan and recommended he come to the PC to get some feedback. Mr. Landis said talk to Mr. Garges and talk to Staff, and hire an engineer.

Mr. Landis asked if there was anyone in the audience who wanted to speak? No one raised their hand.

C. **JACK MANDELBAUM – 2650 REDINGTON ROAD INFORMAL SKETCH PLAN – 2650 REDINGTON ROAD**

Brian Ritter, Jenna Engineering, was present representing Jack Mandelbaum. He said they were before the PC previously, and staff indicated there were natural features there, they'd like to see preserved, and they did look at the cluster ordinance and took that into consideration. Looking at the sketch plan, he said they put together a plan utilizing approximately half the property, the total property being about 70 acres. They are looking at 35 acres at this point in time. They are trying to get a consensus on how to preserve the land up at the top. The goal of clustering, you are supposed to keep all your open space together to one area as opposed to have pieces here and there. They looked at this portion as remaining open space and a small portion down at the bottom. At the EAC meeting, they wanted to know why they were doing that. Ms. Stern Goldstein said her recollection at the meeting was they didn't have enough open space to meet their requirement on the other side of the driveway easement. Therefore, they needed to have more. Her suggestion was

to look at what was in that area that would be contiguous to anything else. Whenever there is something remote from the larger chunk of open space, she'd like it to be contiguous to other open space in the area, but unfortunately, that one looks like it isn't going to be contiguous to anything, in which case they'd like to have a real program for that open space. Mr. Ritter said they do have the two separate areas, one being very large up towards I78 and then take the development and keep the part down where it is open filled area. Part of the discussion with Staff was what they are doing here is there an existing farm lane and they are not intending to violate that farm lane. They will leave it there and give them an easement through the property. The staff had commented about relative to the ordinance where it says when you have property adjacent to you which is developable to put stub streets through it. It was discussed at the EAC and after that, came back with an alternative to that which is they would probably look at providing the stubs ways or just give them to the other property owner. That way if they chose to do development, it can occur because they would have access tying into existing streets to do it. You don't have to worry about the 21 year rule. Mr. Maxfield said the thinking was there was no intention stated to develop the abutting property, so why suggest it. Ms. Stern Goldstein said it's a good idea. The only thing she would caution is to set the lots up that would be adjacent to those as if they were front yards so they'd have plenty of room. She'd rather not see roadways built that are not needed. Mr. Ritter said there are a lot of unanswered questions at this time. They are trying to get a consensus, is this the way the township would prefer us to go? They would go in front of Council to talk about recreation issues, open space, etc.

Mr. Maxfield asked if they got any feedback from the geological study? Mr. Ritter said nothing at this point. The Phase I environmental study says it's underlain by limestone geology, so that's there. He did speak to that geologist, and he walked the site. He didn't have any concerns at this point, but obviously when we get into the geology study, that's when we'll be ready for that work and will be taking a look in much more detail.

Mr. Maxfield said one thing stated at the EAC meeting with Mr. Mandelbaum was that what would happen probably in the sharp and acute corner would be that storm water facilities would end up going down that way. Knowing that area and having been down there when there are storms, we need to have some intense protection as it really rips down there. Mr. Ritter said he needs to go out there and stand in the rain and see what happens.

Mr. Maxfield said from the road there are mounds. Chris checked into it and they were put in by Natural Resource Conservation Service (NRCS). There must have been some type of storm water control at one point. Mr. Ritter will have to talk to them. Mr. Ritter said discussion at the EAC was to preserve the natural fence line and the vegetation if all possible and that will all be taken care of.

Mr. Bruce Petrie, neighbor, was present. He said they own the 144 acres. His wife is an equestrian and they have a sizeable horse farm. He came in and spoke to Chris a couple of weeks ago. It might not be required by the ordinance, but they have approximately 28 horses and in the summertime you can image the amount of water that they use. Their concern is with the number of lots going in on the other side of Redington Road plus these, are we going to run out of water? When I78 was built up, their well ran dry and there was only one person living there, now there's his wife 2 daughters and 28 horses. Mr. Hijazi asked how deep was his well? He said from 250 to 300 feet. He'd like to see a volume measure done. What do they do if their well runs dry? Their house was built in 1774 and is in the LST Historical Book that just came out. It's got a cemetery on the property in German. He has pictures of when they first purchased the property and how it looks now. They put a lot of blood, sweat, tears and money into this property. He had to sue to get his driveway under the private condemnation statute and it cost him \$5,000. He found it a couple of months later on map dated 1860. He felt like he threw that money away. You can see their driveway in that map from 1860. He's waiting for Jack Mandelbaum to call him about the

driveway. With the NW winds, it requires very little snow to cause snow drifts. The big issue is they own all this land but their house is in the corner. Lots 22 and 23 are like right next door. Lots 1 and 21 are the next two. When they bought the place, it was a dump. They spent a lot of money and time to clean the place up. They take pride in their residence now. He's pleading and begging the PC to consider this, as it's such an historical area, letting the developer move two or four lots up to Helms Road. Helms Road used to be a public road. There's a stop sign at the end of the driveway. At one point, before I 78, it went all the way through. He took some measurements, and there's plenty of open land, not wooded, for open space and he wanted to talk to Jack about purchasing about 300 feet north of his driveway and 280 feet south which would bring it 25 feet past his cemetery, with intent not to develop. What that does, from a selfish standpoint, they will have privacy. All he's asking for is his own open space.

Mr. LaBuda said you're talking about buying the four pieces of property, would that solve your water problem? How does that fix your water problem? Mr. Petrie said he doesn't think it does. You need the volume test. He's not saying get rid of those four lots, all he's saying is move them to Helms Road. He still might have the same water problem. Mr. LaBuda said if they would comply with everything in the book, all the zoning, all the codes, and that, would you be for this development or not for the development? Mr. Petrie said no.

