

**MINUTES OF THE  
LAKE COUNTY PLANNING COMMISSION  
December 18, 2007**

The Lake County Planning Commission hereby finds and determines that all formal actions were taken in an open meeting of this Planning Commission and that all the deliberations of the Planning Commission and its committees, if any, which resulted in formal actions, were taken in meetings open to the public in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

Chairman Brotzman called the meeting to order at 7:05 p.m.

**ROLL CALL**

The following members were present: Messrs. Adams, Aveni (alt. for Aufuldish), Brotzman, Klco (alt. for Troy), Morse, Schaedlich, Sines, Zondag, and Messes. Hausch and Pesec. Staff present: Messrs. Webster, Radachy, and Ms. Truesdell.

**MINUTES**

Mr. Schaedlich moved and Mr. Zondag seconded the motion to approve the minutes of November 28, 2007 as submitted.

All voted "Aye".

**FINANCIAL REPORT**

Mr. Schaedlich moved to approve the November, 2007 Financial Report as submitted and Mr. Klco seconded the motion.

All voted "Aye".

**Blanket Approval for Staff Benefit Charges**

Mr. Webster explained the expenses for employee benefits are over the \$1,000.00 limit per month set by the by-laws and needs to be approved once a month. He asked that a blanket approval for the expense of employee benefits be granted for 2008 as it has in the past.

Mr. Schaedlich moved and Mr. Adams seconded the motion to authorize the director to approve the expense of employee benefits for each month of 2008 without coming to the Planning Commission.

All voted "Aye".

**PUBLIC COMMENT**

There was no public comment.

**LEGAL REPORT**

Ms. Patricia Nocero, Assistant Prosecutor, said there were no legal issues to report.

## DIRECTOR'S REPORT

Mr. Webster said that Madison Township and North Perry Village committees are reviewing the final drafts of their comprehensive plans. In fulfillment of the contract, Madison Village remitted \$5,000.00 for their comprehensive plan.

## ANNOUNCEMENTS

There were no announcements.

## SUBDIVISION REVIEW

### Concord Township - Nature Preserve South, Resubmitted Final Plat, 42 Lots

Nature Preserve South Resubmitted Final Plat was tabled at last month's meeting. Mr. Morse moved and Mr. Aveni seconded the motion to take it off the table.

All voted "Aye".

Mr. Radachy said that staff met with legal counsel, Soil and Water Conservation District, and the developer. He said that legal counsel cited a 1995 Ohio Attorney General Opinion 2-197, Section VI, Number 7 stating that:

*A county planning commission does not have the authority to require a developer to present proof of a National Pollutant Discharge Elimination System permit, issued pursuant to Ohio Admin. Code Chapter 3745-33 or 3745-38, as a condition precedent to the approval of a plat of a residential subdivision.*

Counsel further stated that a planning commission cannot require a developer to go back to the Corps of Engineer and request them to verify that a wetland is gone before the restricted areas of the plat are removed. Eye-Will Development is the developer and Barrington Consulting Group, Inc. is the engineer. They were removing the restricted area in subplot 1 and subplot 5. They were also adjusting the stormwater easement on sublots 6 and 7. Last month we required that they go back to the Corps to verify they can remove the wetland restricted areas off the plat. However, the Attorney General's Opinion forbids us from asking that.

We are still requiring that they turn in a replat. The stormwater easement of Stipulations 6 and 7 must remain the same. All the other stipulations are now comments. Soil and Water stated that the wetlands were delineated at Nature Preserve South and continue to exist. Filling activities requiring permitting from the US Army Corps of Engineers will be verified by other county departments during the individual site review process as the sublots in question are developed. Staff recommended approval with 2 stipulations and 10 comments.

