

**PLANNING COMMISSION MEETING MINUTES
EAST HANOVER TOWNSHIP
DAUPHIN COUNTY, PENNSYLVANIA
8848 JONESTOWN ROAD, GRANTVILLE, PA 17028**

December 19, 2007

Present: David Craig, Chairman;
Donna Lebo, Vice Chairman; Mike Webb, Member, Ed Twaddell, Member
Absent: Michael Kovach, Member

Also Present: Jaromir Kovarik, Consulting Attorney to the Planning Commission
Andrew Stein, Consultant to East Hanover Township
Roger Phillips, Township Engineer
Dawn Eppinger, Administrative Assistant to the Planning Commission
David Smith, Township Zoning Officer
Matthew Jones, Dauphin County Planning Commission

This meeting was audio taped. The tapes are strictly for the use of the Administrative Assistant for clarification during preparation of the minutes.

The meeting was called to order by Chairman Craig at 7:12 pm.

APPROVAL OF MINUTES

- **Mr. Webb made a motion to recommend approval of the meeting minutes of November 27, 2007. The motion was seconded by Mrs. Lebo. Being no further discussion, the motion was approved 3 in favor, 0 opposed.**

Chairman Craig announced that a podium with a microphone is now in place for Planning Commission meetings. When an individual is recognized by the Chairman, they must approach the podium, state their name and address and speak clearly into the microphone so the information can be added to the meeting minutes.

UNFINISHED BUSINESS

1. Steve Gingrich, Kimberly Gingrich and Robert & Stacey Jones (03/23/08). This is a preliminary-final one-lot addition. There were no representatives for the applicant and no revisions.
 - Chairman Craig noted because there is no new information received regarding the plan, it will be carried into the new year.

NEW BUSINESS

1. Sketch plan from George Warner – the applicant was not present to discuss the sketch plan so there was no discussion at this time. Chairman Craig noted it will be carried until more is heard from the applicant.
 - Mr. David Smith asked how long it needs to be kept on the agenda if the individual has not shown up for two months. He added he read into the SALDO and any individual can come to a meeting before the Commission and the only process that there may be issues that we cannot present them at the time; however, he didn't know if it was necessary to continue to have it listed on the agenda with the individual not appearing two months straight. Chairman Craig noted if he does show up, he could be heard under New Business from the public. He asked the Commission for their opinions
 - Mr. Smith noted it was under the Sketch Plan Requirements in the SALDO
 - Mrs. Lebo noted there are no time limitations in terms of the Planning Commission extending or limiting review; it is at the discretion of the Board as to how long this is carried.
 - Mrs. Lebo further added to make a recommendation to Mrs. Eppinger to contact Mr. Warner regarding the sketch plan to determine what the status is and report back to the Commission at the January 2008 meeting.

2. 209 Study – a representative from McMahon Associates, Mr. Chris Williams, made a presentation on the 209 Study. They are a traffic engineering firm.
 - Mr. Williams noted McMahon Associates has prepared over 20 Act 209 Studies for various municipalities through Pennsylvania.
 - Chairman Craig pointed out there are several members of the East Hanover Township 209 Committee in the audience who may have questions.
 - Mr. Williams noted the presentation is an overview of the process in accordance with Pennsylvania state law and he would field questions after his presentation
 - Mr. Williams noted there is nothing in the presentation specific to East Hanover Township, but what is required by state law and examples of impact fees from other townships they have worked for in the past. He shared the following information:
 - Act 209 is a process by which municipalities adopt or pass a resolution to commence the Act 209 process and at the end of the process, there is an impact fee. The impact fee is a fee that is charged to new development based on the amount of traffic that it generates. The purpose of Act 209 is to equitably assign responsibility to the development to pay for its traffic impact.
 - A lot of the negotiation and guess work is taken out of it once a Township completes the process. The developer has to pay the fee; it's a state law.
 - According to the Act 209 law, a township has a total of 18 months to complete the process. He added it is his understanding the township may have passed a resolution to kick off the process some time ago and that they would be near the end of the 18 month period. He recommended the township start the

process again, pass a new resolution and it would give the township a new 18 month period.