Attorney Schneider said the issue is from the developer's point of view, he has an interest in selling as many lots as they are permitted to sell that is acceptable to the township. What you are suggesting is you should be entitled to take those lots at some sort of a reduced rate and have it be considered as part of the open space and she doesn't think the two can live together. If you're going to buy them as building lots, that you aren't going to build on, that might be something that's possible. Mr. Petrie said it's highly unlikely with their bank account. There is also a tree line where they have trees stands, and obviously, if that development goes in, they won't be able to hunt on their own property.

Mr. Maxfield said the only thing he can say about your original proposal was that would be alleviated somehow if you did not buy to the left of your driveway and it would be the open space requirement of the development. Ms. Stern Goldstein said the plans they saw before didn't quite meet the open space just by going from the driveway over to the left. Mr. Maxfield said the developer would probably lean in that direction more if that was helping to meet his open space requirement. Mr. LaBuda said is this more legal than it is for the PC? What does it have to do with us? Ms. Stern Goldstein said the concept of him buying parcels from somebody else is between them. The part that deals with Planning is when we are talking about the development and where lots and open space will be and this is the proper place to discuss that. Mr. LaBuda said he does have a beautiful piece of property, but we keep talking about the same thing which we can't resolve. It has to be between him and the developer, so we should move on. Ms. Stern Goldstein said from a basic planning perspective, you would be inclined to think it would be nice to have open space adjacent to his property also. The message she thinks she is hearing is if the developer, could at all, work around the request, it would be something nice to pursue. Mr. Garges said what Mr. Petrie is asking the Planning Commission to do is would they support breaking up the open space and having 22 lots down on one side and 4 on the other side or having a traditional cluster with all the lots on one side and all the open space contiguous? Ms. Stern Goldstein said since they didn't meet their open space yet, maybe by adding the area that Mr. Petrie is thinking of purchasing to what their required open space would be, that might make it in one big chunk and we're not putting four lots somewhere else. Of course, she's not the developer. Mr. Maxfield said we have 22 and 26 lots anyway on two different plans up there. Ms. Stern Goldstein said in concept, there is potential. In an ideal world, the land that Mr. Petrie is thinking of purchasing would be part of the open space of this development with conservation easements, and covenants wrapped into it. That's not for the PC to tell the developer. That's something the developer needs to work out with Mr. Petrie.

Attorney Schneider said the event the open space does not require that those lots go away, so they are entitled to four more lots. Is it correct to say that generally there would be an inclination to keep the whole development together or that's not necessarily so? What is the planning notion with regard to breaking the four off? Ms. Stern Goldstein said the general planning concept stated in the cluster ordinance is that the open space be one large contiguous parcel. Mr. Landis said we'd rather see the open space be extended into the four lots and not have the other four somewhere else. The best thing he could see if the development be kept at one location and not have those four lots at all. Ms. Stern Goldstein said if the developer feels they are entitled to those lots, the question is how much does the PC sympathize with the open space next to Mr. Petrie's house and how would you feel about four lots being separated from the rest of the parcel? Attorney Schneider said that's what the question really is - if those four lots are allowed to exist? Ms. Stern Goldstein said they do not yet meet their open space going from the driveway over, so they need more open space anyway.

Mr. Maxfield said he didn't realize that Helms Road and is a public road. It's already a cut in for that area.

Mr. Petrie said if you were to allow four houses near Helms Road, it is a contiguous open space, so you're not breaking up the open space. Ms. Stern Goldstein said they have an isolated piece of open space on the other end of the development. She'd rather see them take the equivalent area of that and put that next to his property so there's one big chunk. We're not talking about putting four more lots separately. We're talking about utilizing the land differently.

Mr. Landis said he thinks the PC direction is to keep it all in one area and try to not have any lots right by the location. Ms. Szakmeister said the other two issues are the water. The quantity of it when there's a drought with 28 possible more users. Last month there were people here and she was really looking for them this month. Ms. Tina Hahn, resident, lives on Riverside Drive, on the other side. Their well is at 120 feet. They are probably on the same aquifer. Mr. Kocher said the way the subdivision ordinance reads right now is that anything more than nine lots you have to do a water quality test for on lot water. If it's over 50, they have to do a volume test. Right now the township ordinance does not provide for a test with 27 lots. Ms. Hahn said then we could just technically go dry. How are the school buses going to handle all those houses?

Mr. Landis said you have to realize the property owners have rights also. The PC would like to see cluster development. Mr. Hijazi said you have to keep the traffic in mind, with two developments going in there.

Mr. Ritter said they will get in touch with Mr. Petrie.

IV. MISCELLANEOUS BUSINESS ITEMS

A. APPROVAL OF MINUTES – JULY 20, 2006

MOTION BY: Mr. Maxfield moved for approval of the July 20, 2006 minutes.

SECOND BY: Mr. LaBuda

Mr. Landis asked if anyone in the audience had any questions or comments? No one raised their hand.

ROLL CALL: 5-0-2 (Mr. Kologie and Mr. Noble – Absent)

**Planning Commission Meeting
August 17, 2006**

V. PUBLIC COMMENT/CITIZEN NON-AGENDA ITEMS

VI. ADJOURNMENT

MOTION BY: Mr. Maxfield moved to adjourn. The time was 9:10 PM.

SECOND BY: Ms. Szakmeister

Mr. Landis asked if anyone in the audience had any questions or comments? No one raised their hand.

ROLL CALL: 5-0-2 (Mr. Kologie and Mr. Noble – Absent)

Submitted by:

Mr. John Landis, Chair