### Proposed Resubmitted Final Plat Stipulations:

1. This is a replat of sublots 5, 6, 7, 39 and 40, not a plat of correction. All appropriate approvals must be obtained prior to filing of this change in plat. *Article VI Section 6*
  - a. Modifications to plat may require the re-filing of the plat. *L.C. Engineer*

2. The storm water easement on sublots 6 and 7 shall not be moved. *Article IV Section 3(C)*
  - a. Additionally, the revised final plat submitted with this packet to the Lake County Planning Commission shows a change to the 20-ft. storm water easement between sublots #6 and #7. The original recorded final plat shows the 20-ft storm water easement following the existing wetland contained within the easement. If the developer is proposing to change the boundaries of the 20-ft. storm water easement in order to fill or re-direct the seepage that is creating the wetland at this location, this would also be included as fill activity at the site. This filling activity would be added to the total allowable fill for the site as well. *LCSWCD*
  - b. Barrington Consulting Group, Inc. requested the District to review this issue and on May 30, 2007 a site visit was conducted with Mr. Mark Gronceski, Biologist with the USACE – Orwell Field Office in which this area was confirmed as wetlands. Any relocation of the drainage or filling of the area may require additional permitting. *LCSWCD*

Proposed Resubmitted Final Plat Comments:

1. Has the Army Corps of Engineers been involved in the review of these areas? *Concord Twp.*
2. What is the purpose for changing the location of the stormwater easement between sublots 6 & 7? *Concord Twp.*
3. The Township would like to see further justification for the changes being made on Sublots 5, 6 & 7. *Concord Twp.*
4. Remove stormwater easement between S/L 6 & S/L 7, and on S/L 1. This stream is not on the regional map for the Lake County Stormwater Dept. The easement should be designated as a local riparian easement. *L.C. Stormwater Dept.*
5. The proper authority must confirm wetland identification. *L.C. Engineer*
6. Verification from the permitting agency, US Army Corps of Engineers – Buffalo District, should be provided to the County documenting approved additional wetland fill activity for Nature Preserve South Subdivision. *LCSWCD*
7. A field visit to the site on November 21, 2007 indicates that portions of Wetland ‘C’ on subplot #40 and possibly subplot #39 were filled during the construction of Rainbow Drive and the accompanying utility easement. The developer had proposed to fill 0.01 acres of wetland on subplot #40 as part of the approved USACE Nationwide Permit (NWP)#39. The actual fill amounts to Wetland ‘C’ should be verified by the developer through correspondence with the USACE. *LCSWCD*

8. Wetland 'D' on subplot #5 remains undisturbed. The developer had proposed to fill 0.02 acres of Wetland 'D' as part of the approved NWP #39. The total acreage for Wetland 'D' is 0.04 acres. *LCSWCD*
9. Wetland 'A' is contained within sublots #24 & #25. Both sublots #24 and #25 now contain constructed homes which appear to have encroached into Wetland 'A' beyond the permitted acreage to be filled as there is no clear flagging, fencing or markings to visibly indicate the boundary of permitted fill for each subplot. Sublot #24 is listed as having a 0.01 acre fill and subplot #25 is listed as having a 0.05 acre fill for construction of the home footprints. The actual fill amounts to Wetland 'A' should be verified by the developer through correspondence with the USACE. *LCSWCD* If the fill activity at the site is added to the proposed fill of Wetland 'A' and Wetland 'C' and exceeds 0.10 acres of impact, a modification to the previously issued NWP #39 may be required by the USACE as the original NWP #39 permit issued by the USACE only allowed for up to 0.10 acres of fill for the entire subdivision project. *LCSWCD*
10. Additional information, such as an as-built determination of the existing wetland fills should be provided in order to determine if the final plat can indeed be revised. *LCSWCD*

Mr. Zondag said that since we have no jurisdiction on wetlands, we should comment that a site that was wet will be wet in the future. Filling the site does not necessarily eliminate wetlands, it just covers the surface and the site will become wet again.

Ms. Pesec concurred that there were concerns and the law states that the burden is bumped down to the developer, the building inspector, and builder as opposed to having the site reviewed as a whole. Although the site can be a non-buildable site, we have to approve it.

Terrence Gerson, Service Director for Concord Township, said he presumed that the delineation of the wetlands that were on the original plat and were based on a study that indicated wetlands were in those areas and that is why they were set aside by way of an easement. The issue is not whether we have the authority to require the Corps of Engineers readings, the issue is those areas have been identified and set aside by way of an easement and the developer recognized that the Planning Commission did not have authority to ask that the wetlands be delineated, or the authority to re-review. The developer is taking advantage of the fact.

