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FRANKLIN TOWNSHIP PLANNING COMMISSION MEETING MINUTES MAY 7, 2009

Call to Order: Planning Commission Chairman Ralph Olivier called the meeting to order at 7:07 p.m. Present were Mr. Brindle, Dr. Hoffman, and Mr. Squadron. Dr. Harris arrived prior to the first vote. Others present included Township Secretary Sharon Norris, Assistant Township Manager Jeff Eastburn and the following Township Consultants: John Theisen from LTL Consultants Ltd, Scott Allen from McCormick Taylor, Stan Corbett from URS Corporation, and Walt Leis from Tetrahedron Consultants, Inc. There were approximately 14 members of the public in attendance.

Public Comment: No public comment.

Approval of Minutes – April 2, 2009: On motion by Mr. Brindle, seconded by Mr. Squadron, the minutes of the Planning Commission meeting of April 2, 2009 were approved as submitted. Motion carried unanimously.

Planning & Zoning:

Charlton Property: Jim Fritsch of Regester Associates, Vaughn Charlton, property owner, Russell Losco from Lanchester Soils, Tom Cummer from Thomas H. Cummer Landscaping Architecture, and Andreas (Andy) Heinrich, from Heinrich and Klein Associates, Inc. were present on behalf of the applicant. Mr. Fritsch presented the Preliminary Plan for the property which is located on the south side of New London Road, contains 2.0 acres, and is zoned Limited Industrial. He went through the various reviews provided by the Township's consultants and offered the following comments on each:

LTL Consultant's Review Letter of 4/21/09:

- Conformance with the Zoning Ordinance:
 - #1 Section 27-1514: The environmental impact statement has been submitted to the Township for review.
- Conformance with SLDO:
 - #2 A letter has been issued to CCPC; erosion and sedimentation (E & S) Plan has been submitted to CCCD; Mr. Losco is working with the Health Department on the sewage plan; Mr. Fritsch has spoken to the fire chief who has written a letter not yet received by the Township; the plan has been submitted to PennDOT; a planning module is not required.
- #3 Section 22-410: E & S plan has been submitted.
- #4 Section 22-501.M: Mr. Fritsch believes that the requirement to show all buildings and structures within 500 feet is not a preliminary plan requirement. (Confirmed by Township Engineer Theisen)

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- #5 Section 22-607.D: The \$2,688 fee-in-lieu will be recommended by the Planning Commission. The applicant will discuss this issue with the Board of Supervisors.
- #6 Section 22-610.C: Tom Cummer will replace the Pitch Pine with another evergreen tree.
- #7 Section 22-710: Applicant will discuss the issue of sidewalks with the Board of Supervisors.
- #8 Section 22-717: Four concrete monuments will be installed.
- Compliance with MS4 Stormwater Ordinance, Ordinance No. 2005-03 (MAM): The Operation and Maintenance Agreement has been submitted to Township Engineer Theisen for review and will also be reviewed by the Township Solicitor.

URS Review Letter of April 20, 2009: Mr. Losco has submitted a written reply to the Township dated 5/5/09. He reviewed the items in the URS letter as follows:

1. No response required.
2. Regarding the projected sewage flows, Mr. Losco has submitted the documentation of flows from the previous location with his 5/5/09 letter.
3. Mr. Losco submitted a draft of the Operation & Maintenance Agreement with his 5/5/09 response to the Township.
4. Regarding the location of the sewage tank in an area of high water, Mr. Losco stated that an empty tank with 2 feet of soil covering it is heavier than water that has risen to surface level. Mr. Olivier questioned this and asked Mr. Losco to provide his calculations to Township Consultant Stan Corbett.

Mr. Corbett has reviewed Mr. Losco's letter of 5/5/09 and agrees with his responses. Regarding the O & M Agreement, Mr. Corbett requires more time to review it and to have it reviewed by the Township Solicitor prior to making a recommendation to the Planning Commission and Board of Supervisors.

