

I. OPENING

CALL TO ORDER: The Planning Commission meeting of Lower Saucon Township Council was called to order on Thursday, July 15, 2010 at 7:00 P.M., at 3700 Old Philadelphia Pike, Bethlehem, PA, with Mr. Tom Maxfield, Vice-Chair, presiding.

ROLL CALL: Present: Tom Maxfield, Vice Chair; Craig Kologie; John Noble; and John Lychak, members; Dan Miller, Engineer from Hanover Engineering; Chris Garges, Zoning Officer; Kevin Kochanski, Planner from Boucher & James; and Dave Shafkowitz, Solicitor. Absent: Haz Hijazi, member and John Landis, Chair.

PLEDGE OF ALLEGIANCE

II. PUBLIC COMMENT/CITIZEN AGENDA ITEMS

None

III. BUSINESS ITEMS

A. CONFIRMED APPOINTMENT FOR PHOEBE SAUCON PRESENTATION

Present – James Preston, Attorney for the applicant, Phoebe Saucon. Mr. Preston said they are here this evening to discuss a project they hope to accomplish in the Township. It is a CCRC (Continuing Care Retirement Community). They've already presented the plan to the Township at different levels and stages. They have been meeting with Township staff as authorized by the Township Council. They've been making some substantial progress. The key component to this undertaking is the memes which will be needed to the zoning ordinance. The use itself is not defined in the existing zoning ordinance and it doesn't exist in the zoning ordinance. There are various components of it that do exist in different districts and so forth. What this use does is collect those into a single use so we need to have text in the zoning ordinance which would respect that and then we need to identify appropriate locations where we can put the use in. Also present are Scott Stevenson, President and CEO of Phoebe Ministries and John Beckman, their Planner from WRT Design out of Philadelphia.

Mr. Stevenson said he wants to give a background on Phoebe Ministries. They have been around for 107 years. They are a faith-based not-for-profit organization. They are a multi-entity organization meaning they have operations in six different counties in Pennsylvania. They do focus on senior services and primarily health care and housing for seniors. They operated four CCRC's, which is what they are going to talk to you about. They also have eight senior housing facilities. They have a large pharmacy operation. They provide community-based services like adult daycare and geriatric care management. They have the Phoebe Institute on Aging, which provides educational resources for the communities in which they serve and they also have a captive insurance company based out of South Carolina. From a revenue perspective, they are about a \$100 million a year organization.

Mr. Stevenson said they are affiliated with the UCC, although they are a stand-a-lone organization. The UCC does not control the CCRC; the CCRC does not control the UCC, and we don't fund them and they don't fund us. They do have some representation on our Board of Directors. They serve approximately 2,300 seniors every day. They have about 1,100-plus employees. They have 500 volunteers which they are very proud of.

Mr. Stevenson said they have a mission and a vision. It's a faith-based organization. They really look to enhance and provide fullness of life for the seniors they serve, for their families, and for the

communities they serve in and as a vision they are very focused on innovation and education and incorporating them in the services they provide.

Mr. Stevenson said the next slide will show you a brief description of what a Continuing Caring Retirement Community is. That is a classification that is recognized by the State; both the Department of Insurance and the DPW recognize that classification. Sometimes you may hear it called the Lifetime Community, typically what you will see on a CCRC is continual care. You'll see apartments, cottages, assisted living or personal care for folks who need support in their daily activities; and generally a skilled nursing component will be there. There could be others like adult care or memory support components to the personal care of skilled. That's a pretty general description of what you would see.

Mr. Stevenson said the next slide lays out some of the components we talked about. Typically, you'd have a community center on the campus. There would be gardens. They provide physical therapy, support for folks, a chapel, a multitude of things could be there. There are services for folks like walking trails, and things like that.

Mr. Stevenson said it might be helpful for him to talk about their Allentown Campus and their Berks Campus, which are probably the closest. The CCRC that they are looking to develop locally is really a CCRC by design. The Allentown Campus which encompasses the two block square area, in the center, is not a CCRC by design. That's where Phoebe started in 1903. There's a very large skilled nursing component of that campus, 395 beds. The assisted living facility is the David A. Miller building. There are 55 units there for folks who need that support. They also have an independent living building. There are 88 units of apartments. At the bottom of the hill, they actually have a HUD project with 131 apartments. That community really developed into a CCRC through time. It wasn't an initial plan for the facility when it came into being.

Mr. Stevenson said the next slide is the Berks Campus. They are just completing about a \$37 million repositioning out there, so the area at the bottom right actually has 29 new cottages in it. They've added apartments, assisted living and memory support. The campus is a little more extensive than you see now. That is a CCRC by design. When it was built, it was built with the concept of having apartments and cottages in place. There's a 120 bed skilled nursing facility there and about a 56 assisted living. There's also a chapel, dining hall, small café, and other items like that. That's more in line what they are looking at in a design perspective, although not exactly what they would look at for at this land site.

