

I. OPENING

CALL TO ORDER: The Planning Commission meeting of Lower Saucon Township Council was called to order on Thursday, January 19, 2012 at 7:00 P.M., at 3700 Old Philadelphia Pike, Bethlehem, PA, with Mr. John Landis, Chair, presiding.

ROLL CALL: Present: John Landis, Chair; Tom Maxfield, Vice Chair; Craig Kologie, Scott Kennedy, members; Chris Garges, Zoning Officer; Jack Cahalan, Township Manager. Absent: John Lychak and John Noble

PLEDGE OF ALLEGIANCE

II. PUBLIC COMMENT/CITIZEN AGENDA ITEMS – None

III. REORGANIZATION

A. ELECTION OF CHAIR

MOTION BY: Mr. Maxfield moved to nominate John Landis as Chair.
SECOND BY: Mr. Kologie
ROLL CALL: 4-2 (Mr. Lychak and Mr. Noble – Absent)

B. ELECTION OF VICE CHAIR

MOTION BY: Mr. Kologie moved to nominate Tom Maxfield as Vice Chair.
SECOND BY: Mr. Kennedy
ROLL CALL: 4-2 (Mr. Lychak and Mr. Noble – Absent)

C. ELECTION OF SECRETARY

MOTION BY: Mr. Maxfield moved to nominate John Lychak, as Secretary.
SECOND BY: Mr. Kologie
ROLL CALL: 4-2 (Mr. Lychak and Mr. Noble – Absent)

D. DESIGNATION OF PLANNING COMMISSION MEETING, TIME, PLACE AND DATE FOR 2012 (REQUEST FROM C. KOLOGIE TO CHANGE MEETING DATE TO 2ND OR 4TH THURSDAY OF MONTH)

MOTION BY: Mr. Maxfield moved for the 4th Thursday of the month, at 7:00 pm at Town Hall.
SECOND BY: Mr. Kologie
ROLL CALL: 4-2 (Mr. Lychak and Mr. Noble – Absent)

IV. BUSINESS ITEMS

A. L&P REAL ESTATE HOLDINGS – MEADOWS GROVE LAND DEVELOPMENT #LD 01-09 – 1770 MEADOWS ROAD (TIME LIMIT – 04/09/12)

Mr. Scott Mease, Mease Engineering and Russ Lebkuecher, applicant, were present. Mr. Mease said this is the way the plan was presented a couple years back. They went to the ZHB because there were a number of variances that were required. You saw this as a site plan on a number of occasions. They did go to the ZHB, there were a number of variances approved by the ZHB; and we're back to you before tonight for the official land development submission. He has some

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reviews from Boucher & James and Hanover Engineering with regards to the land development submission. Everyone that is on the board is aware of the project when it was a site plan. He can take time to go over the plan to explain it, otherwise, we can just proceed. Mr. Landis said this is to make a drawing of what you have as so much has been done with no updating. Mr. Mease said that was the purpose of the variances and certain things that were done without permits needed to be ripped down. Things that were acceptable as modified they needed to require building permits. As far as he knows, almost all of that has been accomplished. Chris Garges, Zoning Officer can certainly verify that.

Mr. Landis said from the Planning perspective, you need to get it done. This has gone on and on. He doesn't know how many variances you had, but it's dated that you were supposed to have certain things done by certain times. You need to get it done. He's tired of you coming here and saying you are going to get it done, and it doesn't get done. Your time is running out and it's time to do it.

Mr. Landis said we'll start with the Boucher & James letter first. These plantings have been done again, without approval. Mr. Mease said with the summary of issues, that's the only outstanding issue. They have done plantings and they are going to survey and locate what was planted where and identify those items and submit them to the Township for their recommendations. Mr. Landis said that's not how we do this. Mr. Lebkuecher said all he did was plant eight rose bushes around the garden. He didn't know that he couldn't plant flowers. He will have Mr. Mease do the drawing. Mr. Landis said you have to stop doing things and then get approval afterwards. One of these times you are not going to get the approval. Mr. Lebkuecher said he did tear things down and he did flowers. Mr. Landis said our goal tonight is to get the plan to represent what you have so that anything forward from this, you'll have to make sure you do it or you are going to get fined for it.

Mr. Mease said 1A talks about the fact that a special exception and a number of variances from the ZHB. He doesn't think he needs to go through all of them as there are quite a few.

Mr. Mease said Item 1B (1) to (6) all refer to the Zoning Officer regarding the status of those requirements. Ms. Mallo said Item No. 1B (4), one of the conditions of the ZHB was that there was going to be a landscaped plan submitted that was going to be with recommendations from staff and then they were going to plant those by that certain date. The Township never received a planting of anything that was planted. Boucher & James wanted to give input for their bank remediation and those types of plants that were going to go in that area, and they did not receive anything, so there's nothing to review and they can't comment on that. They need to come up with a plan. Boucher & James will make recommendations as to the size of the plants. Mr. Lebkuecher said the property is surrounded by woods now, he wouldn't know what they would want.

Mr. Mease said maybe Chris Garges can give an update on B (1), (2), and (3). Mr. Garges said as we talked about earlier, that's one thing that wasn't completed. The other thing that isn't completed is Item No. 5, which is the planning module for exemption and a revised holding tank agreement. They have made an effort to get the holding tank agreement squared away. The planning module itself though, cannot be completed until the land development is approved, then the SEO can sign off that there is municipal compliance for that to DEP. That is held up through this process. He doesn't know if the holding tank agreement was recorded, but they made the strides to submit the documents they need. Other than that, the other things, all the building codes and permits were obtained with the exception of just making application for the CO which that all ties into getting the rest of the design. The hard work of making the improvements and getting them approved and up to code is complete.

