

December 8, 2009

Mr. Charles D. Springman, Chairman  
Lycoming County Planning Commission  
1261 Winfield Drive  
Williamsport, PA 17701

Dear Chairman Springman:

The Lycoming Audubon Society is a qualified non-profit chapter of the National Audubon Society. We have a service area of Lycoming and Clinton Counties. Many of our members enjoy the recreational opportunities available at Rose Valley Lake, the largest such body of water in our area. In addition, our chapter sponsors periodic field trips to the lake to enjoy the many species of birds attracted to those waters and surrounding lands.

Our organization has become aware of a plan to develop certain lands in the vicinity of Rose Valley Lake within Gamble Township. We believe this proposal presents avoidable risks to the intended purpose of Rose Valley Lake and would create some public safety problems associated with increased traffic. We further believe the proposal is contrary to the Lycoming County Subdivision and Land Development Ordinance and the Pennsylvania Project 70 Land Acquisition and Borrowing Act, by which the lake was created.

Clinton County developer Robert Maguire proposes to subdivide thirteen acres off Trimble Road in Gamble Township into five lots. This type of development is permitted by the Gamble Township Zoning Ordinance, which requires a minimum of two acres per lot. However, the developer is asking the LCPC for right-of-way (ROW) waivers on public land owned by the PA Fish & Boat Commission (PFBC) that either cannot, or should not, be allowed, as follows:

1. 50' Wide Right-of-Way (ROW). There is an existing access to the developer's property through PFBC land by way of a "farm utilization lane" (historically defined by the PFBC as 12' wide) that was deeded to previous owners in 1969 by the PFBC. According to PFBC correspondence, a 1986 errant survey and deed changed the 12' access to a 50' ROW without the PFBC's knowledge or permission, giving no legal basis to the 50' ROW that the developer claims. A 50' ROW is required by the Lycoming County Subdivision and Land Development Ordinance (SLDO), to which Gamble Township adheres.

The developer's property is not land locked. State law does not require access for development/subdivision purposes. When the developer purchased the property in 2005, a thorough deed search would have easily revealed the 1969 deed, which was only one deed removed from the chain of title. Although we understand that the developer has title insurance, it may not be in the developer's ultimate financial interest to pursue restitution through that title insurance, because he owns other properties around the lake with PFBC ROW issues.

2. Right-of Way Use and Maintenance Agreement. All property owners must sign a Right-of Way Use and Maintenance Agreement, according to the county SLDO. As of

November 19, 2009, the PFBC had not agreed to sign, and there is no agreement on record.

A memo dated 11/12/09 from LCPC staff affirms, "To allow a waiver of the roadway on the land of and under the control of the PA Fish & Boat Commission would have the effect of nullifying the intent and purpose of this ordinance." At least 21 townships and 3 boroughs fall under the SLDO's jurisdiction. Staff recommendations were 1) To deny waiver request based upon staff comments and analysis, and 2) Deny final plan approval based on comments above . . . pertaining to the plan . . ." A letter dated 10/23/09 from the LCPC solicitor concurs with the PFBC's attorney regarding their position and states that the developer "will need to resolve the understanding and agreements with the Fish and Boat Commission involving the right-of way before the Subdivision can be considered."

This raises the question as to why, at their November 19, 2009 meeting, certain LCPC members were willing to consider multiple waivers against PFBC objections and against their own staff and solicitor analyses. The developer was given an extension until December 17, 2009, "to work things out with the PFBC."

Additional ROWs exist around Rose Valley Lake, providing access to private land beyond Commonwealth property. None is greater than 35' wide, and at least three are only 12' wide, according to the PFBC. The developer currently owns three of these properties totaling approximately 160 acres. Subdivision of those other properties would require additional waivers. Doing so would jeopardize not only the intent and purpose of the county SLDO but also the intent of the Rose Valley Lake Project 70 acquisition, to "prevent developments . . . and retain the area in generally primitive conditions." (PFBC memo, 1972)

If the PFBC position is compromised, the above properties and more could be developed around Rose Valley Lake. The PFBC "intent" would be lost forever. Township roads in the vicinity have a 33' ROW width and a narrower cartway. Causeways and bridges at the lake are 21.5' wide with a maximum 17' cartway, frequented by children and adults fishing, walking and bird-watching. Development of these properties and the resultant traffic could well cause a public safety problem and potential liability issue for the PFBC. As built, the roads are appropriate for the current population density and uses of the PFBC property.

Rose Valley Lake is a precious public resource to be used for the enjoyment of everyone. It is clean, peaceful, and a source of quiet recreation. The LCPC Staff is to be commended on their evaluation of the developer's proposed subdivision. The purpose of the Lycoming County SLDO is well defined to protect the overall public benefit. If the lands around Rose Valley Lake are allowed to develop at the expense of upholding public laws and ordinances, the same thing can happen anywhere.

The purpose of this letter is not to oppose development but to support its wise regulation according to applicable laws and ordinances. The purpose of the Lycoming County SLDO provides for "the safe and efficient movement of traffic; promoting the greater health, safety, and welfare of citizens of the county; and securing adequate sites for recreation, conservation, scenic, and other open space purposes." To allow waivers for the purposes of development on lands of and under the control of the PFBC is unreasonable and potentially unlawful. The Commissioners of Lycoming County and Lycoming County Planning Commission members are

urged to uphold staff recommendations and the provisions of public ordinances for which they are responsible.

Sincerely,

Dan Alters, President

cc: Planning Commission members  
County Commissioners