Tetrahedron's Review Letter of April 27, 2009: Mr. Fritsch advised that the applicant is proposing an underground stormwater management basin on the east side of the building and parking lot. The existing well will be abandoned and it is proposed that the new well will be located in the northeast corner of the property. He stated that the distance from the center of the proposed well site to the edge of the proposed underground basin is approximately 52.2 feet. Mr. Leis stated that the recommended setback from a well to anything that could possibly cause contamination of ground water is approximately 100 feet. This began an extensive discussion detailing the complexity of the issue due to the configuration of the lot as well as the applicant's need to comply with the requirements of the Chester County Health Department, the PA DEP and the Township's ordinances. Mr. Leis' main concern is that since this is an auto repair facility, that the runoff could potentially infiltrate the ground water which

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could contaminate the site well and nearby wells with petroleum products. Mr. Leis advised that his review was based on the information which has been provided to him, which includes the Environmental Impact Assessment (EIA). He expressed disappointment regarding the lack of significant data in the EIA. Mr. Squadron suggested that the applicant supply Mr. Leis with any documentation in support of the proposed location of the well and the applicant's position that the concerns expressed by Mr. Leis are not significant. He also suggested that the EIA be expanded to include all other supporting data discussed by the applicant. Mr. Squadron stated that, as a layman, he understands Mr. Leis' position of wanting the well to be a greater physical distance from the stormwater basin and his concern regarding the potential for contaminants from this type of facility. Applicant agreed to revise the EIA and to propose additional modifications to the stormwater runoff basin to address Mr. Leis' concerns.

McCormick Taylor Review letter of April 16, 2009: Mr. Fritsch referred to each of the issues that were outstanding after Mr. Allen's last review, and made the following comments:

1. The PennDOT Highway Occupancy Permit has been submitted to the Township.
2. ZON §27-1607.1.L: Regarding compliance with the foot-candle requirement of 1.2 to 1.5 foot candles. Mr. Cummer advised the Commission that he has prepared a new lighting plan (not yet been submitted to the Township) which averages 1.29 over the entire parking lot. The previous plan reached 2.7 in some areas. However he said it is impossible not to exceed the 1.5 maximum if the measurement is taken directly under a light pole. He also advised that the new plan has zero light leaving the site. Mr. Olivier agreed that it is impossible not to exceed the 1.5 maximum anywhere in the parking lot and that the requirement is for an average.
3. SLDO §22-502.L.(11): The applicant agrees to add a note to the plan regarding the dedication of the area between the legal and ultimate right-of-way per SLDO §22-705.3.
4. SLDO §22-708.5: Regarding the sight distances for arterial streets in accordance with PennDot standards. The sight distance lines shown on the plan appear to encroach upon private property, requiring an easement and an Easement Agreement between the applicant and all affected property owners. Mr. Fritsch presented a new plan that he believes does not encroach on private property and therefore will not require an easement. Mr. Andy Heinrich expanded on Mr. Fritsch's presentation of the plan providing the details of how the various sight distances were calculated. He stated that he is comfortable that the location of the driveway meets the PennDOT sight distance requirements. He will submit all of his data, with the drawing, to PennDOT for approval. Township Consultant Allen said that based on what has been stated, it appears the new plan meets the requirements of Township's ordinance and that easements and an easement agreement will not be required. However his final approval will not be

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given until PennDOT has approved the new plan. Mr. Fritsch requested that a revised preliminary plan not be required and that these changes be submitted with the final plan.

5. The removal of two existing trees located within the sight triangles. After discussion, it was decided that the applicant will remove the two white pine trees.
6. The Township Engineer is asking for more detailed information regarding the expected movement of traffic associated with the site. Mr. Fritsch will submit to the Township, the internal circulation plan (sheet 4) which was submitted to PennDOT.

Traffic Impact Fee: Mr. Andy Heinrich advised that he conducted a traffic study at the existing auto shop to confirm the ITE statistics that Township Engineer Scott Allen used in his calculation, i.e., 15 trips/peak hour at \$3,500/trip. Mr. Heinrich collected data on Wednesday, April 9 and Thursday April 17, 2009. On April 9th they counted 16 cars during the peak hours and on the 17th the count was 6 cars during the peak hours for an average of 11 trips. He added that two of the trips on April 9th were test trips, further reducing the average to 10. He said the day-to-day activity depends on customers' pick-up time. On April 9th, the shop closed at 6 p.m. so the customers came in earlier. On the 17th, the shop appeared to remain open past the peak hour. Mr. Allen will submit his recommendation to the Township after further review of the study. It was suggested by Mr. Squadron that more data would be helpful in making a final decision.

