

I. OPENING

CALL TO ORDER: The Planning Commission meeting of Lower Saucon Township Council was called to order on Thursday, March 18, 2010 at 7:00 P.M., at 3700 Old Philadelphia Pike, Bethlehem, PA, with Mr. John Landis, Chair, presiding.

ROLL CALL: Present: John Landis, Tom Maxfield, John Lychak; John Noble, Haz Hijazi, Craig Kologie; Dan Miller, Engineer from Hanover Engineering; Chris Garges, Zoning Officer; Kevin Kochanski, Planner from Boucher & James; Linc Treadwell, Solicitor and Jr. Planning Commission members Jameson Packer and Eubin Hahn.

PLEDGE OF ALLEGIANCE

II. PUBLIC COMMENT/CITIZEN AGENDA ITEMS

None

III. BUSINESS ITEMS

A. SAUCON VENTURES LP/RAMZI HADDAD – 2200 WASSERGASS ROAD LAND DEVELOPMENT 05-05 & SITE PLAN 02-05 – 2200 WASSERGASS ROAD (TIME LIMIT 05/24/10)

Attorney Preston and Ms. Kandil were present. Ms. Kandil discussed the special exception and variances that are associated with the site plan which was before the Planning Commission. Attorney Preston said the applicant was seeking a special exception and a few variances. The special exception was related to transferring an existing nonconforming use to the proposed office use. The variances included three sections. One is Section 180-99 regarding the proposed sign which announced the new use. The second relating to the required buffer yards in Section 180-97.

Attorney Preston said the final item has to do with off-street parking. This took a roundabout route. The building has over 47,000 square feet total floor space. Our proposal was for a 25,000 square foot office space within that. We understand that in making the parking calculations, we are required to use the entire floor space. We're not arguing that. That calculation takes us up to 339 parking spaces and we have existing 120 parking spaces and Ms. Kandil can tell us how this works out in term of impervious and the location on the site. That's the overview of why we are here. We have the use and we have the buffer yard and parking.

Mr. Landis said in terms of the use as an office building, are there a lot of tenants or is this some company that's building the office building? Attorney Preston said it would be multiple tenants and that's why he's discussing this with the Township. Thereby, tenants could move in and out. What they did was other projects in the Township, they submitted a range or menu of the types of use that it would be permitted so the Township could assess what those impacts would be and we'd have to live within the venue of uses. Mr. Hijazi said is medical one of them? Attorney Preston said it doesn't specifically say medical, but it could come under a general office use. We should probably discuss that. Under the definition we supplied, you could probably read it to him in a medical office. One of the things he can tell you is nothing will be built, manufactured or sold here. There will be no retail, no manufacturing, nothing of that nature. There would be purely office uses.

Mr. Hijazi said the space of the office is going to be 25,000 square feet, but the building is 47,000 square feet? Attorney Preston said that is correct. Mr. Hijazi said what is the difference going to

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be used for? Ms. Kandil said there will be a conference room to benefit the office spaces. There will be bathrooms and a kitchen area, and the rest will be for office. Mr. Maxfield said the use variance will apply to the entire structure. Attorney Preston said yes, we are not looking to segment the building.