Mr. Mease said 2(A) they have some offsite features located. He doesn't know if there are others that would be of interest to the board. They would certainly be fine locating some of those or else bringing in an aerial map showing that. They have asked for a waiver from the subdivision

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ordinance requiring off site items. If there was something of interest, they would certainly provide it. Mr. Landis said it already exists. Mr. Maxfield said isn't the ordinance normally 500'? Mr. Mease said that's in a subdivision. Ms. Mallo said these are zoning requirements. Mr. Maxfield said all the homes in the area that could be affected by the exasperated flooding. Mr. Mease said it says special features and structures. His question is, are there some special specific features and structures that are of interest to the board? Mr. Kologie said it's really hard to say without knowing what's there. Mr. Maxfield said the bridge for one would be a specific feature. Mr. Mease said they have that one listed already. Mr. Maxfield said homes in the area. Mr. Mease said okay. Mr. Kologie said any other type of structure in the flood plain would be important to know plus proximity of the site. Mr. Mease said okay.

Mr. Mease said 2(B), they will comply about the owners signature. 2(C) said it requires copies of all required permits and supporting documentation to be furnished to the Township. He's not aware of any that they have not furnished. If there are any specific ones, they'll supply them.

Ms. Mallo said going back to (A), the specific features include abutting streets, nearest cross streets, driveways on adjacent lots, structures on adjacent lots, which are less than 100' from the property line, the dimensions and the size of the site. Mr. Landis said you asked for a waiver of that. Mr. Mease said in the subdivision section, they have.

Ms. Mallo said the permits they will defer to Mr. Garges in terms of what needs to be submitted. Mr. Mease said you don't have any specific ones in regards to land development that he's missing? Ms. Mallo said no, not at this time.

Mr. Landis said next we have Hanover's letter. Mr. Miller said there's a recurring theme through all of their comments. Some of them they requested waivers on, some they have not. A large amount of these are based upon the premise that they don't know what originally would be grandfathered improvements and what would we be willing to just accept. He wanted to give you the basis that just because they raised it, doesn't necessarily mean they are concerned. Mr. Maxfield said are there any on there that you are really concerned about? Mr. Miller said the one that comes to mind is the septic tank that is below the flooding elevation. The other one is the culvert should be cleared. Those are two that should be taken care of. Mr. Landis said there was an underground fuel tank, but he thinks it was removed. Mr. Miller said it is definitely below flood elevation. It is being used and they proposing to redirect flows to the primary septic tank, which is above it. Mr. Lebkuecher said it's done. That pipe was cut off and Keystone came out and they did away with all of that. Everything goes into the holding tank. That was inspected by Hanover and they took \$3,000.00 in escrow account when they put that in. Hanover came down and made us leave the tanks above the ground. When they first put them in, they had permits, and that was \$40,000.00. Hanover inspected all of that. Mr. Garges said those are you main tanks, we are talking about the small ones. Mr. Lebkuecher said that's done. When they took down the deck of the tent, everything was just unhooked.

Mr. Mease said A1 they are not aware that comments have not been obtained from the Fire Chief. Mr. Garges said they haven't gotten anything. They just got the Police Chief's comments. Mr. Mease said do we have to pursue that? Mr. Garges said no.

Mr. Mease said A2 the applicant shall verify to the satisfaction of the Township Solicitor that the deed for each adjusted property will be recorded. They would provide that to them. The applicant shall obtain storm water review comments from the LVPC if the total impervious cover deemed to have been added without Township approval exceeds 10,000 square feet. They don't believe they have to do that and that was one of the items Mr. Miller was referring to as to what are they counting is what is there and what's new. He believes they don't need to do that. Mr. Landis said that's an existing condition. Mr. Miller said it comes back to what is the existing condition. Mr. Landis said as long as we document what we have now. Mr. Garges said they did get a variance for exceeding the imperious coverage. That's not storm water management, but it is recognizing

the coverage and what is allowable. Mr. Maxfield said does this say we cannot have any storm water improvements covered under this? It's obviously over 10,000 square feet, existing impervious coverage. Mr. Garges said the existing is, but to change what was there. The last time they had a plan to what they have now, did it reach the 10,000 threshold. Mr. Miller said there is an amount that would be grandfathered. We're not sure how much that is. It is less than what is shown on this plan. This is referring to LVPC concern. We're saying this is what you have, and after you move these things on the plan, this is your new starting point, and do you want to try and fix that. Mr. Mease said part of the difficulty is when they surveyed, they did survey work when the storage system was changed over to the holding tanks and they had located certain items in that point in time on one of the properties, but there are two here. They never did locate any from the second property, so today, looking back, what was there, as far as he's aware, there are no documents, plans or documentation as to what did exist, so what is new and how do you justify this was there and this is new. Mr. Kologie said as part of this process, you're not claiming a certain condition as being your benchmark. This is the point from which you are moving forward. Mr. Mease said other than the plan they have today, that's correct. Mr. Kologie said as part of the variance process, there was never an establishment of base condition to work from? Attorney Treadwell said this has been a rather long involved process. The whole idea was to try to get us to that point – to establish a plan that the Township is able to say as of January 1, 2012, this is what you got. It's on record and you have it and anything going forward, we know what's there now.

Mr. Maxfield said as far as we know, Mr. Garges testified that every building or every structure that was supposed to be removed, was removed. Mr. Garges said the main deck has been taken down and that's where some of the replanting would take place. He thinks there was a shed there. Mr. Lebkuecher said they put sod down and planted grass where the deck was. They took down the trellis, the deck and the one shed by the creek.