Mr. Aveni said that the developer was informing the board of the results of the second study with findings indicating that there was a reduction in the amount of wetlands. Based on further delineation, with the road being put in and drainage, the small area that previously fit within the definition of wetlands no longer fits within the definition of wetlands. As the result of this, they would like to change their easement to reflect that this particular area no longer needs to be reserved as a wetland. Our question as a Planning Commission became to see if the developer can go back to the Corps of Engineers and verify the results of that delineation. Because of the limited amount of wetlands from the original delineation, what they received is

known as a “No Jurisdiction Letter.” The question became, if the Corps determined that there was no jurisdiction, how can we ask the developer to get a second confirmation that there was no jurisdiction based on delineation that shows less wetlands than there was before. The Corps did not require them to preserve the wetlands to begin with. The Corps only required them to not disturb more than one-tenth of an acre. They showed on their map that there would not be a destruction of those areas preserved. The further delineation showed that part of those areas were no longer wetlands.

Mr. Gerson said he has seen wetlands reviewed by two different wetlands experts and come up with two different answers. If those areas were originally designated as wetlands, the activity of the subdivider has changed so that now they are no longer wetlands.

Mr. Aveni said with the No Jurisdiction Letter there is a recognition that you can destroy a certain amount of wetlands.

Mr. Radachy said there were no preservation easements on this property. These are restricted areas adjacent to homeowners.

Mr. Brotzman asked if during the early development of this property, there were some lots built upon by a homeowner that had filled wetlands and were we concerned that some of this filling that was not authorized to be done should not be counted toward the total allowed for this subdivision.

Mr. Radachy said it was not something we could discuss as part of this subdivision because it was prior and we do not have jurisdiction to say whether they can keep the restricted areas on the plat or take them off.

Mr. Webster said, in sublots 24 and 25, if they have actually ingressed into areas that were supposed to be protected, then it is up to other agencies to go to the Corps. There are other means of addressing their properties. We cannot go back and correct the plat unless it is resubdivided. We do have jurisdiction over the change on the easement between sublots 6 and 7. That is an easement of record and the Commissioners’ would have to approve that change. To move that easement is inappropriate and the developer agreed. After meeting with Mr. Ludwig, he understood that the one wetland at sublots 39 and 40 was actually overland fed and putting the road in cut off the overland flow. Whether or not the developer is over the amount he is allowed to fill is determined by the Corps and is not our jurisdiction. Based on that fact and the fact that the two areas no longer function as wetlands, what is there to protect?

Mr. Matt Scharver of the Soil and Water Conservation District said that the wetlands were delineated and were jurisdictional to the Corps. They were underneath the threshold and were verified by Nationwide Permit Number 26 and they are existing. The Clean Water Act has changed and the Nationwides were reissued and the new style impacts today. After a discussion with Larry Ludwig, a consultant from Chagrin Valley Engineering, they determined that the developer did the right thing by avoiding impacts to begin with so he did not need a permit. He still was underneath the threshold even if he impacts subplot 40. The subsequent lots, sublots 5, 6,

and 7, if those impacts occur they will be dealt with on an individual subplot owner basis. The site review process by the County Engineer and his office should catch that.

Mr. Schaedlich moved to approve Nature Preserve South Subdivision, Resubmitted Final Plat, with 42 Lots in Concord Township with 2 stipulations and 10 comments. Ms. Hausch seconded the motion.

All voted "Aye".

Mr. Radachy moved on to the next topic and discussed the surety process because the next two subdivisions have surety questions. A flow chart was distributed explaining this process.

Concord Township - Mountainside Farms, Phase 2, Release of Construction Surety without Placing the Subdivision in Two Year Maintenance Period

Mr. Radachy said that Mountainside Farms Phase 2 is located with Pinecrest Road to the south, Viewmount Road to the east and Morley Road to the west. Properties Development is the developer and Gutoskey is the engineer. They are requesting that the two-year maintenance period be waived. The plat was approved in 2001 so it is a two-year maintenance period as opposed to a three-year maintenance period. Phase 2 contains 33 sublots on 22 acres. The Final Plat was approved by the Planning Commission on August 26, 2003. Improvement Plans were accepted by the Commissioners in 2004. They built a road and filed a construction surety in 2005. The last release was July 7, 2005. They have not asked for any release on the construction surety since 2005.

Phase 1 of Mountainside Farms is in a similar situation with a construction surety accepted on December 19, 2002. In January, 2005, we accepted a one-year maintenance bond on this property.

