

- I. **OPENING** – Mr. Landis said we aren't going to start the meeting yet, but we'll just go over the plans until John gets here so we can deal with outstanding comments and questions. John should be here in about fifteen minutes and then we'll officially call the meeting to order and we'll have covered all of that. Mr. Hijazi said John may have questions.

Mr. Doug Hunsicker from Keystone Engineering said it's not really a site plan, it's like a sketch to get a special exception at Zoning. We were here several months ago and also went to Council and then went to Zoning. We had a 2-2 vote at the Zoning Hearing Board (ZHB) because one member was missing. That has been appealed and is in the court system right now. In order to expedite things, they've made some changes to the plan and he will show them to the Planning Commission (PC). They made it a little better. They submitted it as a new plan to go to Zoning again. Their purpose is to get a special exception at Zoning, then they will come back to the PC with a site plan and will meet all of the site plan requirements.

Attorney Treadwell said with the land development plan, the site plan is technically what you have here as that's what you need to go to the ZHB. What you are calling a site plan is what we would refer to as a land development plan, so if he's understanding correctly, you need to come back with the plan that has much more detail than this one.

Ms. Stern Goldstein said the technical site plan is required for special exception, so all the things you see in the review letter are things that are actually required as part of the site plan, not land development. This is just for clarification for the PC. There are requirements for site plans.

Mr. Landis said what you'd like from us tonight is to address some of the issues you have. Mr. Hunsicker said the idea is for you to make a recommendation one way or another to the Council who may or may not make a recommendation to Zoning. Attorney Treadwell said it goes before Council, so they have the opportunity to take a position if they want, one way or the other. There's not a recommendation from Council to Zoning. Why don't you start by explaining what's different from this plan than the one the PC saw previously? Mr. Hunsicker said this is our proposed building. We had the building with eight proposed parking spaces. They reduced the parking to four spaces, four garage parking spaces under the building and dramatically reduced the amount of fill required in order to go around the building. This is the only part of the site they would be disturbing. The dark green is the dense woods that are in the area. The blue is the existing stream. There is also the existing development. He showed the woods on the plan. The yellow is their property line. It will have four garage spaces underneath, which reduces the amount of fill and grading required for the site. What they are looking for is a special exception for the increase of non-conformity use of less than 25%. They have 21 EDU's in Lower Saucon, 25% increase would be just over 26 units, and they are actually asking to go up to 25 units. It's an increase of less than 25% of the non-conforming use. A question came up relative to the water capacity for the four units in the review letters. Regarding the public water supply system, we have taken information off of the DEP website. They have a pumping capacity of their two wells of 149,760 gallons per day. Their average water production per day is 6,000 gallons, so we have more than enough capacity to serve the development plus the four units.

Mr. Landis said why don't we start off by covering the Boucher & James letter with things you would not comply with or anything you want to discuss. This is the review letter of May 7, 2009. Attorney Treadwell said the majority of the comments in Boucher & James letter refer to Section 180-102 of the zoning ordinance which is the requirements for a site plan submitted as part of a special exception application, so the majority of Judy's comments refer to the fact that the plan shown on the board, and that was submitted to the township, do not meet the requirements of Section 180-102 which need to be met in order for the site plan to be approved as part of that special exception application to the ZHB. Ms. Stern Goldstein said that is correct. Mr. Landis said these things need to be addressed before they ever go to the ZHB. Attorney Treadwell said before it goes to Council, as well. It's a different set of circumstances with some of

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Hanover's comments because some of their comments would be addressed later during the land development stage, but the majority of Judy's comments refer to this specific plan that is in front of you not meeting the requirements of that section. Ms. Stern Goldstein said that's actually all of the comments. The one comment that references a different section in that section is 1A 180-95c2 specifies that the site capacity calculations are required as part of a site plan review so the entire letter is dealing with the site plan review.