Mr. Maxfield said the sewage tanks that they were talking about have not been removed? Mr. Lebkuecher said they are not removed, but if you want them to dig them up, they could probably do that. Mr. Landis said there's one in the flood plain. That one has been re-piped already. Mr. Lebkuecher said they could dig it up if you want it out of the ground. Mr. Maxfield said a septic tank in the ground that's been disconnected can always be reconnected in the future, so he'd rather see it gone.

Mr. Kologie said some things in the ordinance they are going to have to comply with, while others they are not, even though we are saying this is your base condition to work from. We have to pick and choose what things we feel they need to comply with and which they don't. Mr. Maxfield said structurally, if the tank gets removed, then structurally, if nothing else needs to be removed, that will be where we start with the structures. Then there's plantings and all those things on top of that. We're almost at that point now. Is that how we're looking at it? Attorney Treadwell said that's the idea. Mr. Landis said we're trying to get a finished plan of what they have now and if there are things they haven't done, we want to make sure that gets done and then it won't be on the plan. Coming back to A2, we covered that as we want those specific features and that is defined. If you are going to comply, just let us know.

Mr. Mease said they will comply with 3, the ultimate right-of-way easement. Deeds of easements shall be provided for storm water easements. There are no storm water features, so there wouldn't be a need for easements. Mr. Miller said there would be easements if there are no storm water improvements and there wouldn't be any storm water improvements.

Mr. Mease said the last part of comment 3, they will comply.

Mr. Mease said 5, it says existing features are shown for the required 500' surrounding the site. The applicant has requested a waiver. The second part is previously unapproved features should be more clearly differentiated in the plan view from permitted existing features. He and Mr. Miller have discussed back and forth how to really do that because they are not sure what was really there

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at a certain point in time and what is there now. What they've done on the plan with the front lot, they've identified what was there back when they did the survey; maybe ten years ago for the sewage system. The back property they have no clue. Mr. Kologie said have you used older topography or aerials to try to see what was there? Mr. Mease said he has not. Mr. Kologie said that might be a good source. Mr. Maxfield said Penn Pilot you could get one from 1971. Mr. Landis said what does that really mean. He doesn't see any reason. Mr. Kologie said that's what it really comes down to. If we're okay with what they are showing the condition today, then nothing should apply. That's the issue. You can't pick and choose what should apply and what shouldn't apply. It all does or it all doesn't. If we identify these buildings are existing and that's what they are giving and these hatches buildings are new, then you need to do everything and do the storm water and all those aspects. We need to draw that line. Mr. Landis said on the 500'? Are we interested in seeing that or doing away with it? Mr. Maxfield said he's happy with what we designated for the 100'. Mr. Landis said so is he. Mr. Mease said 5.B. goes away or does it still exist. Mr. Maxfield said it's a fruitless effort. 5.C. that goes with 5.B.

Mr. Mease said item 6 is a will comply.

Mr. Mease said 9, required site distances should be shown for the driveway connection to Meadows Road. He and Mr. Miller have discussed this on the phone today. Where the driveway comes out at Meadows Road, there's stop signs on either side, so he said he's not aware of a required site distance when you have stop signs there. Mr. Miller had said it's an existing condition. We discussed it but didn't come to a solution. Mr. Miller said they request a waiver from that item. Mr. Mease said they have a list, but would have to add that to their list.

Mr. Mease said 11 is a will comply. Item 12 they are asking for a waiver from roadway improvements. Item 13 is a waiver paving cross sections for private drives and parking areas must be provided. Again, everything's existing.

Mr. Mease said 14 is a waiver, it says drainage and lot line utility/drainage easements must be provided. Basically it's all in the flood plan and one boundary is the creek itself. Even if they provide those utility drainage easements on the easterly property line, the whole easement is going to be in the creek. They asked for a waiver on that. Mr. Landis said he doesn't understand why they are requesting a waiver. Mr. Mease said there are only 10' or 20' wide and if you follow the easterly side of the property line, the easement would be completely within the creek and it didn't make sense to him to add that to the plan. Mr. Maxfield said what about the other side of the property? Mr. Mease said they could put them on the other side. Mr. Maxfield said would that be a partial waiver? Mr. Landis said we could do a partial waiver.

Mr. Mease said item 16, there's no lighting proposed. The landscaping would just come back to landscaping in the rear, which we will comply with. Mr. Maxfield said all the current lighting will be marked on the plan? Mr. Mease said he believes it already is. They already located all the light standards that are out there. Mr. Kologie said the parking lot that is there meets current lighting standards? Mr. Mease said that he doesn't know. The pictures are old, so when you want to look at what is the intensity of those fixtures, there are no specs available. Mr. Maxfield said standard heights. Mr. Mease said they are short posts. They might be a 8' or 9' post.

Mr. Mease said 17, development impact analysis is required. Again, they've asked for a waiver as there is no development proposed. A traffic impact analysis may also be required by the zoning ordinance, but again we're not proposing any more traffic. There's no more development. Mr. Maxfield said, to him, this is really tied into the use issue that we talked about before. We really have to define use and the parameters of the use and uses can change daily traffic. How would we reference that? Mr. Miller said there's actually a note on the plan about the variances. They look at the hours of the business. Mr. Maxfield said do we have the actual use and what that use is defined as? There was some question about whether it was a restaurant or banquet facility. How do we deal with that? Mr. Garges said it doesn't have specific parameters and recognized banquet

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facility. Mr. Mease said on the plan we have it marked restaurant/banquet facilities. Mr. Maxfield said that's the official use we are going to go by.

Mr. Mease said 19 talks about stormwater again and we've asked for a waiver from that. Mr. Miller said that's fine. Mr. Mease said all of 20 is a will comply.