Mr. Landis said there are two letters you have received. Starting with the Boucher & James letter, do you have issues you wouldn't comply with? Mr. Kochanski said he has the review letter. He did have an opportunity to go through it. Most of the comments in our review letter are dealing with land development issues that aren't necessarily related to the special exception, but there are quite a few comments that are important that you will probably want to get some additional information on tonight from the applicants and he can go through those. On page 3, item no. 3, change of use, whenever you are changing a non-conforming use to another non-conforming use, the applicant is required to supply a series of information and demonstrate that they don't have any other choice and that information has not yet been submitted to us. We'd be looking to the applicant to provide that information to you tonight. Attorney Preston said he apologizes as he didn't realize these are the things that would be a burden to prove at the Zoning Hearing Board. Mr. Kochanski said correct, this would be testimony in front of the Zoning Hearing Board, but this would be items that are important that you may want to know. Attorney Preston said Ms. Kandil, you've taken a crack at the traffic? Ms. Kandil said yes. Attorney Preston said most of these will probably speak for themselves. The applicant shall show that the nonconforming use cannot reasonably be conformed to a forming use. If you look in the ordinance, the conforming uses would be cemetery. There are some governmental uses, single family dwellings and maybe attached dwellings. There is a clubhouse or golf club use. That one is pretty easy. He is going to say that one is self evident. Mr. Landis said you do have an approved use for garden apartments, there was a variance granted? Attorney Treadwell said currently the property has it has a special exception for 24 garden apartments. The proposal as he understands it from the applicant is change that use from the garden apartments to office use. Probably the information that Mr. Kochanski was just referring to, is the Planning Commission is looking for what type of office use are we talking about? Do you have some sample type tenants we could explain to the Planning Commission so we'd have a better idea? Attorney Preston said the noise, dust, fumes, vapors, heat, odor, vibration and glare, that to him is probably self evident. We can probably meet our burden with respect to the difference between the garden apartments and the office building; storage and waste disposal the same. Appearance, they have some renderings they can show you this evening, and then he will get to Attorney Treadwell's question. The final one on here that might be of interest is traffic generation. We should take a look at that first. He asked Chris if he received a list from Lisa. Chris Garges said they received a letter November 12, 2009. That's when Attorney Preston and Attorney Treadwell had set up a meeting to go over that list. That was the last he heard of that until that phone call this afternoon. Attorney Preston said the types of uses that would be in there, what they did was go to the City of Bethlehem's zoning ordinance and pirated their list of uses that they have in their office district and it would be business or professional offices, non-manufacturing, no sales permitted on site, so it would be architects, engineers, lawyers, accountants. There may be some minimal medical office use. That's pretty much it – most are professional services.

Mr. Landis said this is looking at it from the west? It's the back of the building. One of the issues he has, which is a general one, this is an office building in a residential area, and it really doesn't fit with their master plan. Is this something we really want to have, offices in the middle of homes? It's not like it's on the main street of Hellertown. It's actually in the residential area. Granted, it was a school at one time and then it was approved for a garden apartment, which probably fits the character a little bit more. This to him, is putting an office space out in the middle of nowhere. He does have a problem with it. He doesn't know if it's as much an issue here as it is with the Zoning Hearing Board. He does have that major issue himself.

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Someone said he thinks the ordinance allows for another nonconforming use as a special exception and it's a matter of making sure if the Zoning Hearing Board does find in favor of that, we can at least provide enough input to make it the best available for that area. If the building wouldn't be there, there wouldn't be any question that it's not appropriate there, but the fact of the matter is there is a building there and it's deteriorating every year and an improvement of that structure may benefit the area in general.

Mr. Kochanski said some of the other comments in their letter deal with the issues of the appropriateness of the use goes back into page 7 of their review, item No. 9, site plan requirements, which deals directly with the special exception and what they are required to submit as part of the special exception site plan submission. The items, while there are quite a number of those, some of those are more technical in nature, so he won't focus on them, but letter b, subsection e, requires a location of any carbonate geology feature that might pertain to the site. The site is in two overlay districts. The one is the carbonate geology area and the other is the watershed protection area. That was the kind of information they were looking for from the applicant. Item d, subsection j requires a plan to show the hours of operation of all existing and proposed exterior parking lot lights. That was something, since it's being converted to a different use, even from the school, where the existing parking lights are going to have a different operating intensity from what the school would be since the schools aren't in session all year long, and this office use would be. We'd be looking for some information and explanation on that type of information. Item f, subsection l, requires the plan to detail that location, size, design, color are in illumination of all proposed signs. We heard there is a sign proposed in front of this property, in front of the roadway, the kind of lighting there could have some kind of potential impact to the residents across the street. Item g, subsection n, requires a description and association calculations for water supply, fire protection systems, sewer, and storm water management facilities. They did submit some information and they are going to defer to Dan's office for any kind of review on those matters. Item h, subsection o, requires submission of a project narrative providing information regarding the proposed use. We discussed that already. Hours of use, description of services provided, number of employees and emergency service plan. That could have a potential impact on how intense this use will actually be. Item i, sub section p, require certification that utilities to be provided are adequate for intended use. Item k, sub section r, states in the case of on lot sewage disposal, the locations and elevations of all passing and failing soil tests, trenches and percolation tests and proposed primary inter-placement drainage field areas, and all soil test results shall be provided. Again, they are deferring to the Township Engineer on that since it's something they review. The last item he thought was relevant to this current application to the special exception is item m, on page 8, which requires a traffic study. These are the important issues he was taking out of his letter. They are all important, but these are dealing specifically with the special exception he felt you may want to have a little bit more information on for making any kind of recommendation.

