I. OPENING

CALL TO ORDER: The Planning Commission meeting of Lower Saucon Township Council was called to order on Thursday, October 15, 2009, 7:00 P.M., at 3700 Old Philadelphia Pike, Bethlehem, PA, with Mr. Thomas Maxfield, Vice Chair, presiding.

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

PLEDGE OF ALLEGIANCE

II. PUBLIC COMMENT/CITIZEN AGENDA ITEMS

None

III. BUSINESS ITEMS

A. WARNER SITE PLAN – BLACK RIVER ROAD

Mr. Andrew Warner, applicant and owner was present. He said they are trying to put a driveway in a piece of ground on Black River Road and they need to have a site plan to do it. Mr. Art Swallow, Engineer, said his company made the plans. The reason they are before the Planning Commission (PC) is because the driveway that Mr. Warner would like to build into his property crosses floodplain and floodplain soils; and therefore, it needs a variance in order to do so. They prepared a plan that they feel is adequate for the construction of about 100 foot of driveway. The permit from PennDOT is already obtained. He has the review letters from the Township Planner and Township Engineer. He doesn't really have any issue with the letters. Both letters are accurate.

Mr. Garges said the site plan is required as we have seen in the past for the conditional use. There's a conditional use required because this driveway and the frontage of this entire property is within the riparian corridor. This is a corridor crossing that is required to have a conditional use. The site plan is before you in conjunction with that conditional use. The zoning variance is on a different track to go to the Zoning Hearing Board (ZHB) next Monday, October 19.

Mr. Maxfield asked if they needed to make a recommendation for the variance or not? Mr. Garges said you need to at least see it is what the ordinance says. If you have any recommendations, they will be brought to the ZHB. The conditional use differs from the special exception. The special exception goes to the ZHB and they would actually rule on that. Council is actually the one that rules on the conditional use. If you have anything you'd like to forward on to the PC, you can, but Council would actually make the conditional use determination. Mr. Maxfield said you are not necessarily looking for anything from the PC? Mr. Garges said not necessarily, other than a review. Ultimately, the site plan will have to be recommended for preliminary and final approval and go to Council for final approval as well. Mr. Swallow said the recommendation by the PC as favorable would be greatly appreciated.

Mr. Maxfield said let's go over the Boucher & James letter first. Is there any item on there that is a problem or that you disagree with? Mr. Swallow said in dispute, their interpretation of the way the ordinance is written, it's unfortunate that the Township doesn't have any lesser means to approve such a small project. You can't really argue with any of the requirements here. A carbonate geology study is a little bit excessive, but again, it doesn't matter if you build a 100 foot driveway

or a super highway, you need the same thing. They do have a carbonate study that was done previously for this property and perhaps that would fit the bill. The site capacity calculations, there's only one person how to properly fill those in, so we'll take the suggestion on the corrections and we'll correct the tabulations. Boucher & James points out as well in here as the driveway crosses the floodplain that a variance would be necessary in order to approve it. Mr. Swallow asked Mr. Kochanski if he saw anything else? Mr. Kochanski said no, the biggest issue, which really isn't an issue, is the site capacity calculations. It looks like they are well under their permitted impervious. There were just some discrepancies with the calculations. There will be some need for some variances for the disturbance. Unfortunately, the way the property is configured, there's really no other choice but to cross and they are crossing at a perpendicular angle. They are reducing any disturbance they would need to access the site.

Mr. Kologie said this is to access this land and it's identified by a company named, Fiser? You own the adjacent property as well? Mr. Warner said in the back. Mr. Kologie said is there any structures or buildings on that property to the back? Mr. Warner said no. Mr. Kologie said does this access the rear property? Is that the purpose of the access? Mr. Warner said the purpose is to get on the front lot from this street, but ultimately, certainly the back. Mr. Kologie asked if there were any other accesses for that back lot? Mr. Warner said no. Mr. Swallow said it's landlocked by the taking of the PennDOT for the construction of I-78 - the remnants of land.

Mr. Hijazi said your application is just for the access right now, but do you have any plans for that property? Mr. Warner said he does. It's going to be agricultural and they are going to plant some grapevines, some vegetables, and some fruit trees. It's all agricultural. The grapes they grow, they probably will sell, but not a big time operation, by any means, just a few acres. He's been talking to that already with Mr. Garges. Mr. Kologie said you'll use this proposed access to get to this larger piece. Is the agricultural you are talking about on the larger piece? Mr. Warner said it will be on both, a little bit on the parcel we are talking about now and then go back into the other area. The property was always farmed until PennDOT bought it.

Mr. Garges said just from a history standpoint, this application was actually submitted back in 2004 when Mr. Warner was going to actually construct a single family dwelling on that property prior to his even owning the properties in the rear. It just has returned now so he can gain access and the single family dwelling is no longer shown on the plans. This is just strictly for access of the property. It has been before the PC once before.