Mr. Mease said 22, additional stormwater notices from stormwater ordinances must be provided. That's a will comply. He has to look at them. He thinks they are just notes. Mr. Miller said some of them are not applicable. Mr. Kologie said jumping back to the stormwater, normally for a waiver, you are asking a reason why a waiver is necessary or why you are asking for the waiver. With most of these, what is the reason for that waiver? Mr. Mease said they submitted a waiver request and they would have those on there. Mr. Kologie said he's still not clear why some apply and others don't. It's just a little odd. Attorney Treadwell said it's a lot odd because normally the way this process works is you get land development approval and then you build it. This is in reverse. They built it first, and now they are coming back and they are trying to get them in a position where there's a plan on record that is a baseline. So going forward, everyone knows where we stand. The actual land development process isn't really applicable here because it's already been built and some of it has been built five years ago or seven years ago. We had to go through some type of process to get a plan that we could record. That's why it's a little different animal.

Mr. Mease said 23, they will comply. Mr. Mease said 26 is not applicable. They did get variances from the various sections of the flood plain ordinance.

Mr. Mease said 27 is a waiver because they have holding tanks out there. It says the minimum lot size for onlot sewage disposal is 40,000 square feet for every 250 gallons and have that equivalent, but we do have the holding tanks in place and we did get a permit for that.

Mr. Mease said 29 driveway access shall be defined by use of curbing. We are asking for a waiver of that from putting curbing in the driveway. Mr. Mease said 30 is tied in with the waiver for site distance.

Mr. Mease said 32 would tie back in with the other comment about the utility and electric easements. 32B drainage shall be provided for the 100 year floodplain. They've asked for a waiver of that as the whole property is in a flood plain. Mr. Kologie said what's the purpose of that? Mr. Mease said for the easement, there are some issues, stormwater wise that you have to go in and clean debris away, that you have an easement to gain access where stormwater flows. In this case, it's on Mr. Lebkuecher and he has to deal with whatever. If a tree falls down on his property, he will clean it up rather than the Township coming in to clear it away. Mr. Kologie said he was thinking about any future type improvements that would be necessary as a public safety issue. Maybe something has to be constructed for flood control, and the Township might need access to build something in that area and the easement would provide the ability to go in and do something like that. Mr. Lebkuecher said he offered the Township all three lots around the bridge if that helps. He has all three properties, Murray's property on both sides of the bridge and all the land behind the dumpster which he told the Township they could use it for turnaround or anything to help when it floods by the bridge. He would donate all that land, almost three acres. Mr. Mease said it seems a little unusual you would have a stormwater easement with buildings in the middle of it. He doesn't know if there's some particular area of concern that could be defined. Otherwise you are asking for a blanket easement and that contains the buildings and everything. Mr. Kologie said that's what the ordinance is asking for. Mr. Mease said it just happens all the development is in the floodplains. Mr. Maxfield said do you think the properties that Mr. Lebkuecher was alluding to would have any affect if we were to acquire an easement on those properties? Mr. Lebkuecher said there are two acres behind McDonald's and a third one behind the dumpster where the drainage pipe goes under the road. Mr. Miller said the Township may be interested in the one parcel for turnaround, not stormwater related. The other two are alongside the bridge and if we

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were going to construct, that probably would be the area. Mr. Mease said we would be dedicating an easement for development of the road, which is included with the entire bridge and well beyond it. Mr. Maxfield said we maybe should look into acquiring an easement which may be suitable in those areas. Mr. Lebkuecher said it would be nice for a little park. People could fish there as they stock it. Mr. Maxfield said keep that as an idea. Mr. Miller said it should be part of this. Mr. Maxfield said does that sound like a reasonable idea and we could explore that? Mr. Landis said yes. Mr. Maxfield said that was a generous offer, it's not necessarily taking the property, but acquiring easements on the property.

Mr. Mease said 33, a waiver has been requested from setting a monument at the southeast corner of the right-of-way because it's in the creek.

Mr. Mease said 36, we have a note on the plan, it says an adequate onlot sewage disposal system will be required if connection to a public system is not feasible. We do a note on the plan and it says if public sewer would be available, this property would be tied into it.

Mr. Mease said 38, the developer is required to dedicate recreation land, or if acceptable to the Township, provide a recreation fee in the amount of \$19,860 which is 80% development and it goes through the calculation there, and we did submit a waiver for that.