Mr. Beckman, WRT Architect, said it's worth remembering a couple of the words Jim has said upfront which is this proposal is not defined in your zoning ordinance, so a CCRC is a different kind of land use than you have dealt with in your official capacity. It's not the kind of residential you are used to. It's more of a combination of a hotel and a hospital and a spa. It's a very different kind of use than Lower Saucon Township has seen. This slide orients us to the property that is under consideration. It's largely the open area. Just to the north across Friedensville Road is Lehigh University graduate housing. To the east is Society Hill and the Four Seasons at Saucon Valley. To the west across Meadows is the Saucon Valley Ridge. This property is just to the west of Hellertown. When they think about a project like this, they have a national practice with offices across the country and at any given time, they have multiple CCRS's under design. When they approach one of these, the first thing they think about is what the context is. In this case, there are lots of things that can begin to give us a sense of physical environment which appeal to the folks who live around here who will want to end up in this type of community. These communities typically draw from a very close range. People tend to want to stay where they live, where their kids are. There is the Heller Homestead which has a very strong link to a certain architectural tradition. Saucon Valley Ridge is across Meadows Road, the Saucon Country Club and Lehigh student housing, so they are aware and cognizant of what's around the area. The site itself is very interesting. There are a lot of trees there and it's hard to see into the site. There is a view from one

of the fields looking at the back of the mountain. There's a little bit of a hedgerow in front of the property. There is Meadows Road with a wonderful stand of trees, right across the street from Saucon Valley Ridge, which gives you the sense of being on the edge of a forest. There is Skibo Road on the south part of the site. In terms of the overall site, the high point is Meadows Road, Skibo Road at the bottom right, and the low point is on Friedensville Road. There's about an 80 foot difference from the highest point to the lowest point on the site. There's a considerable elevation change. They have shown the natural drainage pattern. There are no designated wetlands or running water on the site. There are trees on Meadows Road and some hedgerows, some of which have some wonderful specimen trees in them which would be worth retaining. Important to note, there is a context and folks living around the area. There are opportunities along Skibo Road and the sidewalk to connect to Hellertown, but also potential trail connection to the east. There are ways to integrate this community into the larger area. When they think about a project of this magnitude, they always try to develop some planning and design principals so that they have standards against which to judge the work they are doing and to force them to take an attitude. In terms of the natural environment, they had to pay attention to the slopes. They are very, very small in a few areas, classified as steep slopes. There is a considerable elevation. That can be advantageous in terms of tucking buildings in. They are very interested in protecting and improving ground water quality. Agricultural is far from the least impactful use that you can make of land, herbicides, pesticides and the like, which they will pay attention to. They have to pay attention to the geology and look at what's going on there. There are some specimen trees in the hedgerow and along Meadows Road which are worthy of retaining. There are also some habitats that they need to look at going forward. As the process and design develops, they have a very strong inclination to use native plant species wherever possible. Thinking about the neighbors, they are pretty firm in having principals in buffering the neighbors from this use as a visual buffer. This is not going to be like having a subdivision with lots of teenagers, who can be very noisy. The CCRC's tend to be a very quiet place. They are taller buildings and they can tuck them into the topography so they are not visible from outside of the property. There's a very dangerous intersection at Meadows Road and Meadows Ridge Court, and Skibo that needs to be paid attention to. Where there are entrances, there needs to be made not only attractive, but also safe. In terms of looking at the community itself, Phoebe Ministries are very interested in using sustainable design construction and management. It's not just a one shot deal. This is the ideal situation where you have an owner who is in for the very, very long haul. It's very much in their interest in leaving principals aside. It's in their interest to use sustainable techniques, constructing and managing the property. They want to maximize the landscaped area. That's what makes it pleasant to be in one of these communities - creating a sense of internal community without shutting off from neighbors. Architectural style is really important and it's one of the reasons he showed the images in the context as we need to take some queues of what is appealing to people who live in this particular area of the region because this needs to be a place where it feels at home for folks who live here. Part of that is maximizing views to the open space to nature and providing social and economic benefits to the Township. It's hard to think of a better impact use than one that will be privately owned, requires essentially no services, and generates lots of jobs and the like. That's always a positive. He has some sketches of what the entrances would look like. They need to be very lush and very friendly. They also think about design precedence and wanted to share their thoughts. In terms of thinking about historical references, there is beautiful stone construction in many buildings from the Saucon Country Club to the Heller Homestead. It's very important to build on these local architectural traditions to create a gracious sense of arrival and entry and to also look at ways to make indoor or outdoor spaces and also the in between spaces, the porches. The lower right image is a project they designed where there was a stone and agricultural tradition. There are also a variety of recreational opportunities. Most of the residents have independent living which means they are mobile, they walk around, they don't drive a lot, but they do a lot of things within the community. This could range from gazebos to walking paths and gardens. There's an indoor recreational component - an aquatic center, an exercise room, a place for physical therapists. It's a very friendly environment and homelike. Landscaping is a key to all of this making the place feel comfortable. There will be a chapel on the site, which will be an important feature of the lives of

