

I. OPENING

CALL TO ORDER: The Planning Commission meeting of Lower Saucon Township Council was called to order on Thursday, January 18, 2007, 7:00 P.M., at 3700 Old Philadelphia Pike, Bethlehem, PA, with Mr. John Landis, Chair, presiding.

ROLL CALL: Present: John Landis, Chair; Fran LaBuda, Secretary; Hazem Hijazi; Craig Kologie; Tom Maxfield; Brien Kocher, Engineer; Chris Garges, Zoning Officer; Linc Treadwell, Solicitor; Judy Stern Goldstein, Boucher & James; Steve Kircher, Jr. PC Member. Absent – John Noble.

PLEDGE OF ALLEGIANCE

II. PUBLIC COMMENT/CITIZEN AGENDA ITEMS

III. REORGANIZATION

A. ELECTION OF CHAIR

MOTION BY: Fran LaBuda moved to nominate John Landis as Chair of the PC.

SECOND BY: Tom Maxfield

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

ROLL CALL: 6-0-1 (Mr. Noble – Absent)

B. ELECTION OF VICE CHAIR

MOTION BY: Fran LaBuda moved to nominate Tom Maxfield as Vice Chair of the PC

SECOND BY: Mr. Hijazi

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

ROLL CALL: 6-0-1 (Mr. Noble – Absent)

C. ELECTION OF SECRETARY

MOTION BY: Mr. Maxfield moved to nominate Fran LaBuda to Secretary to the PC.

SECOND BY: Mr. Hijazi

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

ROLL CALL: 6-0-1 (Mr. Noble – Absent)

D. DESIGNATION OF PLANNING COMMISSION MEETING, TIME, PLACE AND DATE FOR 2007

MOTION BY: Mr. Hijazi moved for the third Thursday of the month at 7:00 PM at Town Hall.

SECOND BY: Mr. Maxfield

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

ROLL CALL: 6-0-1 (Mr. Noble – Absent)

IV. BUSINESS ITEMS

A. HOMEPRO ENTERPRISES/PAUL DRYER – HIDDEN MEADOWS ESTATES
PRELIMINARY MAJOR SUBDIVISION #MAJ-04-06 – 3588 LOWER SAUCON ROAD –
TIME LIMIT 04/06/07

Present – Michael Waldron, Ott Consulting and Paul Dryer. Mr. Landis asked if there was anything they wanted to discuss? Mr. Dryer said they were here two months ago and had review comments from HEA and Boucher & James. All the comments were reviewed and there were four or five that needed to be resolved. They've addressed all of those items they believe, to HEA and Boucher & James satisfaction, and they are here tonight for a vote on their plan.

Mr. Landis said they will start with Boucher & James letter. Mr. Waldron said they don't have any comment complying with the comments. Judy Stern Goldstein said she talked to them earlier today on the outstanding issues and most appear to be minor errors and calculations which would not have any substantial impact on a subdivision, but it's making sure everything is crystal clear and complete. They can be changed between the time they get a recommendation from Planning Commission, but prior to going to Council. They need a clean letter to go forward to go to Council. They need to resubmit the plans and they would need to do that in accordance with the Township submission schedule. Mr. Maxfield said the clean letter is one of the conditions when it goes to Council.

Mr. Landis said they will go over the HEA letter of January 10, 2007. Mr. Waldron said the only thing that came up in this letter is a storm pipe along Lower Saucon Road. They proposed crossing it right after their swale discharge and then going along on the plans. They talked it over with HEA's office and even got some correspondence from the Township. The Public Works Director would prefer to have it stay on the east side of Lower Saucon Road and replace the existing pipe there, and they don't have a problem doing that. Mr. Kocher said that was the biggest issue outstanding to make sure the existing swale along Lower Saucon Road was cleaned out, regraded to a shape that will actually carry some water, and when it gets to that northern pipe, they will replace the existing pipe so they can lower it enough to put an inlet on it. The other items in the letter, they've agreed to do which are mainly engineering items except for the waivers they are requesting.