Mr. Mease said 39, landscaping is reviewed by the Township Planner, Boucher and James, Inc. This would not include the area that was previously talked about where the deck was in the rear section. That's not what they are asking a waiver from. They will do that section in the back. Mr. Maxfield said he couldn't stress enough the approval of the landscaping plan we talked about before, and in fact, any landscaping done in the floodplain. We have a list of specific approved plants in the ordinance for a reason. They are native plants. They are not invasive or exotic, and often ornamentals that are planted are, and in the flood plain, when the flood comes along, and it will come along again, off we go carrying seeds and all sorts of materials down the creek and they get planted somewhere else and here we go planting invasives again. He's going to ask you to really submit that landscape plan. That approval is very, very important especially for a property that is totally in the flood plain. This could be a basically little greenhouse for exotics and invasives. Mr. Lebkuecher said he got a book from the conservation district and they told him what trees could be planted. Mr. Landis said we need to prove that. Mr. Maxfield said and meeting the zoning requirements, and definitely talk to Boucher & James as they are plant specialists, and that's one of the reasons we hire them. He is guessing even with Council, it's a very important subject. Mr. Landis said from landscaping, it's a waiver to do the section whatever was removed. Any further plantings must be approved. Mr. Maxfield said he doesn't want to grant this waiver. Mr. Landis said we already talked about the other section. Attorney Treadwell said the zoning stipulation covers the plantings by the creek. Mr. Maxfield said you have a property when it floods, the entire property will be under water. Mr. Mease said would you like a note on the plan expressing that concept or idea as tied to that waiver? Mr. Maxfield said the easiest way to do this is to not grant the waiver and just get the landscape plan approved. If one is developed for the property, get it approved by the consultants. Mr. Lebkuecher said would you have a specialist come down and look at the plants that are there already? Mr. Maxfield said we've done that sort of thing already, they are here to consult. They are not going to come out and consult for you, they are going to consult on behalf of the Township. Mr. Miller said he thinks there may be some misunderstanding on what this waiver entails. It entails protecting existing trees and proposing street trees. You can't tell it from his comment, as he's just referencing the landscape section of the SALDO and that's what that section addresses. That said if you want it to be addressed, you can make it be a condition, but he just wants you to know if you don't approve the waiver, and they comply with the waiver, they are not necessarily going to be addressing your concern. Mr. Kologie said the waiver request isn't any different than any other waiver request that was made as you are not proposing any new development. That's what everything is here. On that landscaping issue, there was a deadline of June 1, 2011 and that's what we should be referring to for any conditional approval as they were supposed to already have that plan submitted, and it

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sounds like they are willing to do that and are just waiting for someone to tell them what it is we would like to see. Mr. Maxfield said that's clear, and he has no problem with that waiver.

Mr. Mease said B1, B2, B3, B4 and B5 are all waivers of stormwater management. Again, because nothing is proposed. Mr. Garges said that's where Mr. Miller wanted that pipe cleaned out. Mr. Miller said they still want the waiver for the extension. They don't want to do any improvements to that, they will clean it out and he thought Mr. Miller had a separate comment for just the cleaning out. Mr. Mease said that's actually D5.

Mr. Mease said No. B3, it talks about operating maintenance agreement covering any storm drainage systems. There are none proposed so it wouldn't be applicable.

Mr. Mease said No. B4 wouldn't be applicable. B5 talks about stormwater easements.

Mr. Mease said when we get to section C, he had some discussion with Mr. Miller and Mr. Garges and possibly Mr. Garges could summarize it since it deals a lot with the floodplain management issues. Mr. Garges said basically what we discussed, the ZHB saw and voted to grant relief from a number of sections of the Floodplain Management ordinance, which basically the intent of the relief that was granted by the ZHB is what's in Mr. Miller's comments. The C items were really negated by the ZHB. Mr. Miller said the one caveat is the third paragraph in No. 8, which is the holding tank. Mr. Mease said that's what they actually talked about having that tank removed.

Mr. Mease said D. Mr. Maxfield said D2 is what we were talking about. Mr. Landis said here is where cleaning of the pipe is, D5. On D6, the turnaround is mentioned. We talked about that already. D7 is a variance on the plan. Mr. Miller said it's technically accurate. He found out since it's irrelevant. They got the variance they said they got. It's just the letter we were referencing saying what the ZHB approved was incorrect. Mr. Landis said you are going to get this done by next month? Mr. Mease said the landscaping plan is the only thing. Most of these are all waivers. Mr. Landis said is there anything else you need? Mr. Mease said no. Mr. Landis said why don't you just come back here and meet with Township officials. Mr. Miller said he's wondering what they need to accomplish before the next meeting as a lot of these things that they are getting waivers from, his letter will probably still be of length. If you are waiting for the letter to get shorter, he wants to know what exactly is expected. Mr. Landis said we'll have a listing of all the waivers and we talked about which ones we would grant. Until he sees the plan, he'd rather not grant the waiver, but they talked about which ones they would accept. Mr. Kologie said we should give consideration whether we really have to grant waivers. If everything exists, why is a waiver necessary? If he comes in with a site plan that shows his house and lot, he's not doing anything, he's just bringing in a plan before you. Attorney Treadwell said he thinks the question is because this is a plan that shows pre-existing structures and it's not a plan that proposes any new development, do you really need a waiver. He guesses the answer is from the ordinance perspective, this plan clearly does not meet a lot of the subdivision ordinance sections. Do we list that as a waiver each individual waiver for each section or do we just put a note on the plan saying it's not being reviewed per the subdivision ordinance standards. Either way is fine with him. The intent is just to get a plan on record. It wasn't necessarily to go through the entire process like it was a new proposed development. Mr. Maxfield said the waiver does kind of acknowledge the fact that this developed in an organic sort of way, without any approvals. The waivers do kind of say that. Mr. Kologie said why don't we just have a note on the plan that clearly says that and states what the intent of what this plan is rather than going through that process. What's to stop someone in a similar situation coming in for a waiver say you gave it to that guy, why can't I get it. Mr. Maxfield said that would serve the same purpose. Attorney Treadwell said we can develop some sort of note on the plan to explain what the purpose of the plan is and to also explain it is also not going to comply with some of the subdivision sections and have a list of those sections. Mr. Maxfield said that would be the record plan and that would be good. Attorney Treadwell said it's not an action you are taking as a Planning Commission. Mr. Landis said okay. The purpose of that was to make that drawing correct and go over anything that we felt should be brought up to the

current standards. It still gives you what you need to do. Mr. Maxfield said we'll need some sort of communiqué to the Council. Attorney Treadwell said they will take care of that from the staff level. The most important issue he heard was the landscaping plan. Get the plan done as you aren't going to send it on to Council until that's done. Mr. Maxfield said and the removal of the tank and we have no more structural changes. Mr. Landis said we wanted to see the 100' thing on the easement. Mr. Mease said okay.