the residents. There are lots of infrastructures and utility functions that need to be performed. Many of them can be done with green infrastructure. The image on the upper right is a storm water management facility they designed in Kentucky. You don't have to have lots of concrete structures and beds of gravel. It can be things that make a wonderful contribution to the visual environment. They are strong believers in making the part of the development that is visible to the residents very natural. Those are their initial thoughts in how they might proceed.

Mr. Preston said he neglected to introduce the gentleman who was handing out the folders, and that is Jason Englewright, Project Engineer. What they are hoping to accomplish is to introduce this use into the ordinance. You've seen some maps and drawings identifying particular properties that would suggest they are seeking a map change or rezoning of a particular area, that's not what they are hoping to accomplish at this time. They've discussed this with the Township and staff. The direction this is taking is it will be a use similar to the use you already have which is a single family cluster development. It would be a defined use in the ordinance and appear in its own section, and have its own development criteria. It would have certain threshold criteria, minimum lot sizes, acreage, possibly frontage on certain types of roads, access to public water and sewer, but it would be a use that would be inserted into the text that would hopefully accommodate what they would hope to accomplish. They are not seeking a map change.

Mr. Noble asked what was the tax structure on Phoebe? Mr. Stevenson said they are not for profit, 501c. Mr. Noble said how does that affect the Township from a standpoint of income taxes and real estate taxes generated from this development? Mr. Stevenson said the only property they don't pay real estate taxes on is skilled nursing. Independent and assisted living they pay property tax on. The bulk of what would be at this community would be at paying property taxes. Their Berks Campus pays significant property taxes in that area, the bulk of independent and assisted living. Mr. Noble asked about income taxes? Mr. Stevenson said they do not pay income taxes, but any payroll taxes or anything like that would be paid. They do not pay corporate taxes. Mr. Noble asked if they had any breakdown of what a regular facility pays versus a not for profit would pay in the same use? Mr. Stevenson said he doesn't have that information but can tell you their Reading facility, which is on 66 acres, larger than this, pays approximately \$800,000.00 a year in property tax. The skilled nursing is excluded from that. There are 120 beds in the skilled nursing; 276 independent units and 80 assisted units. There's other square footage like a dining hall, chapel, etc. Mr. Noble said you aren't going to sell units? Mr. Stevenson said no, they won't be doing that. Mr. Noble asked what was the actual acreage? Mr. Stevenson said it's approximately 57 acres. Mr. Noble said there are lots of single families in your overlay? Mr. Preston said that was part of his comment and they are aware of that. They've have an equitable interest in the majority of the property, particularly the larger tracts, but they are aware there are other tracts. Mr. Kologie said the area that is highlighted doesn't necessarily include all the properties within that area. Mr. Preston said they do not have interest in all the properties that are highlighted on that map. They are interested in acquiring the remaining tracts if they can get them. They do have the Heritage piece under agreement. They have the Filler and the Brown piece under agreement. With the Heritage piece, there is some litigation involved with the Township. With that agreement of sale, they've acquired the rights to the litigation, so they'll be able to settle that and mark it discontinued if they can move this project forward. As they told the Township Council, they have the rights to that litigation, but they are not interested in proceeding with the litigation if they can accomplish this on mutually agreeable terms. They are not seeking to use that as a device, but put it out there as it may offer certain advantages to the Township in terms of expediting a resolution of that issue and maybe a way to deal with some of the issues if there needs to be meetings that can be held in Executive Session relative to settling that lawsuit, that access is there as well.

Mr. Noble said what elevation are you looking at for these buildings? Mr. Stevenson said most of the buildings would be one or two stories. The independent living would be four and this has to do with how it's efficient to arrange the functions. The independent living are apartments and there

are a lot of support functions in there. It's probably between one and four stories, with most of the buildings being one or two.