Mr. Waldron said they are asking for quite a few waivers. One was street trees along Lower Saucon Road – they are putting them there with the plan. Part of the waiver that would still apply is the planting screen and berm. They have the plants for the planting screen but they think the side of the slope qualifies as the berm. It was discussed last time as an option also. Ms. Stern Goldstein said make sure they have a clean letter so the PC can act on that. Mr. Waldron said he didn't give a new letter. He still has the September 18 letter. If it comes to that item, they can either withdraw it or you can deny that waiver.

Mr. Waldron said the first waiver is No. 4 on HEA's letter on the first page which has to do with the existing features within 500 feet of the site.

Mr. Waldron said the next waiver is No. 14. Mr. Kocher said it's actually all improvements to Lower Saucon Road. They are suggesting if they are okay with that, they do require them to regrade the swale to the extent that it doesn't destroy the bank. As much capacity as they can realistically get, they agreed to do.

Mr. Waldron said the next one is No. 15 and that is the planting screen and berm. They will put plants along Lower Saucon Road up to the PPL electric easement and there is a steep slope there, so they felt there wasn't any added benefit to building a berm there on top of that hill. If the slope

**Planning Commission Meeting
January 18, 2007**

is considered the berm, do they still need a waiver? Judy Stern Goldstein said that was discussed several times and the slope counts as the berm as it has the same effect. They don't need a waiver on that.

Mr. Waldron said No. 22 has to do with requirements of intersections be 400 feet. It comes to if you consider Pond Lane a street or not. It serves three houses and it's a private driveway. No one on the PC had a problem with that.

Mr. Waldron said on page 5, No. 26 on paying a fee in lieu of a recreation area. They agreed to pay the fee at the last meeting. Mr. Kocher said you don't need a waiver if you are paying the fee, so this request is withdrawn.

Mr. Waldron said No. 27 deals with the cart way width, the new road. Last time they discussed reducing the width even further down to 22 feet wide, so they need a waiver for that.

Mr. Waldron said No. 28, has to deal with the pipe material. The ordinance specifies specific pipe material being either concrete or corrugated metal. They are proposing to use high density polyethylene pipe which has been used in the township for other projects. The way the ordinance is written, they would need a waiver to be allowed to use this material.

Mr. Waldron said No. 29 has to do with showing all trees on the property site. They propose showing the existing trees and marking the ones that are removed. Ms. Stern Goldstein said this will be a partial waiver.

Mr. Waldron said No. 30, they will withdraw because they've also added street trees along the top of the bank on Lower Saucon Road.

Ms. Stern Goldstein said No. 1 remains. No. 2 was withdrawn. No. 3 is withdrawn. No. 4 is withdrawn. No. 5 is a partial waiver to the area to be disturbed. No. 6, 7, 8 are still on the list. No. 9 should show 22 feet. No. 10 is withdrawn. There are six waivers.

Mr. Garges said No. 8 is going to be gone.

Mr. Landis said the waivers on the letter from Ott Consulting on September 18, 2006. The first item is Section 145-41.b4 Road Improvements which is essential not to widen the road and they clean out the swale and replace the pipe.

Mr. Garges said you can just reference the number and do them all at once. Mr. Landis said No. 1 with the condition, No. 5 is a partial waiver and we are only waiving it in the area where there is no disturbance. No. 6, the way it is. No. 7, 8, and 9 in the letter is correct from 28 feet to 22 feet. May he have a motion to accept the waivers?

MOTION BY: Mr. Hijazi moved to accept the waivers.

SECOND BY: Mr. Maxfield

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

ROLL CALL: 6-0-1 (Mr. Noble – Absent)

Mr. Hijazi had a question on HEA's letter C9, how will the existing well on Lot 1 be abandoned? Mr. Kocher said the short answer to that is in accordance with DEP requirements, they have to seal it up and intend to submit no other water or ground water will infiltrate into the well itself. They can put will comply, per DEP.