- The resolution is passed by the Board of Supervisors to commence the Act 209 process. With the resolution, the law allows the township to adopt an interim fee, the maximum of which is \$1,000 per trip. A lesser amount can be chosen for the interim fee, but Mr. Williams recommends the maximum amount.
- If at the end of the process, whatever the final impact fee is, if it ends up being more than \$1,000, you cannot go back and retroactively collect from any developers that may have come in 18 month period; however, if the final fee ends up being less than \$1,000, the township does have to credit or reimburse anyone who paid the fee the difference between what the fee ends up being and the \$1,000.
- Chairman Craig asked if they go against your advisement and they choose \$750 per trip; can they go back after the development that comes in under that 18 month window and collect up to \$1,000 dollars per trip. Mr. Williams responded the Township cannot do that because it was established up front during the resolution.
- Mr. Williams also noted he advises clients to pass the resolution with the full \$1,000 fee because it better to have to credit money back to a developer; that is money that the Township would not have had otherwise. The money can be collected and held in a separate account. If it needs to be paid back at the end of the process, it will be there.
- There are three distinct components to the Act 209 process. 1) develop a land use assumptions report; 2) roadway sufficiency analysis; and 3) capital improvement plan. At the end of it, the traffic impact fee would be determined and adopted by an ordinance.
- The Land Use Assumptions Report is a separate document that is generally prepared by an experienced planner. McMahon Associates does not prepare the Land Use Assumptions Report but can recommend companies that provide this service. It is an estimate how the vacant land in the township might development over a defined period of time. Most Act 209 studies will look at a 10-year horizon.
- The LUA Report is prepared, once it is completed, it has to be sent to the school district and the adjoining municipalities. There is a public review period. At the conclusion of the review period, a public hearing is held to review the document. At the conclusion of the public hearing, it would be approved by the Board of Supervisors.
- The entire process is facilitated and managed through the Traffic Advisory Committee. They are involved in every step of the process. The committee will work directly with the McMahon Associates and land planner. The committee would work with the land planner to develop a land assumptions report and sign off on the document before it goes to the public review period and ultimately before the Board of Supervisors.
- The next component is the Roadway Sufficiency Component. McMahon will basically perform a township-wide traffic study. They will not look at the

- impact of the development that was estimated in the Land Use Assumption Report. The three components to the Roadway Sufficiency Analysis. The first would be the analysis of existing traffic conditions today within the study area which is determined by the township. The Committee will determine the study area and selecting which intersections are used in the process. Levels of service are measured at selected intersections as they exist.
- Chairman Craig asked if there is a minimum or maximum size of a study area. Mr. Williams answered there is. The service area can be no more than seven (7) square miles. The entire township does not have to be included in the roadway sufficiency analysis. It would be the area the township feels the development is going to occur. If it is 14 square miles, it would be divided into two service areas. Certain intersections may be looked at in one service and certain intersections in another service area but would all be treated equally through the process.
 - Mr. Phillips added separate service areas would result in separate fees.
 - Mr. Williams continued at the end of the process they would look at traffic conditions in one service area, those intersections and whatever improvements they may need will become the basis of the impact fee for that service area. The other service area would have a different fee because its improvement needs would be different.
 - The first component of the roadway sufficiency analysis is analyzing the existing traffic conditions for the intersections chosen by the township. The second part would be analysis of future traffic conditions; the 10 year or the 20-year horizon. This is called future pass-through conditions. They are not looking at the specific development that may occur within that service area, but are looking at traffic that may be added to the service area due to growth occurring outside the service area. It is growth that may occur in the adjoining municipality but passes through the service area in the township.
 - It is also traffic generated by the development in service area #1 but which travels through service area #2 and vice versa. This would be modeling future traffic conditions due to background growth by measuring of service at the intersections and determining what the conditions are and what improvements might be necessary for the future pass through condition
 - The third component of the analysis is the future development condition. They are adding the specific traffic that will be generated by the development that is projected from the land use assumptions report within a particular service area. It is traffic generated by estimated development, reanalyze the same intersections, look at levels of service and determine what the deficiencies are. What they are measuring against is a preferred level of service. The township, the committee and McMahan Associates will work together and the level of township will be selected based on what is preferred by the township and has to be a consistent level of service.
 - When levels are service are measured using the three components if any intersections or roadways are operating below the service level, necessary improvements have to be identified and improvements made on the roadways and intersections up to the preferred level of service identified.