B. IESI PRESENTATION

Attorney David Brooman was present representing IESI. He said this has evolved a lot from the last time they were here. Why are we here? We are here to introduce Sam Donato and Sam is going to introduce the rest of his team, only some of which are here tonight. This is the first time we are coming out with a public sort of presentation that we'd like to expand again, and indeed, we are going to expand again with your good graces and cooperation. There's a process of course, but the process really starts tonight and it's the first time we are in front of the public and it's been advertised. He will say he did call Solicitor Treadwell to get some guidance as this is new to everyone in terms of how we do things now. It's all transparent. It's all open and we're here to get your input on some very basic planning issues. The presentation tonight will be short and we are here tonight to hear from you if you have any questions about what we present. He'd like to introduce Sam again as IESI's district manager for this region and he is responsible for this particular site, which is in your Township.

Mr. Donato said he's pleased to be in front of you folks again. Also present are Kevin and Rick Bodner from Martin & Martin, Vito Gilante and Jay McLaughlin, part of IESI. This evening, he has a short presentation on their western expansion.

Mr. Donato said this first slide shows the current zoning districts that we are operating under. If we start out at the Bethlehem Landfill, that area is the LI or Light Industrial District. That is the current zoning we are working under. As he moves to the other shade of purple in here, this is the Light Manufacturing or LM District. The green, which is the RA or Rural Agricultural District, and the yellow is the Residential Zoning Districts.

Mr. Donato said the next slide covers the current approved land development plan and in our PADEP permit. Starting along Applebutter Road, and heading east, the first landmark we have is the Calpine Power Plant on the right side. As we proceed up Applebutter Road, you will see a small black dashed line. That line is the current consolidated property line that runs around the perimeter of the facility. The next area which are triple black lines and they represent PPL's high tension power lines that come from their switchyard headed to the northwest and intersect at the top of the facilities. There's also a set of lines that run from the Lehigh River headed east to west and they intersect in this area also. The yellow dashed line represents the current permit boundary that was issued with our 2003 Phase IV operating permit. As we proceed up Applebutter Road, this is the entrance to the facility. You'll see the sedimentation ponds to the left and right, the office and scale facilities. This corner is the Bethlehem Energy Plant producing energy from landfill gas, around 2,000 homes daily. As we proceed, we have a number of access roads that run through the facility. This area is where our flare is. You travel up the access road through the top and travel across to the active area, and we also show our maintenance facility, Basin 7. You can see the Bushkill Motorcycle Hill Climb in this photograph for reference also and we identified the LST's water authority storage tank which will be relocated with our future expansion. Remaining approved capacity – we have approximately 4.1 years of life as of January 12, 2012. What that really means is we will need our DEP permit issued sometime in around 3-1/2 years as we have a build out that will take us approximately six months to build the first phase of the landfill.

Attorney Brooman said there are a lot of layers of approval here and obviously we are here first. We basically follow concurrent for all of our approvals at once because in order to comply with the

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regs, you can't submit before five years and then when you do submit, you're under a scramble. The reality is DEP set it up this way so you have to run concurrent. That's what they intend to do.

Mr. Donato said essentially the 3-1/2 year mark we've got to have all of our permits in place, all of our approvals, so we can start our build out. The next slide is the proposed western expansion. Starting along Applebutter Road, he's referenced the Calpine Power Plant. The first thing you'll notice is there's a red dashed line that cuts across here. This line represents the current limits of the acquired property that IESI has purchased from 2009 to 2012. The only thing we'll notice here is the three lines represent the proposed relocation of the PPL high tension power lines. As it comes out of its switch yard and runs along Applebutter Road, across our property, it starts to head north and west, and then it'll intersect where it currently intersects now. The same with the power line across the top. In 2010, we relocated this section already and this section will happen at a future date. The black dashed line, again, represents the current consolidated property line that he mentioned earlier. The yellow line represents the current permit line that they are operating under. The red dark line represents the proposed western expansion. That gives everyone an idea of how it fits and what is involved in this process. A couple of key points to be noted that the entrance and the support facilities will remain at their current location with this proposed expansion. They do not propose another entrance to their facility nor do they propose to move the scale house and office along with their shop. These support facilities will remain in place. The next slide shows the western expansion with final contours and the sedimentation basins. What this slide will depict is if you travel by the facility, these contours are basically pre-existing here and our designers have basically been able to tie in the existing Bethlehem facility into the proposed western expansion. You notice on this slide, we are showing some proposed sedimentation basins and water treatment facilities that are here. These are conceptual at this point, but they are essentially going to be in part of this area of our facility. This shows the existing contours, how we tie in. The top of the facility is at our current permit elevation of 725.

Mr. Donato said the next slide represents the western expansion within IESI properties. This red box in here is the proposed western expansion. The red dashed line you see represents the current limits of property we have acquired. We are talking to other property owners, but everything in that red line he has either purchased or have an agreement on sale on or he's closing on them in the next quarter. This will give everyone a relationship of how the proposed expansion fits into the property map.

Mr. Donato said the final slide talks about where we're headed with the western expansion land development and our PADEP permit. We are proposing to increase the consolidate property by about 83 acres. We're increasing the line disposal area by approximately 68 acres. The expansion will add about 9.2 million cubic yards of landfill capacity and we plan on modifying the facility limits. That's the end of our presentation and we are open for questions.

Mr. Maxfield asked if they had a projected end date for the landfill with the proposed expansion? How much more of a life? Mr. Donato said at this time, they are working on volumes and our ADV. It could be anywhere between 12 and 16 years. It's not pinned down at this point. Attorney Treadwell said 12 to 16 extra? Mr. Donato said on top of the four years that we currently have. Attorney Brooman said if he can refresh everyone's recollection, that's a fairly complicated calculation and until we know exactly the geometry, we can't do it. We won't know the geometry until we know frankly all the initial approvals and we have our design done, which is why we run it concurrent. Mr. Donato said we're somewhere in that window.