Mr. Landis said the type of office in there is fairly significant. It has to be nailed down as to if there is any kind of pollution that office may create or what's in there. There is a septic system there now, it's not a sewer system. That's one thing that bothers him, you have someone in there and they start dumping chemicals down the septic system and all the people out there all have wells. That's an issue. He doesn't know how you are going to address that and he doesn't even know what is required per the ordinance to address that.

Mr. Noble said they are going for a variance to get this thing done, not a conditional use. Attorney Treadwell said their application is for a special exception to change from the garden apartments to the office or a use variance. It's one or the other. Then there are two other variances that they are asking for. One is related to parking and one related to buffer yards. Mr. Noble said how many conditions can be applied to those? Attorney Treadwell said the Zoning Hearing Board normally doesn't like to see a lot of conditions. It's not a land development approval where you say you are approved on condition with compliance with Boucher & James and the Hannover review letter. Usually with the Zoning Hearing Board, if we ask as a Township, that the conditions be imposed

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upon any relief they may grant, they are limited to a couple of conditions and of the most serious nature. Mr. Noble said they made representation that only 25,000 square feet is going to be used for office. Attorney Treadwell said that would be one. That's a big enough issue that we could ask the Zoning Hearing Board to impose as a condition that only 25,000 would be used for office space. The items that Mr. Kochanski just went through, in no. 9 of his letter, are all items that need to be addressed in the site plan submission that you are reviewing tonight. Even though the applicant's response letter under item 9, every single one of those is a "will comply", he doesn't think this Planning Commission, and he's addressing this towards the applicant, would necessarily be comfortable passing this on to the next level until it sees those "will comply" put on the plan so that Mr. Kochanski and Mr. Miller can review those revisions. That list on no. 9 has so many things in it, and he sees the applicant said they will comply, they will comply, but he thinks the Planning Commission will have to see plans that do comply before they can make a recommendation to pass it on to the next stage.

Mr. Maxfield said are you saying we should or should not be specific with some of these things, hours, lighting, etc.? Attorney Treadwell said what he's saying is he thinks when the applicant says they will comply, they need to revise the plan and come back and show you that what are the hours and put it on the plan and say "our proposed hours are 8 AM to 5 PM", or whatever they are. Those items need to be put on to the site plan so that when the site plan is then reviewed, these items under no. 9 don't come up as missing. They come up as yes, they are on the plan and you can review them. Mr. Noble said the only problem with that is we're just passing this along to the Zoning Board. They can put anything they want to put on the plan at this point. If they get their variance, then they are going to have to go through our board again for a land development. At that point, is there anything that states that the information that was on the plan before has to remain. Attorney Treadwell said he would anticipate, and it doesn't always happen this way, as the Township, we would ask the Zoning Hearing Board that if they grant the relief requested, that it be based on the site plan that is in front of them.

Mr. Kologie said the Council may request that someone represent them at the Zoning Hearing Board and make those issues known to make sure it gets followed through with. He personally doesn't have a problem with the office just as long as the proper conditions are put in place so that it doesn't impact anyone else. All these items on 9 are certainly relevant, but some may be more appropriate for a land development application more so than a special exception. For example, the E&S plan, that is something they are definitely going to have to do and will comply with, even beyond the Township control. Parking is one of the things we may want to consider, okay, do we want to really want it to apply to the 47,000 square feet because that means more areas of impervious coverage and more impacts and maybe it's appropriate to apply for a lesser square footage. Mr. Landis said that is a major issue. What happens to the other 22,000 square feet? Mr. Noble said his understanding of what your use is going to be is office spaces and the additional square footage is going to be support spaces for those. It will be like common areas of the structure. How much of that is internally in the school. It's set up with hallways and rooms off of the hallway. Is the basic layout of the interior of the school going to stay the same? Ms. Kandil said it's almost the same as the school. Mr. Kologie said x percentage of the school is hallway space. Attorney Preston said there's an auditorium. Ms. Kandil said there will be a conference room in the gym.