Mr. Landis said these conditions would have to be met before you go to the ZHB meeting? Attorney Treadwell said these sections of the zoning ordinance, and as they relate to the plan, would need to be shown on that plan. Judy's review is reviewing it as a site plan and these are the sections and the issues that have not been addressed on the plan that you see in front of you. Mr. Hunsicker said several of them they are going to ask for variances. Attorney Treadwell said he believes you have three variances listed along with the special exception on the zoning application. He doesn't think any of those three variances address the deficiencies under 180-102. Mr. Hunsicker said they are mentioned in the comments. Ms. Stern Goldstein said anything you don't comply with is mentioned in our comments including those things you are asking relief from. Mr. Hijazi said like the traffic study, they will be asking for a variance? Mr. Landis said some are variances and some are waivers. Ms. Stern Goldstein said nothing in zoning is a waiver. Mr. Landis said can't we waive the two foot contour? Ms. Stern Goldstein said you can as part of a subdivision development, but this is a site plan under the zoning ordinance. Attorney Treadwell said that site plan needs to show those contours as part of the land development application. Section 180-102 C 2 D requires that a site plan show those contours. That is not a waivable issue. Mr. Hunsicker said we are asking for a variance from that. Ms. Stern Goldstein said we know a variance has been requested. Attorney Treadwell said you've asked for a variance from that, but there are numerous other sections of 180-102C that are not addressed on the plan that was submitted. Mr. Hunsicker said we can add notes addressing some of these comments, add the signatures that are required, and we can really speak to just about every one of these comments. Attorney Treadwell said he's not saying you can't meet them, what he's saying is the plans that have been submitted do not meet them. Mr. Hunsicker said we are willing to meet the requirements, and the question is, do we have to come back to the PC again? Mr. Landis said you are going to have to come back to Planning. Attorney Treadwell said from the PC's perspective, they would have a hard time making a recommendation to Council without seeing these comments addressed either by a note as you've eluded to or a request for an additional variance or simply a response to Judy's memo stating that there is something in here about lighting and no new lighting is proposed – something that addresses the comments in that review memo. Mr. Hunsicker said they can do that. Attorney Treadwell said that would simplify things greatly.

Mr. Maxfield said some of these things are not sufficed – like things about the buffer planting, landscaping, the delineation of the area to be disturbed, all those kinds of things are going to have to be drawn on the plan and have to be addressed by notes. Mr. Landis said you are going back to the ZHB again. What you need to make sure of is you ask for all of the variances that you want when you go back there so we don't come here again and say we want to do this, and then you need another variance.

Mr. Landis said we can now call the meeting to order.

CALL TO ORDER: The Lower Saucon Planning Commission meeting was called to order on Thursday, May 21, 2009, 7:20 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; John Noble; Haz Hijazi; Chris Garges, Zoning Officer; Dan Miller from Hanover Engineering; and Judy Stern Goldstein from Boucher & James. Absent: Fran LaBuda, John Lychak and Craig Kologie.

PLEDGE OF ALLEGIANCE

II. PUBLIC COMMENT/CITIZEN AGENDA ITEMS

None

III. BUSINESS ITEMS

A. EDWARD & DOLORES HILL – SCENIC VIEW APARTMENTS, SITE PLAN SP 01-08 – 2021 SCENIC VIEW LANE (TIME LIMIT 08/31/09)

Mr. Landis said we've had an informal discussion before the meeting started. The first item on our agenda is the Scenic View Apartments Site Plan. Present: Douglas Hunsicker from Keystone Consulting Engineers and Ed Hill, owner.

Mr. Landis said we were just talking about that they are adding four units and they went to the ZHB and had a tie vote. Attorney Treadwell said it's a denial when it's a tie vote. Mr. Landis said they are going to go back again, but there are a number of things they have to meet on the site plan in order to get a special exception and that's what we are discussing now. There are a number of issues on the Boucher & James letter that need to be answered and the question is, are there specific ones we can help you answer tonight or do you want to come back. What the ZHB does affects us dramatically on what variances they give you. Is there anything on the Boucher & James we could help you with? These are things that are going to be required.

Mr. Hunsicker said relative to the calculation of the impervious surface ratio, unless your ordinance has been changed, your ordinance defines the calculation of impervious surface ratio as a measurement of the intensity of use of the parcel calculated by dividing the total area of all impervious surfaces within the site by the base site area. The letter says we have to use the net buildable site area. Ms. Stern Goldstein said that's in Section 180-95 c 2 which is the site capacity calculations. Mr. Hunsicker said 180-5 is the definition of impervious surface ratio.