Chester County Planning Commission (CCPC) Review Letter of January 20, 2009:

1. Landscapes: This references the rural landscape adjacent to the rural center that surrounds Kemblesville and states that this application is consistent with the rural center shown on the Livable Landscapes Map. No action is required.
2. Watersheds: The applicant is providing stormwater management on site. Engineer Theisen has reviewed and approved all calculations. Mr. Olivier had several questions regarding impaired streams, stormwater runoff and riparian corridors. Mr. Fritsch responded by showing that the runoff discharges into the wetlands, not directly into the stream. There are no riparian corridors on the site.
3. CCPC does not endorse the use of on-site systems for commercial uses and if such systems are installed, they require the applicant to demonstrate that the plan includes measures to intercept spills of petrochemicals, etc. Since there is no public sewer or water available, the applicant has no choice but to install on-site facilities. Regarding the requirement that they must have a plan to intercept spills, etc., the applicant advises that it is the responsibility of the owner to prevent contaminants from breaching the stormwater management system through "human prevention". Mr. Olivier expressed concern that "human prevention" is not going to be effective in a situation

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- where a damaged/leaking vehicle is delivered to the lot after hours. Mr. Olivier speculated that if the applicant addressed the overriding issues discussed earlier regarding the potential for contaminated runoff to enter the stormwater basin, everyone would be less anxious in this regard.
4. CCPC suggested that the applicant and the Township should discuss the need for additional right-of-way on this section of Route 896. Mr. Fritsch stated that they have increased the right-of-way.
 5. Verify that the plan is consistent with all ordinance requirements related to sight distances. This has been addressed.
 6. Regarding the design and location of fire-fighting facilities, the Fire Chief has approved the plans. They will advise the Fire Marshal of all dangerous materials at the building permit stage.
 7. Delineation of wetlands is a non-issue.
 8. There is no construction in areas of wet soils.
 9. The site layout has been agreed upon by all parties.
 10. A revised lighting plan has been prepared and will be submitted to the Township.
 11. All the signs will meet the Township ordinances.
 12. There are no waivers requested on the revised plan.
 13. Number of plans to be submitted will be complied with.
 14. This refers to the checklist of agencies from which approvals are required.

Mr. Olivier had several questions and comments regarding the Environmental Impact Study which was prepared by Mr. Ray Ott who was not present at the meeting. Mr. Fritsch will see that these questions and comments are addressed.

Mr. Olivier requested submission of the following items to the Township:

- Items for the Township Hydrogeologist.
- Data for the Traffic Consultant to review.
- Revised lighting plan.
- Answers to Mr. Olivier's questions regarding the Environmental Impact Statement.
- Mr. Losco's calculations supporting applicant's decision regarding sewage tanks in high water areas.

Mr. Fritsch requested that the Planning Commission make a recommendation to the Board of Supervisors for conditional Preliminary Plan approval.

Mr. Squadron stated that the information which is still outstanding is fundamental to the consultants' ability to make their recommendations to the Planning Commission so that the Commission can make an informed recommendation to the Board. Regarding the Traffic Impact Fee, the Planning Commission has to arrive at a consensus on what to recommend to the Board. Mr. Squadron complimented the applicant on the depth of

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the information that has been submitted and acknowledged the cost of gathering that information, but stated that he was not willing to make a recommendation to the Board without having the additional information that has been requested. The other members of the Commission agreed. Mr. Charlton expressed dissatisfaction that these issues were not introduced earlier in the review process. Mr. Squadron acknowledged that the Planning Commission has might have identified some of the issues earlier but that it was an ongoing process with new information and reviews occurring throughout. Mr. Hoffman cautioned that the revisions need to be received by the consultants early enough for them to make their recommendations to the Planning Commission prior to next month's meeting. Mr. Fritsch made several suggestions regarding what the applicant might be willing to do to alleviate the issue of contaminants infiltrating the ground water.