Mr. Landis said we come to this parking issue and how it's calculated, is it just the office space or the whole area? Mr. Kochanski said it's based on the use and the building is being used as office so we'd look at the total square footage. We've heard a lot of that is hallways and corridors; it seems like half of the area. It might be helpful if they resubmit the plans and show the calculations of this is office space, this is hallways, this is stair corridors, this is a conference room, this is a kitchen area and provide a list so you get a better understanding of what the excess areas are made of. They indicated that part of the conference room, they would actually consider part of the office use as it could be used at the same time as the other offices for bringing people in which would

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have a direct impact on the amount of parking whereas we would agree that a mechanical room wouldn't necessarily have that. The ordinance doesn't make that differentiation. Mr. Landis said he would think in terms of the ordinance when they are talking about gross square footage, which includes the hallways and some stairs. Mr. Kochanski said from his understanding, now that they are going for a parking variance for the total number of parking spaces, where 339 spaces would be required, they are requesting a variance to just provide 129. Mr. Maxfield said is the 339 for the 25,000 square feet? Attorney Preston said that's for the whole building. Mr. Landis said we've been burned on this before at the top of the hill. Attorney Preston said just so we are clear, what we are asking for is what you stated, a variance in that regard, but we would also conditionally reserve parking. We don't want to over park it or over build it. We don't want to put more impervious than is needed, but we'll show it on the plan – conditionally reserved parking. Mr. Landis said the problem is, once it's filled we don't have a lot of control the number of people someone has in that office. We've had, unfortunately, that experience more recently at the top of the hill. All of a sudden you say we're just going to have a couple of employees in each one of these offices, and then all of a sudden you don't have enough parking spaces and people are parking on the road. People parking on the road, he would think they would park along the sides. Mr. Kochanski said that's why he was possibly suggesting a breakdown so they can get a better feel for stairwells, hallways, mechanical rooms, kitchen areas, and things like that. He just heard something that concerns him a little bit as it's where we thought we were, and then he had heard differently with the reserved parking. Initially on the plans they submitted, they have reserved parking areas and we commented that was creating issues with the impervious. That area of the reserved parking would have to be included in the impervious calculations. It would then increase the non-conforming condition. He learned today in talking to Ms. Kandil, the reserved parking was off the table and they were just going with a straight parking variance. If the reserved parking is back on the table to consider, now we're back dealing with another variance for the impervious coverage.

Mr. Noble said from his standpoint, at least you are going to have to show us a plan that complies with parking and how many square feet you are going to use for office. Mr. Maxfield said we really need to see how it's going to be tailored to fit into a residential area also. It will have to be tailored.

Mr. Landis said there was another issue, which was the buffer yard. Where does this buffer go, please show me on the plan. Ms. Kandil showed where the buffer yard would go. Attorney Preston said yes, the requirement is a 20 foot buffer yard, but he thinks it's supposed to be evergreen plantings. Attorney Treadwell said it's the type of planting, not the size of yard. Attorney Preston said it's the width of the yard. It would be from the type of the planting. Mr. Noble said do you need a buffer yard in the front also? Mr. Kochanski said the buffer yards are not required in the front yard, although they had made recommendations to provide, not only supplemental buffering along the one side of the property line, but also to provide some screen plantings along the parking area to help mitigate the headlights coming onto the adjacent properties. Mr. Noble said what is going to happen and it's not something we can answer, you are probably going to have to talk to every single neighbor there and if you get one neighbor that says no, I want a buffer, and then Mr. Noble would be inclined to agree with him as he has to live there. Mr. Kologie said it doesn't mean taking the trees out that are there, but supplementing behind that or something of that nature. Mr. Maxfield said they did that for the hospice where they put an additional row or two. That may be just in places. Mr. Noble said there's quite an elevation change there from those properties to the school. It would be helpful to have some visual clues as to what's going on out there and document how effective a buffer would be.

Mr. Landis said you had one other issue for a variance. Attorney Preston said it was the use, the parking and the buffer. That would be it. The sign they withdrew. Mr. Landis said they are looking for a lot more detail.