Mr. Kologie said from a construction sequence, do you build the independent living first? Mr. Stevenson said yes. When you look at projects, you are only looking like a 25 bed nursing facility and really looking to just service the residents who live on that campus so they have continuing care there. They would never build a 395 bed skilled nursing facility like they have in Allentown to try to service outside community folks in there. You would build independent living first and you'd probably be assisted living even before you did the skilled. Mr. Noble said you wouldn't accept new residents who needed skilled nursing. Mr. Stevenson said they wouldn't look to do that, but he'll be honest with you. If they had a 25 bed skilled nursing facility and no one was in it and they provided rehab services, they have a very good working relationship and strategically partner with Lehigh Valley. If they said they have some folks who could use some short term rehab services, would you take them for us, they would take them, fill the beds and get utilization out of it. They would not be out marketing to the community trying to fill those 25 beds with folks from the community. Mr. Kologie said that skilled facility is based on the number of units you have on the residential side. Is Four Seasons a competition? Mr. Stevenson said that's active adult. Typically you are looking at 55 or older. Normally with CCRC's now, the folks coming in are typically 75 or older. There is not really a lot of competition.

Mr. Maxfield said one of the things they were talking to Heritage about was some of the intersection reconfiguration. Could you explain what you have in mind for that? He saw the plans for the entrances off of Friedensville and Meadows Road. What about the nasty corners? Mr. Stevenson said this is conceptual at the moment, but the Skibo and Meadows corner is tough. The two intersections are tough. The idea is to perform the modification of Meadows as it turns into Skibo similar to what was proposed through the Heritage group, and that was to smooth out that curve and bring in a right angle intersection and probably make a four way angle intersection for the east on Skibo Road so it can be controllable and safe intersections.

Mr. Noble asked if there was adequate sewer service there? Mr. Englewright said they spent some time with Lower Saucon Authority. Mr. Preston said this is some of the things they are working through. Sewage is an issue they have to deal with. They have some other due diligence items they are trying to work through. They appreciate the assistance that you are allowing them to bring them along. Mr. Kologie asked if the zoning amendment was drafted? Mr. Preston said the zoning amendment has not been drafted. He's been in communication with Attorney Treadwell, but the lawyers haven't gotten their hands on it yet. The Engineers, Planners and Architects are working through the details to see if they can get a consensus. A few items may have to go to Council for a tie breaker. If they can understand what those details are, he's sure he and Attorney Treadwell can very expeditiously put them in a form to present to you. Mr. Kologie said have you done any sketches internally that might show what a layout might look like? Mr. Preston said nothing that he would classify more than a cartoon at this point. They are still discussing what road criteria should apply to the interior, are they driveways, are they roads, setbacks, so that may be mature, but the sketches are being offered to what the outcome might be. Some sketches will be offered.

Mr. Noble said have you designed what to put on this site to make it feasible for you? Mr. Stevenson said they are looking for 300 plus total units, but they have no design yet as they are actually in the land acquisition at this point. There's a lot of due diligence to be done yet. The bulk will be independent living, but they have to model that. He doesn't have preliminary numbers.

Mr. Maxfield said the one sketch where you have the overlay showing the whole corner, your aim, your goal is to acquire all the properties within that? Mr. Stevenson said as they become available they would like to do that.

Mr. Maxfield asked if there were any questions from the public? No one raised their hands.

B. REVIEW OF ORDINANCE AMENDMENT FOR RIPARIAN BUFFER

Mr. Kochanski said over the last couple of months they have been working with Township staff on reinforcing and strengthening the riparian buffer requirements. What you have in front of you is the product of that effort. Council has authorized this to be advertised which is now in front of you for your review and recommendation. He will go over the changes as they are not very evident in the ordinance. He will take it section by section.