Mr. Maxfield said the water treatment facilities you mentioned that were adjacent to the basins near the bottom? Attorney Brooman said those are placeholders. We are envisioning that area to be used for ultimate stormwater. Mr. Maxfield said are we talking about naturalized kind of? Attorney Brooman said we are trying to, but we haven't gotten that far ahead with the design. Mr. Donato said we are in the process of looking at different water treatment facilities and working in conjunction with the sedimentation basins and so we just generalized it and classified it as water

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treatment at this time. Mr. Maxfield said it could be constructed wetlands, any of those things? Mr. Donato said it could be a variety of things going on in those areas. We haven't pinned it down yet, but for conceptual purposes, that's a generic term we are using.

Attorney Brooman said the best analogy in your terminology is this would be like a sketch plan trying to analogize it by what we're doing. Mr. Maxfield said he just thought you had a conceptual idea where you were headed with that. Mr. Donato said you saw the location. They are going to move. They are actually not going to be pinned down. You got to see what it looks like.

Mr. Landis said there's a power line and water tank. Mr. Donato said a year ago, he and Rick Bodner met with the LSA water authority. They started conversation with Gar Davidson and Hanover. Hanover is currently working on the design to reroute that tank and the water lines to feed it. We hope to start the review of that document sometime in 1Q of 2012 and have a bid document out sometime in 3Q of this year so that work will start to take place in 2013. That's classified as long lead items such as the power line location.

Attorney Brooman said he should have told you when he opened, but he wants to thank Tom Maxfield, as they are on the Council agenda for February 15th and he appreciates that and thanks him. We are in a concept plan.

Mr. Birdsall from Hanover Engineering said they have a list of questions dated January 12, to the Manager and he was wondering if that has been distributed to IESI. Mr. Donato said he received that from Attorney Brooman on Tuesday afternoon. At that point, they started to review it. They are not prepared to comment on it because he did not have enough time to sit with their consultants and work on a detail review of those questions. They are in front of Council on February 15th and they would be prepared to address those at a Council meeting. It's going to take a lot of time as there are 24 questions there.

Attorney Brooman said there are some questions there that they are not even going to answer as they aren't legal. The ones that are legal they are going to answer, and that's everything but four of them. Be that as they may, they will do the best they can, and even then, it's going to be they can answer some and they can't answer others. They will do the best job they can and will always be truthful, but they'll be incomplete answers on the 15th as until they exactly know a couple of things. One is they acquired all the land, they are not going any further. Two is we get a zoning change, and three we are going to go with everything at the same time. Until all that work is done, so they are here to tell you it will take time.

Mr. Donato said concerning moving targets and the host agreement, they won't be able to address that question. There will be some questions they won't be able to address as they are moving targets. They'll do the best job they can. Mr. Maxfield said the response to those should be reviewed in plenty of time for the engineer's before it gets to Council. Attorney Treadwell said he thinks the Planning Commission has a copy of Mr. Birdsall's letter in front of them and they are all very general questions. They are not engineering, you need to go back and forth between engineers to answer them. They are conceptual questions. They are not going to have all of the answers. Mr. Donato said they will address that at the Council meeting.

Attorney Brooman said they were planning on spending our time and preparing a little more detail than this as they will need a couple of more weeks. Candidly, they were looking to spend the time corralling our people. We were hoping to spend the time collaborating and come up with the team and work with Attorney Treadwell and make sure they are responsive to what Council wants them to do. He doesn't know what that is yet. It just happened last night. He will admit he got it from Attorney Treadwell sometime Friday afternoon. His office was closed Monday so the client did get it Tuesday morning. It's his fault they didn't get it Friday. They got it yesterday and they started talking about it and that's when he said they really can't say much right now, let's get our team together. They were looking at giving you an oral presentation, it's that general.

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Mr. Maxfield said that's fine. He would rely on Attorney Treadwell's opinion. What does he think is the Township's response to our consultant's letter to IESI. What would be a good response? Attorney Treadwell said he doesn't want to speak for Jim Birdsall, but he doesn't see a reason why their conceptual type questions and a verbal response would be fine at this stage of the game. If we get into it more and more into the future, it's going to get much more detailed. Attorney Brooman said he's the lawyer. He doesn't want to say anything now that will come back later and not be accurate. At this point there are so many moving parts and that's his job. If you are looking for a real general answer, they can give you that, but he was thinking you'd want more than that. That they can talk about as long as they are on the same page. Mr. Maxfield said he does not want to speak for the rest of Council, but for him personally, he thinks that would be fine.

Mr. Kologie said do you need a zoning change to do this? Attorney Brooman said yes. They need a map change. If there's something else that the Township would like to talk about in terms of how the special exception would go, that's what it is, we can talk about it. As far as walking into it, we think we need a simple map change.

Mr. Birdsall said he agrees that they are only looking for a verbal response. What they are trying to do at this stage is to inform whoever comes to the meetings from the public has as much information as IESI has. If they know they are not going to move the driveway, they know they are not going to move the driveway. They've answered about half of the questions already, which is fine. That's information the public can absorb early in the stage so they know whether they want to participate in another hearing or not. With regard to the other real simple question, and they may or may not know the answer to, but he knows a lot of citizens are concerned. Would the truck traffic change, either reduced number of trips per day increase, or not change? Do they have any information? Mr. Donato said Mr. Birdsall attended a meeting with him with PennDOT about two months ago. At that point, they went over the traffic study. The traffic study is still ongoing. It is not complete and at this given time, he cannot give you an answer as the study is not final.