Mr. Landis said what about the Hanover letter, is there anything there? Attorney Preston said they don't have a written response to that, but they understand that there's no engineering issues or disagreements with that letter. Mr. Miller said he would say that's the case. He personally is not privy to the sanitary design. Ms. Kandil has explained to him that it's going to be an in ground system, so their biggest comment, at least in paper space in comment no. 4 will not be an issue. He doesn't know that's the case, but they are working it out with Jeff Hough of Hanover's office. Ms. Kandil said yes. The system is in ground. Mr. Miller said that is one that would be very difficult to comply with if it wasn't that way, but it seems like it will not be an issue. Everything else he would say is more of a land development concern except for possibly what Kevin Kochanski had commented on, which was No. 11 in regard to traffic. It's just a clarification. There was a traffic comparison provided to them and they don't agree with some of the assumptions that went into it and it may not be an issue, they just haven't seen anything to show that it's acceptable. It isn't a significant impact. Mr. Landis said that issue needs to be resolved. It wasn't a problem when it was a school, but now you will have this problem at 5:00 PM. Attorney Preston said would they be comparing traffic with the school or be comparing traffic with the garden apartments? Mr. Landis said you would be comparing traffic with your use as an office building. Attorney Preston said he understands, but they would be looking to change the use, what is the delta in traffic impact. Is the delta between the school or is it between the garden apartments? Mr. Miller said it would seem that you should go with what was the previous use, simply because you are changing uses every year. Attorney Preston said he understands, but he doesn't want to come in with the school as there has been an analysis done with the school that seems to support this use and he's happy with those numbers. He'd hate to come in with the numbers and then told he should have used the garden apartment because that's what is permitted there. Mr. Miller said are numbers newer than the February 16 comparison? Ms. Kandil said it's a big difference. The school would be 222 in the AM peak hour and for the office building it would be 73. It's like one-third. Mr. Miller said it's definitely better for the AM then. Ms. Kandil said for a school it would be none at 5 PM as the end of the end of the school day would not be at the peak time. Mr. Miller said that's what they are touching on. You are making a comparison of when the buses are letting out, which is done in part, to avoid being done at the peak hour whereas the offices would be let out at the peak hour. He doesn't think the scenario is if you have more traffic leaving, it's not acceptable. It's more acceptable of an issue if you have more traffic leaving, is it a problem and if it is a problem, how are you going to address it. Mr. Noble said instead of comparing it to when the school let out, you are going to have to compare it to the current flow of that road. Mr. Kologie said that's more of a traffic impact study than it is to uses. Ms. Kandil said the study gives her the peak hour for the school between 2 and 4 PM, it doesn't give her from 4 PM to 6 PM. Mr. Miller said that's the concern they are getting at. They are not in any form of disagreement; it's just a matter on how to address it. It would seem the argument is saying there is no traffic impact, would be a false one. It would be better to say there is going to be a traffic impact. This is what we're doing. We think this is sufficient and then put everything out on the table and it's out there. Attorney Preston said they are not saying there isn't any traffic impact just so they are clear. Mr. Miller said he's not saying that's the case either. Mr. Noble said they want to make sure you can leave the office. Mr. Kologie said in terms of the traffic impact, do they need to do a study prior to going before the Zoning Hearing Board? Mr. Miller said he would at least look at whether the flow they are expecting is going to be causing a problem. It doesn't necessarily have to be one of those 80 page traffic impact studies. A two page one might be sufficient. It's a matter of there is additional traffic. He doesn't know how much flow is there. He hasn't been there during the PM peak hours. Mr. Kologie said it will require some leg work. Mr. Kochanski said as a part of the site plan requirement, some of the form of a traffic study needs to be performed.

Mr. Maxfield said he'd like to jump back to the septic. He knows Mr. Miller doesn't have a whole lot of information, or you don't have the design, but Kevin mentioned earlier we are in a carbonate geology area and we're in the watershed protection area and we are looking at an in ground system. His understanding is that generally, the SEO and the Township, if we're in the Township, we ask for an above ground system. How come we are even considering an in ground system with a two