Mr. Kochanski said on the first page, Section 1, this is a completely new definition of riparian corridor protection and/or management activities. That was something we needed to add to further define permitted uses in riparian buffer, uses that were no longer permitted. We strengthened that section as well as for the defined requirements. That definition was integral to all of those developments. Mr. Kologie said it says riparian corridor protection. Corridor usually means linear feature. Mr. Kochanski said correct. Riparian buffer corridor is measured off the edge of the stream so, in essence, it creates a greenway parallel to the stream corridor. Mr. Kologie said this doesn't only apply to streams, it applies to wetlands and ponds. Mr. Kochanski said correct. Mr. Kologie said corridor seems more like a linear along a stream or a river, not necessarily a pond. Isn't this a riparian buffer area? Mr. Kochanski said it is for all water bodies. Technically when you have a pond or a lake you are going around it creating more of an area. Mr. Kologie said corridor just seems like a misnomer. Mr. Maxfield said could we do corridor/buffer? Does that make sense? Mr. Garges said you can just say riparian area protection. Mr. Kologie said it's applying to more than just a linear feature. Mr. Kochanski said when you look at the specific changes in the ordinance, it does not exclude those others. That's one definition and it's easy enough to change whether it's riparian buffer, riparian corridor, riparian area to be all inclusive, but further definitions and further changes in the ordinance does not exclude those other water bodies from being protected. Internally, into that definition, it talks about wetlands, streams, lakes, ponds that are associated with a riparian corridor. The riparian corridor was coming off of the existing language within the ordinance on the riparian protection. Mr. Lychak said he agrees with Mr. Kologie. He'd think you would just get rid of corridor and say riparian area as it would seem more inclusive than getting into an issue where someone is arguing that it's excluded. Mr. Kochanski said it doesn't make or break the intent of the ordinance unless it further clarifies the intent. Mr. Garges said the existing ordinance has a riparian buffer defined all areas within 100 feet of any delineated waters of the Commonwealth, waters of the U.S., perennial intermittent water course. It specifically calls it riparian. Mr. Kologie said riparian corridor isn't defined. That's why we need to use the same terms throughout. Mr. Maxfield said instead of "area" replace it with "buffer"? Mr. Garges said the riparian buffer only talks about 100 feet of any delineated waters of the Commonwealth, waters of the U.S. and perennial interment water course. Mr. Maxfield said not wetlands? Mr. Garges said no. Mr. Lychak said the definition of riparian would include the areas surrounding a body of water. Mr. Kochanski said under these ordinances, yes. It's any kind of protected greenway area. We're being all inclusive now and the teeth are starting to come into this amendment. Attorney Shafkowitz said what it needs is a concept of riparian corridor which seems to be overly inclusive, and if it's not a term defined in the ordinance, maybe you just need to be a term to include buffer areas. Mr. Kologie said he read this particular definition to deal with activities that are occurring within the riparian buffer area, is that correct? Mr. Kochanski said yes. Mr. Garges said we have separate definitions of lake and pond buffer, which is delineated as the area within 50 feet of the high water level of any lake or pond which may be utilized to protect quality of the body of water. Mr. Lychak said lake and pond are mentioned in this as well. Mr. Garges said lake and pond are mentioned in this proposed ordinance. Mr. Kochanski said the reason we are adding this definition is if you look a little bit further down into Section 10.1, the concern was there are certain agencies, conservation districts, water associations that are intending to do ecological restorations and through those processes they need to go in and remove vegetation and do things that otherwise you don't want normal homeowners, developers going in there to do.

Section 10.1 was in essence to put that provision in there so if you are going to improve the riparian buffer, area or corridor, that could be done.

Attorney Shafkowitz said the one thing that goes back just a little step further is the phrase riparian corridor means something to you. What you are saying is it means the buffer area. The ordinance should say riparian corridor shall mean, whatever it means. The way the phrase is used throughout the ordinance, there's not a definition with it. Someone might get confused and say how do I measure the riparian corridor. We might all think it means buffer area, but the ordinance should say what it means. Mr. Kochanski said he doesn't disagree, if we were to change it here, every instance where we are referencing the corridor because it's all inclusive and we're not just dealing with bodies or streams, it would be riparian buffers or riparian area. Attorney Shafkowitz said the all inclusive everything is what the corridor is. Mr. Garges said we may be best off taking out riparian corridor totally and just say buffer protection and/or management because the buffer protection and/or management would cover wetland buffers, riparian buffers, lake and pond buffers. Attorney Shafkowitz said he thinks the point is what establishes riparian corridor is the buffer area, that 100 feet. The idea is when someone reads the ordinance and says what can I do in the riparian corridor. How do I know what the riparian corridor is. It doesn't tell me what it is. It tells me what the buffer area is, but is the buffer area is part of this corridor. It's just a catch all.

Mr. Maxfield said are we proposing this for wetland areas now? Our wetland currently is 50 feet. Are we doing hydro soils like that or doing actually standing or moving bodies of water. Mr. Kochanski said it would be any buffer area. He doesn't think we are proposing to expand. We are not doing anything with the distances. Those would remain as they are. We are just further defining what would be permitted in the buffer area and what is more specifically prohibited. We really beefed up the uses that were prohibited in there to really get out those more noxious, harmful types of uses or activities. Mr. Maxfield said there's no effort here to bring up to expand the wetlands. Mr. Kochanski said there's no change in any dimensional requirements. It's really looking at the first one and allowing restoration projects to happen without going through this whole governmental review multiple times; whereas, if someone gets DEP approval, then they can proceed with doing their restoration. Without having to come in, do a site plan, do a conditional use and really drag out a process and spending money where that could be better suited elsewhere. What this does do is further enhance what would be permitted and then really define what isn't permitted, and then define any kind of restoration which really wasn't defined enough and we really did put some teeth into that. Any buffer widths, lengths, and how that's measured is not really addressed as there are no changes to that at this point. Mr. Garges said we need to go back to Mr. Kologie's initial question and the definition in Section 180-5, there is some ambiguity like Mr. Kologie and Attorney Shafkowitz said. If that's just changed to say buffer protection and management, then below it, it tells you what all buffers are associated with that definition. Mr. Lychak said is there a general definition for buffer area? Mr. Garges said there were definitions in the definition section of the Zoning Ordinance. Mr. Lychak said you mentioned lakes and ponds at 50 feet. Mr. Maxfield said we don't want confusion with landscaping buffers either. Mr. Garges said there are wetland buffers defined by itself. A wetland buffer is 50 feet. We had the riparian buffer which was 100 feet. Mr. Kologie said there's a conflict there then because riparian buffer includes wetlands, lakes, streams and ponds, so if it's 50 feet somewhere and 100 feet somewhere else, he's going to ask for the 50 feet. Mr. Lychak said shouldn't it be buffer protection area? Mr. Kologie said he thinks it should be riparian buffer area, but then there are other areas that we have and something needs to be changed. Mr. Garges said we have riparian defined at 100 feet from any delineated waters of the Commonwealth, anything flowing, it's called riparian buffer. Then you have your lake and pond buffer defined separately. You have your wetland buffer defined separately. They are all defined with buffers with different names and criteria. Attorney Shafkowitz said they all could, all their different dimensions, establish a corridor or an area. Mr. Kochanski said it may be more beneficial to keep the word corridor, but then if we're looking at a revision, define what riparian corridor is, it's the buffer associated with any of those. You're not confusing the word buffer because you have pond buffer, lake buffer, stream buffers, wetland