**Planning Commission Meeting
January 18, 2007**

- MOTION BY:** Mr. Maxfield moved for recommendation for approval of the Preliminary Plan with the condition added that the work be accomplished on the plan before it goes to Council which will result in a totally clean letter, per Hanover's January 10, 2007 letter and Boucher & James January 10, 2007 letter, and also the condition on HEA's letter about the well on Lot 1 to be abandoned, per DEP.
- SECOND BY:** Mr. Hijazi
Mr. Landis asked if anyone in the audience had any questions or comments? No one raised their hand.
- ROLL CALL:** 6-0-1 (Mr. Noble – Absent)

B. TURNBRIDGE PARTNERSHIP/JOHN BLAIR – MCCLOSKEY AVENUE MINOR #MIN-03-05 – 3612 MCCLOSKEY AVENUE – TIME LIMIT 03/07/07

Andrew Schantz, attorney and Christine Decker from Keystone Consulting Engineers were present. Attorney Schantz said many of you may remember a year ago, they brought this plan before the Commission as a informal sketch plan. The reason they did that is because this land abuts and fronts on McCloskey Avenue which was a dead end street, and they brought the plan before the PC to see whether or not a cul-de-sac should be designed on the plan or if they should just leave it the way it was. At that time, the PC recommended or urged we go through with the cul-de-sac design. When they designed it in that manner, they found out they needed a number of waivers due to the conditional impervious coverage. As a result of the cul-de-sac, they pushed it up into some steep slopes. When they went to Council to get their recommendation for the variances, they had some questions, so the plan was revised again as far as the calculations. When they came back before Council again, the end result was they preferred losing the cul-de-sac and losing the impervious coverage. At that time, they designed the plan without the cul-de-sac. What this plan is doing is it's taking two existing parcels that are interested by an unimproved paper alley. They are vacating the alleyway and they've gone before Council and cleaned up that and then they are consolidating the two parcels into one parcel and then resubdividing it into two parcels. They went before the Zoning Hearing Board to get a minor waiver. When they did the site capacity calculations, they came up with 1.9, 3 lots or 2.7 lots. They were granted a wavier to have the two lots. They've made a number of submissions before the PC and his position was they looked at the review letters and felt they could address those and try to clean up the plan as much as possible. They are in the position where they do have everything in a clean condition and are here before the PC as a preliminary final plan. They have been working with staff and professionals to get this as clean as possible.

Attorney Schantz had a question for Linc on the HEA No. 3 about the identification of the ownership to the north of the parcel. He wanted to get comments back on that. Attorney Treadwell said did you identify who it is? Attorney Schantz said in their response letter they said by the letter of the law, legally, they own to the center of that vacated, but don't want it and are not showing it incorporated into this. Attorney Treadwell said he will talk to Mr. Kocher about it, but he doesn't have a problem with it. Mr. Maxfield asked if it gets transferred to the adjacent property owner? Attorney Schantz said there is no real mechanism to really transfer it. Chris Garges said in the future, the new owner of that lot may be interested in tacking it on? Attorney Treadwell said could be. It's not really a requirement under the ordinance. Mr. Maxfield asked what happens to the section of the road from the driveway of Lot 1 is? Attorney Schantz said Shimcoe was in a couple of years ago and requested that a portion of that be vacated, so that's already been vacated. The gray area is half of McCloskey that's been vacated and the other half is the other half of the right-of-way that Shimcoe is using to gain access to their driveway. As far as access to the north, there is a stream bed back there. Mr. Maxfield said he wants to make sure that property goes to one of the adjacent owners. Attorney Schantz said it's been a paper alley for 21 years and the vacation was just a formality of it. More or less focusing on the north-south alley interesting the two parcels. He thinks legally it's in the same state it was in before it was vacated. Attorney Treadwell said it may

**Planning Commission Meeting
January 18, 2007**

not be recorded at the County, but he'd agree the property owner owns that piece, it's 50/50. Mr. Maxfield said are we going to consolidate 50% of that with that lot or not? Attorney Treadwell said it's up to the property owner to decide if they want to do something to record it at the Recorder of Deeds. Mr. Maxfield asked if the northern property owner would be interested? Attorney Schantz said they have not asked, but would certainly be willing to do that.