Ms. Stern Goldstein said I'm referring you to the net buildable site area calculation which you haven't done yet. Mr. Hunsicker said why does that differ from the definition? Ms. Stern Goldstein said she doesn't have an answer for you on that right now. Attorney Treadwell said he doesn't know what book you are reading from. Mr. Hunsicker said it's the most recent book they have. Mr. Hijazi said you already made those calculations and you think you met them? Mr. Hunsicker said the calculations really don't mean anything as far as the number of buildings because we are asking for a special exception for the pre-existing non-conformity. Attorney Treadwell said he's guessing that the calculations show that you are probably over the amount of building you can have on the site. Mr. Hunsicker said not if we go by the definitions. Attorney Treadwell said that's why you are asking for a variance. Ms. Stern Goldstein said the number of buildings is the number of dwelling units, not the impervious. The net buildable site area is the number of dwelling units and you go through the calculations in this section of the ordinance which is Section 180-95 c 2 e. Mr. Hunsicker said the calculations aren't the definition. Ms. Stern Goldstein said she will look that up and get an answer for him. She doesn't have that for you tonight. Mr. Hunsicker said it's important for them. The definition he thinks would be the definition. Ms. Stern Goldstein said actually there's a calculation and that's what she is referring him to. She will look into it and will get an answer for him.

Mr. Landis said you are talking about two different things. Ms. Stern Goldstein is talking about a calculation and Mr. Hunsicker is talking about a definition. Ms. Stern Goldstein said it's spelled out in the zoning and it's a calculation that is required as part of the site plan and it hasn't been done yet on the plans. Mr. Landis said what is the date of your plan? Mr. Hunsicker said 4-6-06 was the original date on the page. Mr. Garges said it was codified in November 08. Mr. Hunsicker

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said it's Section 180-5, definitions of usage of impervious surface ratio. It was an ordinance 2005-01 which amended the original. Attorney Treadwell said you are going to have to work with Ms. Stern Goldstein on that one. Ms. Stern Goldstein said she and Mr. Garges will work that out and have an answer for them next week.

Mr. Hunsicker said when does he have to submit this to the next PC meeting? Mr. Garges said it's usually 35 days for initial and 30 for revised submissions. It's 30 days prior to next month. Mr. Maxfield said for a revised, it's already passed, so it would be the July meeting. Attorney Treadwell said if the applicant is coming back to the next PC meeting, it's the 18th, so it has to be the July meeting of the ZHB.

Mr. Landis asked if Mr. Hunsicker had any questions on the Hanover letter? Mr. Hunsicker said it's pretty clear.

Mr. Garges said timeframe wise, we are good until the June ZHB meeting as that's what they are scheduled for. Attorney Treadwell said he will call Attorney Piperato.

Mr. Garges said does the PC need to make a motion? Attorney Treadwell said the PC can make a motion that unless an extension is granted to the time frame to hold the zoning hearing, the recommendation, at this time, would be to whatever you wish. They technically could go to the ZHB and you wouldn't have a recommendation to Council from this meeting. If the applicant doesn't submit a revised plan, and they don't ask for an extension of the ZHB, this would be your last opportunity to make a recommendation. Your motion would be to recommend denial of the plan as it was presented to you tonight unless the applicant submits a revised site plan that complies with the two memos, one from Hanover and one from Boucher & James, and grants an extension to the ZHB to hold the hearing at their July meeting instead of their June meeting. Mr. Landis said may I have a motion for denial based on those two conditions?

- MOTION BY:** Mr. Maxfield moved for denial based on the two conditions as stated above by Attorney Treadwell.
- SECOND BY:** Mr. Hijazi
Mr. Landis asked if anyone in the audience had any questions or comments? No one raised their hand.
- ROLL CALL:** 6-0 (Mr. LaBuda – Absent)

B. GUS ZANNAKIS – GUS'S CROSSROADS INN SITE PLAN SP 02-09 – 3760 OLD PHILADELPHIA PIKE (TIME LIMIT 08/19/09)

Present - Ms. Tina Cohagin from Base Engineering and Bob Arhontoulis, nephew of Gus Zannakis