buffers, and then you also have landscape buffers. If you add another buffer in there, it's going to get really confusing whereas you can define riparian corridor as including the area off of any buffer associated with a pond, lake, wetland or stream. Mr. Lychak said that is more confusing to him. Mr. Maxfield said what Mr. Kologie said is important in that it is considered a riparian buffer around a wetland too, so we do have a definition for riparian even though it says exactly what those things are. Maybe what we need to do is talk about a wetland riparian buffer and a stream riparian buffer. They are all riparian buffers. Mr. Garges said that's not how they are defined in the ordinance. A riparian buffer is defined as basically your corridor type thing, some type of flowing channel. The wetland buffer is defined as a separate entity. Mr. Maxfield said we're not going for a dictionary definition of riparian, we're going what the ordinance says according to what the ordinance will say what riparian is. Attorney Shafkowitz said an easy way to look at it is your existing ordinance now is a distance that's protected. Whatever that distance is, it establishes this riparian corridor which prohibits certain activities going forward which aren't going to be allowed. The idea is whether it's measured from the stream, from wetlands, from whatever, it all establishes this corridor. Then this ordinance says you can't do this stuff in that corridor, more or less. Mr. Kochanski said not really. If you look at Section 2.10, it talks about the following uses are permitted by conditional use within a buffer associated with a wetland, riparian area, or lake or pond. The corridor is really only addressed in the erosion control, riparian corridor. It's not dealing with uses that were permitted. The ordinance doesn't get into inter defining and interchanging the use of the name corridor and buffer. It's just at term that was put in there so that we could allow water and wetland association to go in and make improvements without having to have to go through an extra step of regulatory process. Mr. Lychak said the corridor wasn't used before. Mr. Kochanski said he doesn't think corridor was used although he wants to say that in Section 11(a) the following uses are specifically prohibited within a buffer associated with a wetland, riparian area or lake or pond; removal or disturbance of vegetation in a manner that is inconsistent with erosion control and riparian corridor protection. We took that and that's really what was the section that said, okay, we need to build upon that. We're dealing with corridor protection which required them to put in 10.1 which is a brand new section that previously a conservation group wasn't to go in and make improvements no matter how many invasive species were in there. It was going to create a regulatory nightmare for someone to come in and do something good. Mr. Kologie said neither 10 nor 10.1. Mr. Kochanski said 10 was always in there. The only change we made to 10, was 10(b) adding the word driveways. Mr. Lychak said 10 talks about a buffer associated with a wetland, riparian area or lake or pond. Mr. Kochanski said that did not change. The corridor came from 11(a) where it was talking about erosion control and corridor protection. We wanted to define that and actually added the word riparian corridor protection and said what is riparian corridor protection so we added the definition of what riparian corridor protection included and that was any activity intended to ecology improve the waterway. The word buffer is used consistently throughout and is defined and does not interchange dimensions and does not affect any of the already established buffer widths. Attorney Shafkowitz said everything you are saying makes sense, but playing devil's advocate, in 11(a) removal or disturbance of vegetation in a manner that is inconsistent with erosion control and riparian corridor protection. He goes back to the question on what is the riparian corridor? What he's hearing is the riparian corridor is that area that is set as the buffer from any waterway, stream, and wetlands, whatever. Mr. Kochanski said correct. You are looking at riparian corridor and he is looking at riparian corridor protection as the term versus the term riparian corridor. Attorney Shafkowitz said you want to establish an area you want to protect. That area is defined in our ordinance as the buffer, but we created this new term called corridor. Mr. Kochanski said it was already in 11(a) and it said corridor protection, but since we are dealing with the riparian aspect of it, we added the word riparian and we didn't have a definition for the word corridor before, so we added riparian corridor protection. Mr. Kologie said you don't define riparian corridor to begin with. That's what is missing. Mr. Garges said which is simple if we are doing an ordinance amendment, just add another definition. Mr. Kochanski said riparian corridor is associated with the buffers for wetlands. It's a given width as further defined and we can define what that is. Mr. Garges said or it could simply say riparian corridor shall include any buffer associated with lake, pond, and so forth.