Mr. Joe Gutoskey said that the developer did everything that he was required to do. He understood that the County Engineer asked the Commissioners to put the road under maintenance and the developers had seeding to complete with the Commissioners for \$166,000 for the maintenance that was completed since the plat was filed in July of 2005. The road was designed according to the county's specifications and the County Engineer inspected it. Initially, there was a punch list presented to the developer and all those items were completed. This past summer they asked for an inspection again to take it out of maintenance. All those punch list items were completed to the satisfaction of the County Engineer. We are asking to waive the maintenance period since we thought it was in maintenance for the last two years. It was never recommended by the County Engineer to put it into maintenance.

Mr. Gills was unable to attend this meeting as was Mr. Hadden who sent an email in which he said that the County Engineer wished to adhere to a two-year process and not waive the maintenance period.

Mr. Sines said here is a developer who went through the process and notified the Engineer. It was important for someone from the Engineer's office to attend this meeting. In effect, it could be in maintenance for five years.

Mr. Paul Malchesky, Concord Township Trustee, said there was a deposit for \$166,000.

Mr. Brotzman asked if Mr. Hadden or the Engineer's office has any reason why this oversight occurred.

Mr. Radachy said usually we advise the developer to request the Engineer to put it into maintenance.

Mr. Malchesky said the problem that the Township has is that once everything is approved they have a road to maintain and it costs a considerable amount of money to make those repairs. They have worked with the County Engineer and the Planning Commission to beef up their standards placing no blame on anyone. They have concerns with the second phase and how that road will hold up. They understand maintenance bonds and security bonds are not significant enough.

Mr. Sines said that although they say they are not putting the blame on anyone, they are putting the blame on the developer by putting him in a situation by tying up his money longer. The developer, by the Engineer's admission, went through the process of putting the road in the correct way. He did things to the standards of the Engineer. Now you are coming back to the developer; you are putting the onus on the developer and penalizing him.

Mr. Malchesky said that in a sense that is correct.

Mr. Sines said if the rules are not up to par, then the rules need to be changed. But, is it your belief they did anything wrong?

Mr. Malchesky said, no, that was not his belief. He did not find true findings of those things.

Mr. Gerson showed a photograph of a pavement that has had a repair. Not only has the pavement failed but the repair of the pavement has failed. He was asked if the borings have been done and he said he only has the authority to go into Phase 1. He thought it was subgrade failure. They are going to drill it to determine what has happened.

Mr. Radachy said the maintenance bond for Phase 1 was accepted in January 2005. He was not sure if the Commissioners had done a formal release on the project. It was a one-year maintenance bond and should have been released in January of 2006. But there have been some issues with maintenance bonds not being released on time. The County Engineer's policy in the past has been to have the developer respond to the punch lists.

Mr. Zondag said we are at the position where the County Engineer has not released the maintenance bond on Phase 1. Are we waiting for a letter from the County Engineer?

Mr. Gerson said they are recommending that the two-year maintenance bond be kept in place for Phase II. The applicant is asking that it be waived.

Mr. Radachy said the County Engineer has not stated that it has been built according to standards or that it can go into maintenance.

Mr. Zondag asked if this is a discussion we should be having without having that letter?

Mr. Aveni said that ties back to the original issue that the developer thought the inspection was done so that the Engineer could have written a letter putting it into maintenance and it never happened. The question is, do we have the authority to waive this requirement?

Mr. Zondag said with out having the Engineer here, we cannot solve this problem.

Mr. Radachy said the last punch list was dated September 6, 2007 and he read the letter. He did not know if the items were taken care of or if there was a final inspection.

Mr. Sines said it is wrong to make the developer wait another two years to get their money back without justification.

Mr. Gerson said Phase 1 was dealt with in the same way they want Phase 2 to be taken care of. They wanted an early release on Phase 1. There was a punch list prepared and you saw a picture of the repairs as a result of that punch list. One year later, we have a failure of the failure. His opinion is that there is a subgrade failure and this opinion is shared with the Flexible Pavements of Ohio group who have looked at it as well. They will be drilling holes. But by not allowing the full time of this review to go forward, they are depriving the opportunity to call attention to these failures. In Phase 1, the same failures occurred that you are seeing in Phase 2.

Mr. Aveni asked Mr. Gerson if it was his opinion that the problems with Phase 1 were a result of a subgrade failure?