Ms. Cohagin said basically they are just modifying the existing structure. It's an existing restaurant, and it's accepted and in the correct zone. It's a permitted use and they want to build a ten foot wide by forty-eight foot long deck outside and have tables outside when the weather permits. Therefore, they are going to take two of the existing windows out and put doors in there to enter into the outdoor patio and the tables that are inside go outside on the deck, so they aren't really adding people or patrons to the building. They are just moving tables and they are going to reconfigure the way they have it. Weather permitting – the tables would be inside, so it's a matter of keeping the same occupant load. We're not changing really anything. They had submitted two sketches showing it. Basically the existing structure is a stucco exterior, so for the deck, they are going to build the 42" high guard around it which would be stucco and would match the same existing feature. On the front elevation, the two windows they are taking out on the side, and they are going to replace and put them on the front, so on the one they have no windows and on the

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other section they show two new windows. That's really all we propose to do is to add the deck. We did submit to the building department and have approval for a building permit.

Mr. Landis said you received the letter from Boucher & James. Ms. Cohagin said yes, they did. Mr. Landis said is there anything you want to discuss? Ms. Stern Goldstein said there's not much in the letter. The main issue is on the plan they saw where the post will be coming down, it looked like you are going to obstruct some parking spaces. She was hoping maybe your answer would be you'd rearrange that so you aren't taking any spaces away. Ms. Cohagin said correct. They did that very quickly and graphically to give you an idea, and the post didn't necessarily get into the exact location where they would be. Ms. Stern Goldstein said the issue was if the posts were shown, as per the plan, they would be taking some parking out. That would make them into non-conforming on parking, which would not work. It would be great if they can adjust the posts so they don't lose any parking. There are a couple of notes to be added. Mr. Landis said when he looked at it, it looked like they were only taking one parking space. Ms. Stern Goldstein said the thing is they can't take any out. Mr. Landis said it was only one and the area under the deck had doors and everything else. Ms. Cohagin said there is no other parking on the side where the deck is going except from the one space you do see in that photo. In actuality, we may be deleting more tables inside and reducing the occupant load as shown on the plans.

Ms. Stern Goldstein said the issue is a couple of notes. One is the neighborhood protection. Two is something about no change in the parking configuration or count. Three would be your total occupant load stated on the plan, what the load is and it would not be increased from that. Ms. Cohagin said they never submitted parking calculations because they just thought this was a building permit. Mr. Garges said there are from previous applications to get it to where it is now. There's an old site plan. As long as they weren't increasing any usage, then they weren't required to do any parking calculations. There was no excess parking. Someone said parking isn't an issue here. Ms. Stern Goldstein said if they could prove that, that would be fine. Mr. Garges said as long as they are not obstructing a space, then it's not an issue. Mr. Arhontoulis said it's not an issue as they are losing sixteen seats inside by putting the deck on and putting the tables outside. They can only put five tables outside. Ms. Cohagin said they are actually reducing it by more tables. Ms. Stern Goldstein said the magnitude is even less than it was before. Ms. Cohagin said yes. Mr. Arhontoulis said he has nine tables from the inside being removed, and they will have five outside. Mr. Noble said it looks like you are moving the same number of tables from the inside to the outside. Ms. Cohagin said that's what was proposed, but in further review with the owner, he decided he would like to remove a couple of tables. Mr. Noble said he's looking at the plans and it shows the same capacity. Ms. Stern Goldstein said that's what the plan says, now they are telling us something different. Mr. Landis said they are going to modify their plans. Mr. Noble said the worst case scenario, it's the same size, the best case scenario, it's less. Ms. Cohagin said the applicant load is purely for building code as the code proposes you have to do per occupant per square footage, so since she was adding square footage, that's where that number looked like it was an increase, but the actual tables weren't to the actual configuration. Ms. Stern Goldstein said she'd just be looking for something, either on the plan, or as part of any recommendation from the PC that the maximum occupancy load not exceed x number. Ms. Cohagin said if they put that sign right behind you, a maximum occupancy of a certain number, would that be sufficient? Ms. Stern Goldstein said it would be sufficient for her. Mr. Maxfield said it has to be on the plan. Mr. Noble said if for some reason you can add more spaces here and you get a function that requires more spaces, and you have more parking as you have the other lot, you might be shooting yourself in the foot. You might be restricting what you can potentially use out of that building. Attorney Treadwell said you could put the maximum occupancy listed on the plan what it is now. From a practical standpoint, they might not have that number, but as it is now, the parking is okay, so you could use that higher number to give yourself some room in the future. Mr. Noble said you have adequate parking right now, put no more tables in than you have right now. Ms. Stern Goldstein said they are saying they are losing no spaces. It's cleaner than it appears to be. Mr. Noble said we are only looking at an architectural review. Ms. Stern Goldstein said that was the only comment