Attorney Shafkowitz said why don't you just say the riparian corridor is any buffer areas in this ordinance. Mr. Kochanski said there are landscape buffers. Attorney Shafkowitz said isn't this ordinance the wetland protection or is it all in the subdivision? Mr. Kochanski said it's all in the zoning. Mr. Garges said you just want to tie it to those who are defined, pond, lake, wetland, waterways. Mr. Kochanski said he agrees. That would be the cleanest thing to add. Keep corridor in there and further define what corridor is. It's a buffer associated with wetland, streams, lake or pond. We don't address any of the width issues. They are further defined in the ordinance by their own section, so there wouldn't be any conflicts there. Mr. Kologie said it lists woodlands as one of the elements is being improved or sustained. Does that make sense? Everything else relates to a water feature, and then you have woodlands in there. He doesn't know why that was there. Mr. Kochanski said along stream corridors, you tend to have a lot of forested areas and woodlands. If somebody would want to come in and make the argument that this is a woodland, not a riparian corridor. That was more of covering themselves from both ends. Mr. Kologie says everything else is the water feature, then there's the woodland. It seemed kind of odd. There are separate woodland protection areas. It just would make sense to take the woodland out because it seems inconsistent with everything else that is there. Mr. Kochanski said it would just read "improve or sustain the current condition of any wetland, stream, lake or pond". The only thought would be is if you have a woodland that isn't necessarily associated with a corridor to allow somebody to go in and have removal of invasives to ecologically improve the condition of the woodland, this section would allow you to do that, whereas if you refer back to the woodland preservation section, you wouldn't. This allows a group to go in, remove invasives. Mr. Kologie said that's what the regulations allow, forestry operations? Mr. Kochanski said forestry is separate. Mr. Kologie said removal of invasives is in here. Mr. Kochanski said it would, but thereby the uses that are permitted within a riparian corridor are conditional use, so the example he gave of somebody having a wooded lot and wanted to go in and remove invasives, not just understory invasives, but trees that are Norway Maples, the Zoning Ordinance is going to look at that as trees that require protection but we all know they are very invasive and they are going to out compete other natural trees that we would prefer to have in there, then we would look at 10.1 and say it's permitted by right to remove those trees as you are ecologically improving the woodland area. Attorney Shafkowitz said from a purely legal suggestion, going back to the woodland protection area of the ordinance where it is prohibited and the amendment would be unless other provided by whatever section. If it's absolutely prohibited, rather than creating an inconsistency, and he knows what you are trying to do, but that would wipe any inconsistencies. Mr. Kochanski said there is a section in there regarding alien invasive or other species that are deemed harmful, so it's a catch on both ends and he doesn't think it harms the riparian buffer to remove the word woodland and deal with the riparian buffers solely with those resources that it's intended to protect.

Mr. Kochanski said Section 2 is amending Section 180-95B (10) through (12), the only change in that section was under 10(b), they added the word driveways in there. That was to permit crossings. If they were going to allow roadway through there as part of the permitted disturbance, it would make sense for someone to be able to get back to their property with their driveway. Mr. Kologie said the only thing you may want to add there is pedestrian trails as a permitted use. Mr. Kochanski said the intent really is to maintain the vegetation to the greatest extent possible and adding the trails in there to some degree can counter act that with keeping the vegetation down. Mr. Kologie said these are just trail crossings, not a linear trail along the stream, but a crossing of the stream. Mr. Kochanski said that would be correct and in that case, a trail crossing could fit into that. Mr. Kologie said that might make sense to add trails. Mr. Maxfield said he thought the current ordinance did permit trails of some kind under recreation like passive trails and things like that. Mr. Kochanski said passive use areas such as camps, campgrounds, picnic areas; active recreation areas such as ball fields, playgrounds, and courts; provided these uses are designed in a manner that will not permit concentrated flow. He will defer to Mr. Garges on what he would interpret that trail crossing as, but he would think that could fall under a permitted use. Mr. Kologie said those are two separate things. That's use within the buffer and the other one simply deals with crossings. If you are going to consider it, you may want to consider it in both places.