layers of environmental concerns here? Mr. Miller said he cannot speak to that. That's being addressed by their SEO. Mr. Garges said from DEP regulations, the SEO is certified and enforces the DEP regulations. He doesn't think, nor does the DEP under Chapter 73 give him the ability to use the local ordinance such as the carbonate geology. That's all evaluated when they do soil testing when the carbonate geology studies are done. They would have to do the testing to confirm where the limiting zones are and the perk test to determine the soil percolation. The only time the SEO can bring soils into the septic design is when they are flood plain soils. Some type of unsuitable soil that then you are looking at some time of alternate system which would be a four year fill or something like that. In an above ground system or an in ground trench system, they are all going to put the same amount of water through. It ties everything into the limiting zone. Where is that water or effluent going to get trapped? A sand mound is still going to go down into the ground, the same amount as a trench system would. Mr. Maxfield said why have we been insisting that everybody on the carbonate side of the township have sand mounds then? Why can't they have in ground systems? Mr. Miller said he doesn't know. Mr. Maxfield said he went through it fifteen years ago. Mr. Miller said is it possible you needed it because the soils drain too quickly? One of the concerns of the carbonate geology is that it's going to drain quicker and then it won't be within the range of the things that are permitted to put in a sewage system in there that is in ground. Mr. Garges said there's limiting zone and perkability. Ms. Kandil said they already did a study in 2005 for the soil, the carbonate geology study and the environmental engineer who did the study said there is no carbonate geology feature inside the site. He read the report and it said there are no features at all for carbonate geology. He actually did a septic system test and put it in ground if they need to. He has the results. Mr. Garges said can you elaborate on that? Mr. Kologie said you look at the depth of the limiting zone and the rate that the water moves through the soil and both of those things will determine what kind of system you can put on your property. It might have had the appropriate depth, but maybe it was moving too fast or too slow moving from the soil, so you had to go with a sand mound system. Mr. Maxfield said he was told by the SEO that it was a general rule that they did that. He's just repeating what he told him. Mr. Kologie said there's not a lot of flexibility with the SEO. They have the Chapter 73, the DEP guidelines and there's a table in there. It's like a cookbook and whatever the numbers come out, that's what the options are. Mr. Garges said he doesn't think there is any allowance in there for our local ordinance. That's all DEP regulations. Mr. Kologie said you can be more restrictive, but you can't be less restrictive. Ms. Kandil said she talked to David Walbert from DEP regarding septic system and he mentioned if she could prove that the office building will be less than the school use, she doesn't need any permits for the site from DEP for the septic system. Mr. Kologie said if you are using what's already there. Ms. Kandil said yes, if it will work. For sure the office building would be less than a school. Mr. Kologie said the question would be the system that is there has been basically inactive for many years, can that system be used. Mr. Landis said is there any requirement that you have a septic system like this in your business and it's not residential, do you have to have an operator and go through a license or anything like that. Mr. Kologie said the only trigger is if it would be more than 10,000 gallons per day. Ms. Kandil said it provides the calculation for the flow of the septic system. For the school it was 12 EDU's and for the office building it is about 5 EDU, which is less than half. Mr. Landis said he found it and it says 5.33 EDU's versus 12 EDU's when the school was there. He does have concerns about businesses connected to an on lot sewage system. Mr. Miller said that's one of the reasons you are looking at uses. It's unlikely an engineering firm will be dumping oil down their drain. Mr. Maxfield said or pharmaceuticals. Mr. Kologie said whoever cleans the building, which might happen with janitorial services. Mr. Landis said that's one thing you don't have control on with a business.

Mr. Noble asked if there were any monitoring wells associated with the septic system? Mr. Hijazi said the plans show a number of monitoring wells on site, are these wells still in existence and what is the purpose of them? Ms. Kandil said when Abe was doing the garden apartments, she wasn't really involved in that. Mr. Hijazi said were they for geologic and water supply? Ms. Kandil said she's not sure. Attorney Preston said they can get more information on that for the Planning Commission. Mr. Hijazi said this issue also came up in the EAC meeting. Mr. Maxfield said what