Mr. Gerson said yes.

Mr. Aveni said if that would not suggest to them that there was a problem with the inspections at the time?

Mr. Gerson said that may well have been.

Mr. Aveni said we are going back to the same issue which is there is only so much the developer can control.

Mr. Gerson said he was not sure they have met the County's standards by making the inspector in charge of the poor workmanship of the contractors is like blaming the police if the bank gets robbed. The contractor still has the responsibility for meeting the specifications, whether he is being inspected or not. To blame the inspector for the failure of the contractor is putting the cart before the horse. The problem is a failure of inspection, a failure of standard, or

a failure of construction. That failure is related to time and we have demonstrated that by the failure of Phase 1, we are not handling it properly.

Mr. Adams said he thought that in Phase 1 everything had been taken care of, its just that an Engineer's release had not been given.

Mr. Radachy said we accepted a construction surety in 2002 and 2 years and a month later we put it into a one-year maintenance bond.

Mr. Adams said that under normal circumstances Phase 2 is not at a point where chronologically there should have been a release.

Mr. Radachy said for some reason the developer did not ask for final inspection and the Engineer did not issue the letter. The developer maintains that they got a punch list in July of 2005 and they completed that punch list. He was not sure if that punch list was the result of a request for final inspection.

Mr. Brotzman said it may be a dangerous assumption to make that he requested and received approval then we automatically move into request for maintenance.

Mr. Sines said if they did a final inspection of the punch list, then the Engineer is saying that it was done right. At that point, they are done, and now it goes into maintenance. He was not sure what we were saying as a Planning Commission. He understood the request but do we have the authority to do it?

Mr. Webster said that the staff will not trigger any request for final approval to go into maintenance until we receive a letter of recommendation from the County Engineer and the Utilities Department. When we get these letters, we inform the developer that we need the maintenance surety and how much we need. There is other paperwork that goes to the Prosecutor's office. None of this has taken place on this subdivision or the next one. The developer as well as the Planning Commission would have received a letter from the County Engineer.

Mr. Radachy said Crossroads at Summerwood Subdivision Phase 1 does have a letter from the County Engineer.

Mr. Sines said regardless of whether the letter was sent or not, should they be penalized for not doing it?

Mr. Gutoskey said the Township has been maintaining Phase 2. He defended the stability of the pavement saying how difficult it was to set the pins for the road because of the hardness of the ground.

Ralph Harrison of Hallmark Excavating said that before anything was built on Phase 2, there was a complete punch list on that job otherwise no sanitary sewer connections would have been issued. The waterlines were approved and set to grade. Everything on the road was punch

listed and the walk-by said everything was all right. When they were all finished, they thought it was under maintenance. Two years later, they get a punch list from Concord and the County Engineer. They have been plowing and maintaining the roads. People are living there. If it was never punched out, there would never be any permits issued. Last Fall they completed two punch lists for Mr. Gerson and the County Engineer. They assumed that it was accepted. They did not ask for the bond because it had been done two and one-half to three years. If the County Engineer's office fails to send a letter out, he did not think they should be held responsible.

Mr. Radachy explained that when a property goes into maintenance, the plat is recorded after that. It is still in maintenance and the township owns the road. Two years after it has been put into maintenance the County Engineer will re-inspect it and may issue a second punch list. There are two inspections. The process the County Engineer went through in 2005 and 2007 is standard for our subdivisions.

Mr. Aveni asked if he was saying that the County Engineer acted as if it were in maintenance?

Mr. Zondag asked if the next step would be to request the County Engineer have someone here to reply at the next meeting?

Mr. Webster explained that there are two different maintenance sureties and two different construction sureties. We have to look at both the County Engineer's portion and the Utilities portion.

Mr. Brotzman determined that this would require being tabled.

Mr. Zondag asked if the construction surety has been released by the Commissioners.

Mr. Radachy said they posted a combined construction surety in February, 2005. Utilities has released their portion of the surety and it is in maintenance.

Mr. Sines asked Mr. Gerson about his authority to do borings.

Mr. Radachy said Phase 2 is recorded and owned by the Township. Phase 3 is not recorded and is not owned by the Township.

Mr. Sines said so Mr. Gerson does have the authority.

Mr. Webster said it has been dedicated but not accepted. It is not accepted until after the maintenance surety is accepted.