Mr. Kochanski said in 10(b), add pedestrian trails. You could have pedestrian crossings, you could have horse crossings, you have livestock in there, farm vehicles, you may have an ATV crossing. Mr. Maxfield said we probably don't want a horse trail going through there either. Mr. Kochanski said you are already permitting livestock. Mr. Maxfield said that's something that can't be avoided. He doesn't know if we want to encourage recreational horse trails. Mr. Kologie said the other things with trails themselves, many trails you are going to have these greenway corridors set up and that's where these trails are going to be within these areas as well. It does involve in removing more trees, but that can be done in a more sensitive manner. Mr. Garges said there's also a section in the ordinance that says the Township is undertaking basically away any provision in this ordinance. If it's going to be a trail section we are undertaking, we're going to allow ourselves to do it anyway. Mr. Maxfield said which we are going to have to do at Polk Valley Park. Mr. Maxfield said you are also capped at 15% disturbance, riparian buffer. Whether it's a riparian buffer, lakes and ponds, they all have their own separate protection, so if someone is blazing a trail through there, they are going to be limited to how far into each one of those buffers they can go.

Mr. Kochanski said Section 10.1 was added to help ease the review process so if someone was going to get DEP Army Corp approvals, then we didn't feel it was necessary to go through the additional regulatory approvals of the Township.

Mr. Kochanski said Section 11 we added a lot in this section. There were some minor changes initially to (a). The word "riparian: in front of corridor protection was added and "and/or management activities" to reflect the new definition that we added. We added (1) to (4) as subsections to that which were not permitted. The ordinance is stricter, but yet if there is a permitted use, it helped clarify some of that conflict that was kind of written into the existing language.

Mr. Kochanski said Section (d) prohibited motorized vehicle traffic from equipment or vehicles in any area unless associated with the following. Again, those were the permitted activities so there wasn't a conflict of somebody being in there and then calling Mr. Garges and saying they are driving tractors and not what in there. Chris could look it up and say it is permitted provided they are doing that and the Township would be aware, so it's addressing any kind of redundancy on that. On (e) parking lots, we further defined that as previously it was just parking lots. They added the entire section of parking or storage of trailers. The concern was getting any kind of motorized, mechanical equipment out of the buffer area and that included trailers. We had a certain weight that we did research on and found the larger trailers could potentially create to most hazardous impacts to the riparian corridor area were those over the 1,000 pounds. Adding in some time frames for those activities if you are bringing equipment in and doing some restoration in there, you are going to have the equipment down there and chances are you are going to have to need to have your equipment brought in with a trailer, so there are provisions to permit those that are undertaking those ecological restorations to be able to keep their equipment in there, and not constantly bringing it in and out which would create more of a disturbance and impact to the riparian area. No. (h), (i) and (j) were added as additional prohibited uses, excavation, grading, planting of non-native vegetation, and the storage and disposal of materials used for snow or ice removal; things we thought were going to be contaminating the watershed.

Mr. Kochanski said (12) and (12.1) get into reforestation requirements. The last section in (1) where it begins "Township", that part was added, which references reforestation requirements below, which sets forth the requirements for ground cover. The whole series of plantings from ground cover to shrubs to canopy trees, and the requirements and how that's measured, where they are supposed to be planted. That concludes the changes to the ordinance. Mr. Maxfield asked if this was advertised yet? Mr. Kochanski said he believes it was, that's why it is in front of you for review. Mr. Maxfield said are any of these substantial to warrant? Mr. Garges said he didn't think so.

**Planning Commission Meeting
July 15, 2010**

Mr. Maxfield asked if there were any comments from the public? No one raised their hand.

Mr. Garges said he would like the Planning Commission's recommendation. There are three changes he wrote down - the new definition of riparian corridor; to remove the word "woodland" from the definition of the riparian corridor protection and management activities; and the pedestrian trails.

Mr. Maxfield said the motion would be to recommend to Council the adoption of this ordinance with the changes that were discussed earlier.

MOTION BY: Mr. Kologie moved to recommend to Council the adoption of this ordinance with the changes that were discussed earlier.

SECOND BY: Mr. Noble

ROLL CALL: 4-0 (Mr. Landis and Mr. Hijazi – Absent)

IV. MISCELLANEOUS BUSINESS ITEMS

A. APPROVAL OF MINUTES – MAY 20, 2010

Mr. Maxfield asked if there were any additions or corrections on the May 20, 2010 minutes. Mr. Noble said he only received three of the five pages. Minutes tabled until next month.

Attorney Shafkowitz said on the subject of minutes, if a person wasn't present at the last meeting, they can vote on the minutes if there is not a quorum and the other board members tell that person it's okay to vote.

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

VII. ADJOURNMENT

MOTION BY: Mr. Noble moved for adjournment. The time was 8:10 PM.

SECOND BY: Mr. Maxfield

ROLL CALL: 4-0 (Mr. Landis and Mr. Hijazi – Absent)

Submitted by:

Mr. John Landis
Chair