Mr. Maxfield said for the Boucher & James letter, Mr. Warner will comply. Mr. Maxfield said is there anything on the Hanover letter that troubles you at all? Mr. Swallow said they have the PennDOT permits. They have to add a scale for the one detail. They showed what they thought was adequate for a drainage pipe. They can increase the size and provide calculations to justify the diameter. Conservation district – it's in the regulations in the floodplain ordinance. It's a little excessive, but it's a single lot development and he believes they can comply with that. Other than that, they have no plans to build any structures. It's just as Mr. Warner mentioned for agricultural.

Mr. Miller said everything seems to be acceptable except for maybe the pipe. This is going to be towards any future impervious.

Mr. Noble said what kind of approval do they need from us at this point? Mr. Garges said you can do the site plan approval. It would basically be like a preliminary final. Mr. Noble said we could do a preliminary final and not see this again? Mr. Garges said right.

Mr. Maxfield said they received a memo from Lower Saucon Water Authority, did you receive that? Mr. Swallow said they received it from Gar Davidson. He just gives us heads up that maybe in the future he may needs some easements there. Mr. Maxfield said you are aware because of the regulations, it has to be ten feet from the existing line and it can't go towards the creek, so it'll have

to go in the other direction. Mr. Swallow said the water main? Mr. Maxfield said he thinks it's water. Mr. Garges said the water is failing. That's closest to the stream now. The sanitary is next to that, so it would have to go ten feet on the other side of the sanitary was what Mr. Maxfield was trying to say. Mr. Swallow said Gar is just mentioning that to us and it's a point well taken. It would be a little premature to provide anything until the LSA has a whole design for the replacement. It's just informational correspondence and they will note that. Mr. Maxfield said it does say anything they can do at this time to protect, preserve or slightly expand the utility easement on the north side would be appreciated. Mr. Swallow said from the prior subdivision approval, a few years ago, there was considerable right-of-way offered for dedication that, in his opinion, would be suitable for additional township right-of-way. They couldn't construct anything in there anyway. Mr. Maxfield said do you know if this is a typo, where it says the north side and not the south side? Mr. Swallow says he says in his last paragraph that's where the water main is now. If they go to replace it, when they do, they'd most likely like to put it in the south side of the road. It does get confusing because the south side of the road is the north side of their lot. That's where the confusion comes in.

Mr. Noble asked if they had the existing right-of-way in the road? Mr. Swallow said they dedicated thirty feet from the center line. Mr. Noble said it looks like it's almost in the center of the road at that point. Mr. Garges said the maximum they would need would be some type of construction easement, most likely if they are going to need to get in the front of the property to maneuver equipment or lay material. Mr. Warner said can you guys work in the state right-of-way? Mr. Garges said yes, they can. It's the LSA that would do that. Mr. Swallow said Mr. Warner is definitely okay with granting an easement, but his advice would be until you know where the water main is going to go, for instance, you could offer an easement of ten feet, but in the final analysis the water line is going to be at a different location, so if it's ten years down the road, the LSA has eminent domain. Mr. Warner said he doesn't anticipate there will be a problem. Mr. Swallow said they would welcome the water line on their side so when they hook into it, they don't have to cross the highway, it would be to their benefit. Mr. Kochanski said it's about twenty feet from that sanitary manhole to the ultimate right-of-way. Mr. Noble said does the LSA follow the ten foot separation as a rule or do they go with the 18 inch rule of separation too? Mr. Garges said they go with the vertical and the horizontal.

Mr. Maxfield said are you going to be irrigating with this? Mr. Swallow said no, right now, it would be a very costly tap if someone wanted to tap in there. If it ended up on their side, it would be beneficial. Of course, they are going to cooperate.

Mr. Maxfield asked if anyone from the audience had any comments? Mr. Barnst Petfield was present. He said what is the approximate volume of entrance and egress for this driveway? Mr. Warner said the highway permit they got was for minimal use which is less than twenty five a day, which he can't believe they will even get close to that. It's going to be very minimal. Mr. Maxfield said it does fall under that minimal classification, which the cap is twenty five a day. It's going to be less than twenty-five a day. Mr. Petfield said there's no plan to build any buildings on this property as you know right now? Mr. Warner said the only thing that will be constructed on there is a small utility barn, but that's a minor thing. It's not on this property where the driveway is going, but something down the road for backup on the other section. Mr. Petfield said he assumes this utility building is going to maintain the agricultural that you are doing out there? Mr. Petfield said why do you need the driveway? Mr. Warner said so they can get on the property a little better which they now driving through a shallow culvert. He just wants to make it a little easier and safer.

Ms. Lana Suter said she had concerns about the development of the property behind her which is also owned by Mr. Warner and runoff issues that she has had. Mr. Maxfield said what's being disturbed are floodplain soils. It's not classified as wetlands. It's just classified as a pathway that if the creek floods, it will flood within. As far as the wetlands on the property, does anyone want to address how that would be dealt with, with any future development on the property? Mr.