- Those recommendations to meet preferred level of service become the basis of the capital improvement plan. Once the committee “blesses” and the study and the recommended improvements, the analysis will be approved by the Board of Supervisors.
- The third phase is the development of the capital improvement plan. This is where a dollar value is assigned to a cost estimate to build those improvements. In the final component, the dollar amount assigned becomes the most important part of the capital improvement plan and the basis of the impact fee.
- After the capital improvement plan is approved by the committee and the supervisors, the supervisors would adopt a traffic impact fee ordinance.
- There may be an underutilized piece of ground today that in five years a developer decides to build on that was not originally planned for and you are able to assess an impact fee to the developer for the additional traffic.
- Chairman Craig asked in a case that the township would not be able to plan for, would it be based on their traffic report and what the actual traffic is versus what we have assumed.
- Mr. Williams answered it is based on the actual traffic report. The assumptions report is based on their best estimate. If a developer comes in five years from now in an area not included in the study, they would be charged a fee based on their traffic report and not what was estimated five years earlier.
- The traffic advisory committee will meet approximately every to every other month. The committee needs to be comprised of seven members, 40% of which must be in the real estate development business.
- Mr. Webb asked if clients have come back and commented on how accurate the assumptions that were made during their 209 planning and their actual costs. Mr. Williams commented that he does not know anyone that has. The process. Mr. Webb commented that it would be nice to know whether or not the process actually provided the resources to make it prudent.
- Mr. Williams responded when you develop your capital improvement plan you put a dollar value to the improvements. The impact fee is only based on a portion of the improvements that are needed by new development. There will be improvements that will be needed today and in the future and this is not part of the fee. No township will ever collect enough money through Act 209 to fully fund all of their improvements.
- There was further discussion on this.
- Mr. Phillips added that he has had clients who have gone back after five years into the process, re-evaluated what they had, and redone what they had whether it was changing the service area or if their comprehensive plan was starting to change, or they saw more intensive use and went back and took a second look at it and redid it and came up with a different fee.
- Mr. Williams added if as improvements or developments starts and there are changes in the outlook of the township, the township will need to update the report. There was further discussion.

- Mr. Williams commented it is an expensive process and a length process (18 months) but it is worth the investment. If you are spending \$60,000 to go through the process over the course of 12-18 months to hire consultants it sounds like a lot of money, but you're phasing the cost over the course and the first 100 lot subdivision comes in and your impact fee is \$1,000. One trip per unit adds up to \$100,000 the township will collect with the first development that comes in after the process is completed. It will cover the cost that was spent to invest in Act 209.
- Townships like Act 209 because it takes the negotiation out working with developers. Developers will often times prefer it because they know what the rules are when they come into the township to develop.
- Townships that have been most successful in his experience have been the townships that do not collect the actual money from the developers. What they will do is based on the size of the development may owe the township a \$500,000 impact fee. If right near the development the township knows there is an intersection that will need traffic lights and left turn lanes and it will cost \$500,000 you can waive the impact fee and have the developer build the improvements in lieu of the impact fee. The township does not have collect, manage and keep the money in a separate account. It also allows the township to get the improvements quicker. The builder can build them more cost effectively than the township. Developers are in the business of building; townships are not. There are ways to make Act 209 work in the township's favor and get improvements rather than collecting money and sitting on it.
- Act 209 cannot be used to pay for existing problems. Act 209 is intended to pay for capacity improvements that are needed based on developers' traffic impact.
- Chairman Craig asked how it is accounted for when you try and bundle it in one bid document; do you rely on the schedule of values that comes from the contractor and how it is policed.
- Mr. Williams answered that if a developer is going to pay for intersection improvements; i.e., left turn lanes and traffic signals, that is all capacity improvements. The township cannot collect fees to repave a roadway or to improve a design fault in a road.
- Chairman Craig further asked if there is a zone with existing conditions but until the developer came in and developed that piece of property.
- Mr. Phillips answered that if you have an existing bad intersection that is still above the threshold of level of service but post development would fall below that. That could then be improved because it is a requirement of the development. If there is an "S" turn in the road that needs straightened, typically they cannot be used for that, but anything with an intersection can kind of be rolled in because they are capacity bottlenecks.
- Mr. Williams added that if you have an intersection today that is an unsignalized stop-controlled intersection and it has poor site distance, Act 209 money cannot be used to fix the site distance problem because it is an existing problem; however, if down the line because of growth that is going to occur that intersection 10 years from now will need left turn lanes and a traffic

signal, now there is an opportunity. The developer's Act 209 money can be used or don't collect the money and have the developers fix the intersection. When they are widening the intersection and putting left turn lanes and a signal in, the site distance issue will also be corrected.