The applicant requested an extension to June 18, 2009.

Energy Endeavors Sketch Plan: Present on behalf of the applicant were Kerry Haber, Architect; Ron Reagan, Engineer; Peter Jones and Shawn Sheeland partners in Energy Endeavors.

Kerry Haber introduced himself, stating that his firm, Bernardon Haber Holloway, has been retained by Energy Endeavors to do the land planning and architecture for their newly purchased property previously known as "The Kitchen Design Shoppe".

Peter Jones of Energy Endeavors provided background information about the company. Energy Endeavors is an electricity marketing operation, in business for approximately three years, currently located in the Christiana Executive Complex. There are a total of twelve employees some of whom are not there everyday, or at the same time. They market electricity on a wholesale level. The utilities sell into a wholesale market that's controlled by a grid operator called PJM, Pennsylvania, New Jersey and Maryland Interconnection. PJM's responsibility is to maintain the grid so that it is able to transfer power from one point to another. As a secondary operation, they also essentially assign purchases and sales to all the purchasers and sellers. All the utilities are required to sell their electricity into it. Energy Endeavors get involved as marketers who buy from certain points on the grid and sell to other points on the grid. Since there is no need to have customers visit the site, they may not need any signage identifying the company. The property has been purchased in the name of Property Endeavors which is an affiliate of Energy Endeavors. Shawn Sheeland and Peter Jones are managing members of both companies.

Certain renovations and additions are planned, including widening the driveway from 16 feet to 20 feet, adding enough parking spaces to have a total of 24 spaces, and putting a 2,800 square feet addition with a full walk-out basement behind the current building. The intent is that all

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business operations will occur on the main floor and the 2nd floor. The basement will be used for computer maintenance. Preliminary drawings were presented to show that the design is consistent with the rural setting. The new addition will consist of a large open area with a high ceiling which will be used as trading room.

Mr. Olivier had questions regarding the additional parking spaces. The applicant is interested in adding only the number of spaces needed for his operation. Mr. Olivier's preference is that the applicants have an approved plan for a certain number of spaces whether or not they build them. His concern is that there is no permitting process in the Township if another business operation should eventually buy the facility. After discussing the issue, it was decided that the applicant would look for a precedent in the County, since there is no precedent within Franklin Township. According to Township Engineer John Theisen's review letter, if the business is considered as wholesale sales, there are only 14 spaces required. Mr. Olivier disagreed with that characterization, saying that wholesale sales involve a warehouse setting and in his opinion this is an office use. Since this is governed by the Zoning Ordinance, if the applicant had approval to build a certain number of parking spaces, but never intended to install them, it would require a zoning variance. However, if the applicant was going to build them eventually, it would be a phasing issue and perhaps not require a zoning variance. The applicant and the Township will look into the issue.

Mr. Olivier commented that the surveyor who did this plan has a history of not complying with the sketch plan requirement to show all buildings within 500 feet of the property. He suggested that an aerial photograph would suffice and would be a help to the Planning Commission in their review.

Mr. Brindle brought up the issue of sidewalks and whether or not the Township should consider requiring applicants in the commercial district to build sidewalks. This decision would be at the discretion of the supervisors.

Stormwater management was briefly discussed. Mr. Reagan will be looking into the existing stormwater basin to determine what changes will need to be made.

There is an existing sewage system which has sufficient capacity for the proposed expanded building. The propane tank has to be relocated and the existing well will be abandoned and a new well drilled. A land development plan will be submitted and the applicants will be back before the Planning Commission possibly next month.

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The applicant will draft a question for the Township Solicitor regarding the mechanism of getting parking approved but not built and submit it to Mr. Eastburn who will pass it on to the Township Solicitor.

New Business: No new business.

Public Comment: No public comment.

Adjourn: Mr. Olivier adjourned the meeting at 9:21 p.m.

Respectfully submitted,

Richard J. Squadron
Planning Commission Secretary

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