Mr. Landis said let's go over the Boucher & James letter. Ms. Decker said they've reviewed Boucher & James comments and they consist mostly of notes and detail. They do not have any problems doing that. Ms. Stern Goldstein said the items remaining are minor in detail. As long as the applicant would agree to take care of these items between such time as the PC recommendation and going to Council, that would be appropriate as long as they are taken care of prior to going to Council. Mr. Maxfield asked that they address the ownership before they come to Council so they have some sort of idea of what is going on with it. There's a 10' chunk out of it removed already for utilities. Ms. Decker said the alley way is above the utility easement and the 10' is not part of the original vacation of it.

Mr. Landis said they will go over the HEA letter of January 10, 2007. Ms. Decker said they have reviewed those comments. They have a few waiver requests involved. The first one would be No. 2 which is request for waiver from providing existing features and contours within 250 feet of the project on the plans. The US GS map shows the general location all around and they have the contours shown for the existing features plan for the entire tract and somewhat around, but not 250 feet.

Ms. Decker said the next item they'd like to request a waiver for would be No. 14. The roadside swale proposed is not per the Township standard cross section. Per your standard cross section, the slope of the swale would be 12:1 and they are trying to keep with the general configuration of what is out there at the moment. They are proposing a driveway cross pipes underneath in order to minimize any impacts on the existing swales that are there right now. They are going to clean them up a little bit and make sure the bottom is meeting the actual configuration so the flow can carry the ten year storm that is required. Mr. Kocher said No. 14 and 15 are somewhat related. The only real issue in this letter has to deal with storm water conveyance. The best way to call it is a deep ditch right along side of the road now which is the storm water control for that area of the road. They have seen some residents down on the next street that get a lot of storm water. They've tracked down the location of it and the bulk of the storm water is not from here, but there is a lot storm water that comes down through this property and the reason that ditch is so big is because there's a lot of water. That ditch in a ten or fifteen year storm takes the water to the north and away from those properties. Anything over that comes out of the ditch and over the road. Their position is that they are less than 10,000 square feet, so they don't have to do any detention. They are somewhat improving the swale by cleaning it out, but there is nothing on this plan that addresses the fact that the 100 year storm and probably anything over a ten year storm will continue to cross over McCloseky Avenue. If you waive that, you are okay with a deep ditch right next to the side of the road. Mr. Maxfield said the standard township cross section, would it deal with any of that? Mr. Kocher said if they comply with the township's standard cross section, you'd have a 6" swale, so you'd really cut away the capacity. He and Christine Decker have discussed this somewhat. The two options that you have to address this issue is you put the township standard swale in, and you put some inlet piping in. In that area, the leaves are going to clog the inlets and you may end up with less capacity. The other thing is they could make a township standard cross section on the swale and further back toward the houses put a much larger swale to carry that water. That option requires probably a lot of tree removal and steep slope disturbance. Those are the options. Ms. Decker said they tried to minimize the impact with the steep slopes and disturbing more trees, so they are caught in the middle. They have a waiver request for No. 14 and 15. Attorney Schantz said are you saying there are three options here? Mr. Kocher said you have an option of a swale with piping under the swale and you have the option of a swale further back with a larger right-of-

**Planning Commission Meeting
January 18, 2007**

way. The other option is you could put a large swale somewhere behind the house, but the same disadvantage of tree disturbance back there.