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they had, but she thinks this is pretty clean. She has no other points. Mr. Maxfield said do we want to get a number on what the parking really is so we can update the most recent plan. How many spaces are required for this building and how many exist? Someone said are we in charge of that? Are we concerned as that as a Planning board? If we put a number on there right now, they might be able to put more seats out there than are currently there.

Mr. Maxfield said that's what Attorney Treadwell was saying if we keep the number as it is now. Mr. Noble said they don't park in the street now, they have plenty of parking. If they are able to get ten more bodies in there and are able to do more business, why should we constrict them right now. We'll be getting into a zoning issue. Mr. Landis said if you want to look into the parking and say the square feet allows it and want to come and put a bigger number on there, you could. Mr. Garges said there's a number already in one of the previous approvals, so as long they aren't increasing their uses, then that number, theoretically, should still stand. Mr. Noble said we shouldn't worry about the number, it's already in place. The only thing we have to worry about is the architectural review. Ms. Cohagin said they weren't questioning the parking, they just want to add the deck.

Mr. Landis said does anyone have an architectural picture? He certainly doesn't. Ms. Cogahin said it's well over 25' from any property lines and they do have a fence along the bottom where the deck is on that side. There's a fence and shrubs. The son lives next door, so it's not on that side. They do close at 10 PM at night and it's not noisy and they aren't putting music out there. They are going to keep the lights that are there. There will be no additional lighting projecting outwards.

Mr. Landis said other than the letter where we cleared up the parking spaces, does anyone have any other questions about it? The only comment we wanted on the plan was to put on the capacity. Ms. Stern Goldstein said we don't need to see the plans, you are only reviewing the architectural review. It came in as a site plan because of that. If there's no change on the plans, it reverts back or stays what their maximum number of seats is and since there is no change in parking, there's no concern. Mr. Noble said architectural review only. Ms. Stern Goldstein said she would strongly recommend that. Mr. Noble said at this point, we are able to move it on with an approval. Mr. Landis said subject to those two conditions that there is no change in capacity and no change in parking spaces. Mr. Hijazi said who owns the property south of the restaurant? Ms. Cogahin said John Zunnakis, the son.

Mr. Noble said the way he wants to approve it, it is his understanding that we're only required to make a recommendation on the architectural worthiness of this plan.

MOTION BY: Mr. Noble moved to recommend the approval of the addition and we find that the architecture is compatible with the existing building.

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

ROLL CALL: 6-0 (Mr. LaBuda – Absent)

Attorney Treadwell said for the PC's information, the previous applicants question about impervious ratio, he did find the definition and he thinks the previous applicant was confusing the impervious surface ratio definition with the maximum permitted impervious surface which is actually expressed in acres, so he had those two mixed up, which he's sure Judy and Chris will explain to him when he calls. Mr. Garges said if you look at 180-5 B, it says "unless the context clearly indicates a contrary meaning, the following words, terms" so the context of this is more clear than what the definition is.

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IV. MISCELLANEOUS BUSINESS ITEMS

A. APPROVAL OF MINUTES – APRIL 16, 2009

MOTION BY: Mr. Maxfield moved for approval of the April 16, 2009 minutes.

SECOND BY: Mr. Hijazi

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

ROLL CALL: 6-0 (Mr. LaBuda – Absent)

V. PUBLIC COMMENT/CITIZEN NON-AGENDA ITEMS

None

VII. ADJOURNMENT

MOTION BY: Mr. Noble moved for adjournment. The time was 8:00 PM.

SECOND BY: Mr. Lychak

ROLL CALL: 6-0 (Mr. LaBuda – Absent)

Submitted by:

Mr. John Landis
Chair