is the verdict, what is on the plan now? Mr. Kochanski said on several of the sheets there is a proposed package with the treatment plant with biological information of capacity of 6,000 gallons per day. That almost seems to him, but they are not reviewing this, a pre-treatment before it gets into the underground system. It's on the plans on the multiple sheets. Mr. Maxfield said before the underground system? Mr. Kochanski said yes. Mr. Maxfield said that makes him happier. Mr. Kochanski said that type of treatment plant can address some of your concerns. There are a lot of open ended questions. Mr. Noble said you are proposing the pre-treatment plant because a second ago you said DEP said you didn't need anything but the existing system. Attorney Preston said it's part of this plan, is the DEP requiring this to be part of the plan or they not aware of it? Mr. Noble said DEP would have to approve that then? Attorney Preston said yes, that's where you are going. Mr. Maxfield said depending on what Kevin said, about the capacity of that treatment, some of the things we were talking about, that would make the situation better and more reasonable for us in a residential area. Mr. Kologie said if he would have to guess on that, probably given that flow was to remove the nitrates because the plume would have extended off the property so they are reducing the nitrates from the water before it left the site. That's probably what it was trying to treat. Mr. Maxfield said are those types of systems modifiable to filter out other types of things? Mr. Kologie said even with what they have their, you can ask for a filter to be put on it before it goes to the bed and it will extend the life of the system. He's not exactly sure what the concerns are in terms of what you'd like to capture. Mr. Landis said that's the hard part. Mr. Maxfield said we still don't want to encourage pharmaceuticals or anything like that going into the system. Mr. Kologie said in terms of those uses, it's hard to say everything that you might want to permit, but if you have specific ideas of what you don't want to permit, and those would be the things to identify now as part of this application. Just say we want to limit it to specific types of uses, and make a comment on that. Attorney Preston said that would be helpful when they come back, they should have a list. If you have something you have an aversion to, please let them know. Mr. Landis said pretty much at that site, he would be concerned about the waste or the density and number of people.

Mr. Landis asked if anyone in the audience wanted to comment? No one raised their hand. Mr. Landis said he thinks we need more detail.

Mr. Noble asked what the time line was on the Zoning Board? Attorney Treadwell said he thinks it was through April 30. Attorney Preston said they will accommodate that. Mr. Garges said they need a defined list of uses that is permitted in black and white or a defined list that is not. The only way to move forward in the future, for example, on Friedensville Road, the Bagel Basket, that went through some approvals a number of year ago and that has a list that these uses are allowed, these uses are strictly not permitted. It's very easy when someone comes in or calls and says they want to move this into here, the decision from the Zoning Board either says yes they can or no they can't. Mr. Landis said we also need him to come to us with a list rather than just saying this is what we wouldn't permit because if we wouldn't think of them all. Attorney Treadwell said the applicant has been told well over three times to please explain to us what they want to do there and they are just not big on detail at the moment. Mr. Landis said they want to have the most flexibility they can have. Mr. Noble said the best way to get them to give more detail is to give them a list of what is permitted and then they can say, we need this and this and this. Mr. Maxfield said he doesn't understand what all the uses could be, like limited medical use. Mr. Garges said they would have to supply definitions as well as it's not in our current use so we can nail that down. Mr. Kologie said it's better to get them in as a special exception rather than a variance because we have much more control as a special exception than we would as a variance. We often don't have an opportunity to be specific in terms of what is allowed and this is a situation in which you do. Mr. Landis said what about the other 20,000 feet. Mr. Maxfield said if the interior walls inside aren't changing, it's pretty easy to go in there and figure out what. Mr. Kochanski said that's why he asked them to provide us with a breakdown so we can see what's going on where.

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Mr. Hijazi said it's better to see that property put to use than sit there and being empty for so long. Mr. Noble said as long as the impact doesn't affect the neighbors and traffic there. Mr. Kochanski said right now we don't know what the impacts of the traffic would be. Mr. Maxfield said is everyone okay with the 8 AM to 5 PM. Everyone said they were okay. Mr. Landis said except if they want to have a second shift. If there's someone there till 7:00 PM, you can't really do anything.

MOTION BY: Mr. Maxfield moved to table this agenda item.
SECOND BY: Mr. Kologie
ROLL CALL: 6-0

Mr. Miller asked Ms. Kandil before they run any kind of traffic calculations, please speak with them so they don't go beyond what they are looking for.

IV. MISCELLANEOUS BUSINESS ITEMS

A. APPROVAL OF MINUTES – JANUARY 21, 2010

MOTION BY: Mr. Lychak moved for approval of the January 21, 2010 minutes.
SECOND BY: Mr. Maxfield
ROLL CALL: 6-0

B. REVIEW AND APPROVAL OF 2009 ANNUAL REPORT

Mr. Landis asked Chris Garges if there is a list of what is open? Mr. Garges said yes. Mr. Landis said as you can see from the list, there is a joint meeting of the Planning Commission's right here at Town Hall. Mr. Garges said there was no need for a motion. Mr. Landis said thank you Chris for doing this annual report.

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

VII. ADJOURNMENT

MOTION BY: Mr. Noble moved for adjournment. The time was 8:15 PM.
SECOND BY: Mr. Kologie
ROLL CALL: 6-0

Submitted by:

Mr. John Landis
Chair