Mr. Kologie asked the quality of the woodlands back there? Ms. Stern Goldstein said it's not scrub. It has been disturbed inadvertently at some point, more recently than we'd like, but it's not scrub. It's not a mature forest, but is on its way to maturity. It's not a piece of land they'd like to see cleared. It has a lot of merit, environmentally. Mr. Kologie said it seems like the improvements are kind of up in the air, clean it up a little bit, put a pipe in here, and he doesn't know if you can say what affect it will be. Mr. Landis said what does our engineering firm recommend? Mr. Kocher said the best of means of conveyance is to put a larger swale back away from the road in either relocation. He can't make an opinion as to weigh what you think about that as tree wise. If you think that's too much disturbance, then what they are proposing to do will help this fact that they'll be two houses there as it'll be a much neater swale. It won't make it worse, but it won't fix anything. When you come in for individual grading plans for these lots, you are going to have to do something because you'll probably be over 2,500 sq. ft. Mr. Hijazi said what is more critical to us – is surface water runoff or disturbance? Attorney Schantz said with all due respect, the Council is the one that is going to make that determination and they've been in that position before where they've been guided with that cul-de-sac, and then they got before Council and were told they wanted those natural features protected. Mr. Landis said this body makes recommendations. Ms. Stern Goldstein said you don't have much room left in your woodland disturbance. If they were going to disturb more, that's a variance, not a waiver. It's their problem to work within the ordinance requirements and deal with it, so if you were not inclined to grant a waiver, then that wouldn't necessitate getting a variance. They are still choosing what to put on the site, but they will be in a predicament that they will have to solve.

Mr. LaBuda said if the engineer gives options, why don't we pick one of them? Mr. Landis said it's the weighing of disturbance versus conveyance. Mr. Kologie said we already have people in here complaining about water problems now. Mr. Landis said it seems we are favoring disturbance over conveyance. Ms. Stern Goldstein said she doesn't think we are saying favoring disturbance over conveyance, you are favoring the proper conveyance of the storm within the swale. You are not directing them to do more disturbances.

A person in the audience said another variance not being discussed is the safety on the side of the road. Mr. Kocher said if you do the improvements in the right-of-way, even if you have an expanded right-of-way, we'd probably require the houses to go back further though. They are pretty close to the road.

Ms. Decker said they feel they've provided an improvement to the situation they have and they are trying to satisfy everybody's desires and they've done the best they can with what they have to work with. Mr. Maxfield said you are planning to increase the capacity of the ditch by how much? Ms. Decker said they improved the capacity of the ditch to carry the ten year storm along the entire frontage of the property. Now it can carry less than a two year storm. Currently, the water drains over top of McCloskey Avenue. It will continue to drain over the top unless they do something radical with it. Mr. Garges asked Ms. Decker what size pipe would be required to convey a 100 year storm there? Ms. Decker said she would not know right now as it's very flat there too. It's like one percent, so to carry the one year storm, you are talking 29 cfs. We don't have road coverage over the top of the pipe, which is why we had to put three 12" pipes in rather than a 15" pipe.

Mr. Maxfield said this needs to be resolved before it goes anywhere, and that is not our decision, it's the applicant's decision. Mr. Landis said they made a decision and come to us with a proposal. Is that acceptable to us or isn't it? Mr. Kologie said he doesn't think we have enough information to consider the waiver. Ms. Decker said they've done what they've done to minimize the impact

**Planning Commission Meeting
January 18, 2007**

on your 25% slopes which they are restricted on. They've minimized how much disturbance of the entire lot they are allowed to do. How much woodland they are allowed to impact? This is all listed on the tables they have and basically got them to the point where they had to go to Zoning for a variance for 1.9 acres in order to even be considered for two lots. If they disturb anything else, they diminish that number even more and now she wouldn't know if they would have to go back and get another variance as they've impacted it again.

Mr. Kologie said it sounds like a single building lot with all the problems you are throwing out, it's suitable for one house. It doesn't seem like you can really put two houses back there. Mr. Maxfield said the applicant has made the decision to go for the two lots. That is why we are where we are. It's in a troublesome area. Mr. Landis said he doesn't think they can give a recommendation. Mr. Kologie said it creates other zoning issues by asking for this waiver.