Attorney Brooman said it would be fair to say if the traffic report supports a higher ADV, they will try for it. He doesn't want to hide that. It's in draft and it's being reviewed and he suspects it will be done in a month. You know how they work. The counts have been done and they just don't have the written product yet. That's where they are in the process. Someone said generally speaking of the traffic you have to give them certain parameters in what to work with. Attorney Brooman said that is PennDOT and you go to them for that. Someone said you also have to tell them if you expect your trips to increase as a result of this, is your intent to increase your daily volume or is it going to be the same volume and increase the life of the facility? Attorney Brooman said yes, it is. Mr. Donato said their intent is to increase their ADV, average daily volume. Someone said then the trips would increase too then. Attorney Brooman said they can't share that until they see the traffic report. We have to look at it and get comfortable.

Mr. Birdsall said the only thing he would ask is about the map change. It's important for Council and for the Planning Commission to know if they are going to need any or be looking for any text change. If over the next month they would look at the parameters of the special exception, and make sure that they hone in on the request they want so they don't have to go through it in piece meal fashion.

Attorney Brooman said his personal goal, is that when they have the meeting on the 15th, they have some direction too in terms of that very question. They know they need a map change and they are not adverse in anything Mr. Birdsall may come up with. What they are looking for frankly is to move very fast after they are at the 15th. They are not adverse at all to that discussion, but if they get into a long process talking about the text change, then they've lost their schedule and that is not something they want. They are willing to entertain almost anything on the text change, within reason. Mr. Birdsall said he hadn't thought of it that way, them making a text change. He was thinking if they are asking for a text change, they should be aware of it as soon as possible.

Attorney Treadwell said they would love to see the Township do this and work with them and the Township would be the sponsor and we'd move quickly. That would be his plan, but they haven't had that discussion. They have to get to the 15th. Then they can have that discussion.

Mr. Harry Gerstenberg, Applebutter Road was present. He said his property borders the new landfill expansion. The one big concern he is after is the ponds that they are going to put right where he runs the power lines up because he sits right under them. Conectiv had put the power plant in, put in a sediment pond, and it over exceeded and flooded him out. He is very concerned that the volume of water will be adequate to what they put in because Conectiv Power Plant did tell them that they made it Hurricane proof. They didn't because when Ivan came through, it came over. This is a very, very important concern of his as he doesn't want to be flooded out again because of someone's expansion for wealth. He is very concerned because he is the lowest point. Where they are putting it and it's the most natural place to put it, engineering wise, but they must consider the fact that they do need to make sure it is rezoned and take it down further to their properties so they can expand again if they need to. He does chat with them once in awhile. Mr. Landis said the details of this would come out in a much more definite plan. Mr. Gerstenberg said that's right, then he does have the public right to get a copy and take it from there.

V. MISCELLANEOUS BUSINESS ITEMS

A. APPROVAL OF MINUTES - JUNE 16, 2011

MOTION BY: Mr. Kologie moved for approval of the June 16, 2011 minutes.
SECOND BY: Mr. Maxfield
ROLL CALL: 4-2 (Mr. Lychak and Mr. Noble – Absent)

B. DISCUSSION OF ORDINANCE REVISIONS

Mr. Landis said this is an item for 2012, possible areas that need to be looked at for zoning ordinance revisions. Mr. Garges said he jotted some things down that have been on his mind. They don't have to get in detail on this tonight, but just to open the floor up and discuss what they want to get involved in looking into and changing. John Lychak even mentioned if they have any meeting without any business, just sit around the table and do a workshop. Mr. Landis said they could certainly do that. What Mr. Garges put down was just some cleanup things and if you want to call it modernization to get into some of the new uses out there that we don't have any specific regulations. Ms. Mallo said there is also an adult daycare. Mr. Garges said there is a doggie daycare. They have kennel regulations. The adult day care would pretty much fit into our daycare regulations. Regarding group homes, it depends how the adult care is set up, a longer term or just simply a drop off during the day and pick up type of thing, we could explore our ordinance further, but he thinks we have enough detail in there now that we could cover something like that. Some of the other things, back in the day you had gas station and auto repair, now it's gas station and convenience and the auto repair is a separate use. He tried to put some of the sections in here that are in our zoning ordinance in case you want to read through the zoning ordinances. Mr. Landis said why don't we for the next meeting put this on the agenda. Mr. Garges said that's fine. If you have any questions or additions you want on this before the next month, just email him or Molly and he can answer your questions. Mr. Kennedy said do we have alternative energy standards like solar and wind? Mr. Garges said they are in the process now already and maybe we could get them some of what we have already. Ms. Mallo said solar and wind are pretty much ready to go. Mr. Landis said we can use this time now with development going nowhere and try to work on this. He said there was something about consolidating zoning with Hellertown, has that gone anywhere? Mr. Maxfield said it was a study. Mr. Garges said the Partnership still meets monthly with the school district, the Borough of Hellertown and Lower Saucon Township. He thinks what they are looking now is having audits done. He thinks they got some funding and he will follow up with Mr. Cahalan. That's where they are at right now. He doesn't see these as big zoning changes, but just clean-up.

VI. PUBLIC COMMENT/CITIZEN NON-AGENDA ITEMS – None

VII. ADJOURNMENT

MOTION BY: Mr. Kennedy moved for adjournment. The time was 8:45 PM.

SECOND BY: Mr. Maxfield

ROLL CALL: 4-2 (Mr. Lychak and Mr. Noble – Absent)

Submitted by:

Mr. John Landis
Chair