Ms. Nocero said this is not a legal issue. We have the authority to do this if we want to; we can wait and talk to the Engineer and table it.

Mr. Adams suggested we determine what the Mountainside Farms, Phase 2, Release of Construction Surety status is with the Commissioners. He moved that this be tabled until the January meeting with the stipulation that the Engineer provide information by the January meeting as well. Ms. Hausch seconded the motion.

All voted "Aye".

Mr. Brotzman said the motion is passed and we will resume discussion in January.

Concord Township - Crossroads at Summerwood, Phase 1, Reducing Maintenance Period from Three Years to Two Years

Mr. Radachy said Crossroads at Summerwood, Phase 1 is west of Concord-Hambden Road and north of Winchell Road. It will eventually connect into Stanford Springs. Phase 1 is an extension of Forest Valley Drive. 20<sup>th</sup> Century is the agent for Tom Reibe Trust. They are asking for one year of the original three year period to be waived. The preliminary plan was approved in March of 2005. The final plat was approved on June 28 of 2005. Improvements were accepted in February of 2006. The surety was accepted in 2006. The plat was accepted by the Commission in October of 2006 and recorded on November 1, 2006. The County Engineer authorized release of the construction surety and acceptance of a maintenance bond of \$60,000.00. The County is currently holding \$180,000.00 in construction surety in the form of a letter of credit from a bank. The County Engineer recommended that this property go into maintenance on November 21, 2006. The developer did not supply the bonds at that time because they could not give us a bond. Now that a year has past they have asked us to release it then at two years. Staff was concerned that the construction surety for utilities was still in effect and, generally, we do not put a road into maintenance until utilities are also in maintenance. Staff stated that they believe Utilities recommended it go into maintenance in March of 2007, but they did not have an official date.

Mr. Radachy said bonds do not take effect until they are accepted by the Commissioners. He had a fax from the developer from December 5, 2006, discussing how to get this into maintenance. That is why he believes that Utilities recommended it to go into maintenance.

Chris Mulchen with 20<sup>th</sup> Century Construction said he had the letter from November 21, 2006, saying it was accepted by the Engineer. He had a letter from February 5, 2007 from Mr. Saari's office saying sanitary sewers and water lines for Crossroads at Summerwood were installed and have been inspected and approved. They require their subcontractors to bond their work. One of their subcontractors was unable to get a three-year bond after this point. They can take their surety and place it in lieu of the subcontractor's bond. They are asking that it be accepted that the one year be counted toward the three-year period. There was no punch list for the roadway because it was perfect. He knew going into the project there was a three-year maintenance bond.

Mr. Zondag said that the Engineer and water people were done on February 5, 2007. He asked what has happened between February and now that they have not brought the surety bond forward to start the maintenance period. The subcontractor could not get bonding?

Mr. Mulchen said yes. This is a loan with the bank they are paying interest on and they will be committed for more time. They are trying to work with the contractor. They want to get it into maintenance and since there is nothing wrong with this phase for one year, cannot we accept this as one year towards the three-year maintenance. It has been bonded the whole time.

Mr. Zondag confirmed that Mr. Mulchen and the subcontractors knew there was a three-year maintenance.

Mr. Mulchen said yes.

Mr. Radachy said most of the time the subcontractors have been posting the maintenance bond for the developers.

Mr. Sines said it is very difficult and expensive for contractors to get three-year maintenance bonds.

Mr. Brotzman said this project was bonded with a construction surety a year longer than it needed to be. Are you are asking that the extra year of construction be counted as the first year of maintenance?

Mr. Mulchen said yes.

Mr. Webster said we require ten percent over and above the construction surety in the beginning because some developers were taking up to six years to finish the maintenance sureties. We are holding 20% of the money.

Mr. Zondag confirmed that he still had \$188,424.82 in surety. He only needs \$60,688.80 in maintenance. He asked why he left the other \$120,000.00 in?

Mr. Mulchen said it had not been released yet.

Mr. Zondag said the County Engineer has not released \$188,424.82 because . . . ?

Mr. Mulchen said it could be because the scope of the project has changed or the Engineer's estimate was inflated. He could only release what he can verify through inspection. There's a surplus that will be released and the 10% surplus will remain.

Mr. Zondag said so you are holding the contractor's bond.