Mr. Landis said as far as the waiver goes, we're not going to recommend it for approval. The PC is not happy with the storm water management plan as it doesn't cover a 100 year flood plain. It only covers ten. Mr. LaBuda asked them if they had any options if PC doesn't grant the waiver? Attorney Schantz said they can go before Council and see if they are going to grant a waiver. Attorney Treadwell said they should get together with staff and talk about waivers and how it can be done. Ms. Stern Goldstein said it's a good option to come before staff on January 30. There's still one more PC meeting prior to Council having to make action on February 7. The other option is for PC to make a recommendation for approval which would need to include the recommendation for the waiver in favor of that. The other option is if the PC is not inclined to make a recommendation for a waiver and there's no movement for the applicant to meet with staff, then you would have the option to table it until next month or making a recommendation tonight for rejection of the plan since you don't want to grant the waiver. Mr. LaBuda asked Counsel if we don't give a waiver, must we give a written reason why we don't give a waiver? Attorney Treadwell said you make a recommendation and your recommendation would include the reason why. Mr. LaBuda said if you have a lot of options, what do you do? Attorney Treadwell said fortunately for the PC you just make a recommendation. Mr. Landis said we need to not approve a waiver and table it at this point and let them go to Council. Ms. Stern Goldstein said they don't get to Council unless the PC makes a recommendation.

Mr. Kologie said if we table it, you guys have a staff meeting and work out a solution. Mr. Landis said why don't we try that within the time frame and resolve it with it staff. It is really going to come down to the details of the design and weighing of the earth disturbance. Try to get together with staff and try to resolve this issue. At this point, this commission is not willing to approve the waiver. They would give direction to their engineers and staff that we are worried about the water flow through the property and would like to see that resolved as best as it can with possibly disturbing some more earth. Mr. Maxfield said it's got to be resolved in a way that safety and welfare are taken care of. There is another option and it is to go back and do one house on the property. The applicant has chose to do two properties and it has created a condition that results in a condition that will not be acceptable to the regular standards of the township, including safety.

Mr. Kologie said he can't support a waiver is because it's creating other zoning problems. That's not a good reason. Mr. LaBuda said since we are concerned about the pipes, is that the major issue that they could go forward. If we resolve that big problem, could we go forward and pass this plan? Mr. Kocher said if that issue was not there, they could resolve the others. Ms. Stern Goldstein said no matter how good Christine is, there will be other issues.

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: 6-0-1 (Mr. Noble – Absent)

**Planning Commission Meeting
January 18, 2007**

V. MISCELLANEOUS BUSINESS ITEMS

A. APPROVAL OF MINUTES OF DECEMBER 21, 2006

MOTION BY: Mr. LaBuda moved for approval of the December 21, 2006 minutes.

SECOND BY: Mr. Maxfield

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

ROLL CALL: 6-0-1 (Mr. Noble – Absent)

B. REVIEW OF SALDO AMENDMENT 2007-02

Mr. Landis said we had this amendment as a draft last time. Does anyone have any comments? Mr. Kocher said it's pretty much the same one. Mr. Kologie asked how the 35 days work prior to the meeting? Mr. Kocher said it's been that way for awhile.

MOTION BY: Mr. Kologie moved to recommend that SALDO 2007 be approved.

SECOND BY: Mr. Maxfield

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

ROLL CALL: 6-0-1 (Mr. Noble – Absent)

VI. PUBLIC COMMENT/CITIZEN NON-AGENDA ITEMS

Mr. Landis asked if there was any public comment? No one raised their hand.

VII. ADJOURNMENT

MOTION BY: Mr. LaBuda moved for adjournment. The time was 8:15 PM.

SECOND BY: Mr. Maxfield

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

ROLL CALL: 6-0-1 (Mr. Noble – Absent)

Submitted by:

Mr. John Landis
Chair