Kochanski said he doesn't recall there being wetlands shown on this site nor in the calculations on this property. They are not indicating wetlands. The application is for the parcel for where the driveway is on and not dealing with the other parcels. They are only looking at what is in front of them, and the application is for a driveway crossing. Mr. Maxfield said they are required to do it that way. Anything that happens on the property in the future, any sort of structures or anything like that will be reviewed. This is basically an application for the driveway. Anything that occurs beyond that will have to come back to the Township. It's not a free pass to do whatever. As the applicants have stated, it's for the driveway and the driveway only. Ms. Lana said the tree planting or the grape planting is allowed? Mr. Garges said that agricultural use is permitted by right in the zoning district. If there was a structure, there would need to be a building permit. The agricultural use is permitted by right. Any of the farm fields you see, they don't have to come here to see if they can farm it, and it's permitted by right. Mr. Maxfield said as we mentioned before, it's historical usage.

Ms. Ann Chadwell said she hears mention of floodplains and she is concerned about that as her property abuts the property that Mr. Warner is talking about that he's going to use for agriculture. She already has issues with the floodplain, and she was wondering who keeps an eye on that if there is an issue? Mr. Noble said the ultimate design of what he is going to do is he isn't going to change the flow of water in a flood, so it's not that he's actually going to put in a bridge or any kind of apparatus that will impede the flow of water. If you get into a flood scenario, what you see flooding right now on Black River will stay exactly the same. If he was putting a structure, that would be another story. If you are on Black River Road, along the edges of the road, nothing will change. If you're in the back area, that also will not change at all. Mr. Maxfield said you could probably guarantee at this point that no structures will be in the floodplain. Mr. Noble said if he starts to change the actual elevations in the back field, in the floodplain, that's something that will have to be reviewed by the Township. Mr. Garges said on the back parcels, there isn't any FEMA mapped flood plain. The flood plain is restricted to the Black River Road corridor. Maybe the definition of floodplain isn't the same as you are using. Ms. Chadwell said she just knows she has issues with water the way it is and she just has a concern about the back piece of property. Mr. Noble said if you are on the high side of anything Mr. Warner owns, nothing he will do will impact you. If you were on Black River road and he started to do some major changes with the land contours, that's a possibility. Mr. Warner said there's a swale between the two properties currently. Mr. Noble said right now the flow is toward the road so on the backside there should be no impact at all. Anything he is doing right now won't change the contours in the back. If he does some buildings, then we'll probably have to look at how the water flows back there. It flows down towards I-78, not towards the back. Mr. Maxfield said the Black River itself is a water problem. Mr. Maxfield said the driveway is before us and any other development that occurs on the property will have to come back to the Township. We need to make a recommendation on the site plan.

Mr. Kologie said this is just approving the site plan to go to the ZHB. Mr. Garges said for the conditional use. Mr. Maxfield said does anyone want to make a recommendation on the variance?

MOTION BY: Mr. Noble moved to recommend that it's an appropriate use for the plan.
SECOND BY: Mr. Hijazi
ROLL CALL: 4-0 (Mr. Landis and Mr. Lychak – Absent)

Mr. Noble said can we give him an approval for preliminary final so he doesn't have to come back? Mr. Garges said without having Linc Treadwell here, that will probably be the safest thing to clean everything up.

MOTION BY: Mr. Noble moved to recommend that we give this plan a preliminary and final approval with the Boucher & James and Hanover Engineering letters.
SECOND BY: Mr. Hijazi
ROLL CALL: 4-0 (Mr. Landis and Mr. Lychak – Absent)

IV. MISCELLANEOUS BUSINESS ITEMS

A. APPROVAL OF MINUTES – SEPTEMBER 17, 2009

MOTION BY: Mr. Maxfield moved for approval of the September 17, 2009 minutes.
SECOND BY: Mr. Noble
Mr. Maxfield asked if anyone in the audience had any questions or comments? No one raised their hand.
ROLL CALL: 4-0-2 (Mr. Landis and Mr. Lychak – Absent)

B. APPROVAL OF MINUTES – SEPTEMBER 10, 2009

Mr. Maxfield said these minutes we saw before, but didn't have a quorum.

MOTION BY: Mr. Noble moved for approval of the September 10, 2009 minutes.
SECOND BY: Mr. Hijazi
Mr. Maxfield asked if anyone in the audience had any questions or comments? No one raised their hand.
ROLL CALL: 4-0 (Mr. Landis and Mr. Lychak – Absent)

V. PUBLIC COMMENT/CITIZEN NON-AGENDA ITEMS

None

VII. ADJOURNMENT

MOTION BY: Mr. Kologie moved for adjournment. The time was 7:35 PM.
SECOND BY: Mr. Maxfield
ROLL CALL: 4-0 (Mr. Landis and Mr. Lychak – Absent)

Submitted by:

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Mr. John Landis
Chair