Mr. Mulchen agreed.

Mr. Radachy said that they talked about transferring the letter of credit from the construction surety to the maintenance surety but the contract between the Commissioners and the developer does not authorize that. The handout shows a new version of the construction surety to be used in the future which will give the ability for staff to transfer the construction

surety to maintenance upon the Engineer's request and upon the Commissioner's resolution. This developer does not have that option now. His options are to present us another maintenance surety or present us with bonds. Your construction surety says you will complete your improvements within two years. After that two-year period the County has the right to take your bond and finish the project. It does not say we can extend it past that two-year period. He recommended that they wait until February when the Utilities Department is in place and provide us with two-year bonds instead of three-year bonds.

Mr. Gerson says Concord Township has not noted severe maintenance problems on Phase 1. They would like to keep the bonds in place for as long as possible. Although the developer would lose interest, Concord may be looking at a million dollars of roads they would have to reconstruct. So they want to be sure the problems are corrected.

Mr. Webster explained that prior to the start of the bonding process, some developers never completed the subdivisions, so the bonding process was initiated. In this case, we are holding twenty percent of the money.

Mr. Sines said he thought it would be a good idea to have the bonding process explained to the Board. It would make us aware of how these requirements can affect the developer.

Mr. Adams moved to table Crossroads at Summerwood, Phase 1, reducing the Maintenance Period from three years to two years, until February to allow the Planning Commission to receive reports from the County Engineer and the Utilities Department on the condition of the improvements and their recommendation on a maintenance period. Mr. Morse seconded the motion.

All voted "Aye".

## LAND USE AND ZONING REVIEW

### Concord Township - Proposed Text Amendment for New Expanded Gateway Business District

Mr. Radachy said that the property is the Normandy Business Center on Auburn Road. The proposed text change would create a new district called EGB, Extended Gateway Business and was a list of proposed uses that were once permitted, conditional or accessory uses in the BX zone. The Auburn-Crile Road Business Corridor Study 2006 recommended the creation of the Gateway Business District to capitalize on the economic development potential of Auburn Road Corridor. The uses that are recommended and allowed under GB are oriented to professional office, retail and commercial. Industrial, trade business and general contractor uses were recommended to not be permitted.

In September, 2007, the GB District Change along Auburn Road became effective. The property the applicant owns is designed for light industrial, warehouse and office uses. Some of the uses that are currently in place are non-conforming. Staff recommended against the text change because it does not conform to the 2006 Auburn Crile Corridor Study and the text does not have design standards.

The Land Use and Zoning Committee voted to not recommend approval of this text

change because it does not conform to the Auburn-Crile Road Business Corridor Study 2006.

Ms. Hausch moved to accept the recommendation of the Land Use and Zoning Committee on the proposed text amendment for the New Expanded Gateway Business District. Mr. Adams seconded the motion.

All voted "Aye".

Concord Township - Proposed District Change from GB, Gateway Business District to EGB, Expanded Gateway Business District

Mr. Radachy stated that, if the text amendment is not recommended, then we cannot recommend the district change.

Ms. Adams moved to accept the recommendation of the Land Use and Zoning Committee on the proposed district change from GB, Gateway Business District to EGB, Expanded Gateway Business District. Mr. Zondag seconded the motion.

All voted "Aye".

REPORTS OF SPECIAL COMMITTEES

Subdivision Regulations Committee on Wetlands

Ms. Pesec said that the Subdivision Regulations Committee on wetlands will have their meeting the week of January 7, 2008.

Lake County Coastal Plan Committee

Mr. Webster said that he and Mr. Boyd had met with school principals of Lake County and have proposed a drawing contest for art students depicting their concepts of the lakeshore. Invitations have been sent to all the schools inviting their participation. They expect to have entries in by late February.

CORRESPONDENCE

OLD BUSINESS

NEW BUSINESS

Nominating Committee for 2008

Mr. Brotzman said that the Nominating Committee for the 2008 Planning Commission officers is Mr. Adams, Ms. Hausch, and Mr. Siegel. Mr. Adams is Chairperson.

PUBLIC COMMENT

There was no public comment.

ADJOURNMENT

Mr. Zondag moved and Mr. Schaedlich seconded the motion to adjourn.

All voted "Aye".

The meeting adjourned at 9:09 p.m.