- Mr. Williams also noted there were examples in the booklet for the members to examine.
- Chairman Craig asked Mr. Williams if his firm provides avenues or guidance into looking for grant money to pay for the Act 209 study.
- Mr. Williams answered it is his understanding there it not grant money for townships to individually pursue an Act 209 study; however, if there may be opportunities through grants. He noted there are some municipalities close to him that have been allowed grants for multiple Act 209 studies.
- Mr. Phillips asked if part of the capital improvement design fees get rolled into those costs. Mr. Williams answered that the capital improvement plan takes into consideration construction and engineering costs.
- Mr. Webb asked if the township is collecting the fees for development that occurs along a state-owned roadway, does the state have the right to come back and tap into the fees. Mr. Williams answered they do not; Mr. Webb asked if the state determines if the improvements occur.
- Mr. Williams answered there have been discussions with PennDOT. He noted he wanted to point out two points: 1) when developing the capital improvement plan, any improvements that are necessary if they are on state roads or at the intersection of state roads, technically PennDOT has some responsibility. The Act 209 law says that if the improvement is on a state road or at an intersection of state roads, half of the cost of the improvement must be pulled out. The developer cannot be held responsible to fix a problem on a state road.
- Mr. Williams noted PennDOT does not really recognize Act 209, adding he just gave a presentation at State College at a conference and the PennDOT HOP process. He stressed there is a real disconnect. Pennsylvania MPC allows Act 209 and it is the only real legal mechanism townships have to require developers to offset improvements. The township can go through the process, approve a new development, and collect the impact fees (done at the time the builder pulls the building permit).
- After the township process, the developer goes to PennDOT for a highway occupancy permit because their development is on a state road. PennDOT requires them to do a traffic study. That traffic study says they are going to have certain off-site impacts. PennDOT wants to see them construct improvements to mitigate their impact, but the developer has already paid the fees to the township. PennDOT says they don't know if the township will spend it on the same schedule as they are going to spend it as the same schedule you are building your development. He added recently PennDOT has started to work with the townships and there may be an agreement for the developer to build improvements sooner and receive a credit for that impact fee. He recommends getting the developer to pay for the improvements; the benefits are better PR from your residents because they

are seeing work being done that otherwise would not have happened and when the developer goes to PennDOT, they're going to be happy because they're getting improvements as well.

- Mr. Phillips added in the Philadelphia area, PennDOT will sit down with the developer and the municipality. PennDOT has more authority with the state roads in requiring larger improvements; PennDOT is not bound by municipal boundaries. PennDOT may require additional improvements before issuing the highway occupancy permit.
- Chairman Craig opened the floor to the audience for questions.
- Mr. Oellig asked for the definition of a "per trip", the development getting the trips over one hour and 24 hours and distance from the main interchange, development that is a quarter mile away from the interchange or development five miles from the interchange, noting development further away from the interchange will not have as much impact as the one that is closer.
- Mr. Williams answered the "trip" is the peak hour. The township selects the peak hour as a week day afternoon which is the basis of the impact fee. Their traffic engineer and the township's engineer will estimate how many new trips will be made at the peak hour. If there are two developments close to an already busy interchange, the development that is closer will likely have a greatly impact than the one further away. They will look at the entire service area and all the intersections that are being studied in that seven square mile service area, all the development that will occur and will assign that traffic throughout the road system, analyze the intersections and if they are found to fall below the level of service, you identify the improvements to get them up to the approved level of service, and they become the basis for the capital improvement plan.
- Mr. Oellig noted if the peak hours are between 5:00 and 6:00 and there is an event at Hershey at 7:00, it is going to generate thousands of trips. Will these trips not be part of the calculation.
- Mr. Williams answered the event in Hershey would not be part of the development. Mr. Oellig further commented there can be a venue basically doing the same thing but if they are not generating the trips within those hours, they will not be assessed anything. Mr. Williams answered that is the way the law is set up. An hour has to be picked. The critical hour becomes the basis of the impact fee. Most townships choose weekday mornings or weekday afternoons as their peak hours. Most weekday afternoons, which are rush hour, are the most important because traffic is the heaviest. That would be the basis of the traffic study.
- Mr. Rogers added the peak hour can be identified when you do your base study period. Mr. Williams added the law requires we take a look at the traffic generated by development during whatever the peak hour is.
- Mr. Webb asked if this is really based around intersection improvements as opposed to base road improvements. Mr. Williams answered it typically becomes the majority of the capital improvement plan. Levels of service are measures of delay. Most of the delay that we experience is at intersections, and that is where the delay will become the worst when development takes

place. They can look at intersections and critical road segments. If there is a two-lane country road that today is operating fine but if through the land use assumption report we identify a major development coming in on both sides of the road that will increase the daily traffic count from 500 to 10,000, that road may not be sufficient and may need to be increased to a three or four lane road in order to meet the preferred level of service.

- Mr. Williams added when you are looking at road segments, it takes a lot to drop below the preferred level of service. It is normally the intersections that are not meeting the levels of service. Mr. Webb asked if it would take driveways into consideration. Mr. Williams answered not unless it would be considered an intersection that is being studied.
- Mr. Phillips added the capacity analysis looks at the delay. When you are sitting at a stop sign intersection and the other leg of the road has no stop sign you are sitting becomes a failing level of service if it is over a certain criteria and would require improvement with additional development.
- Mr. Williams added the key critical intersections within the township need to be identified whether they are important today or have problems today or based on how development may occur and depending upon how development may occur due to zoning. There might be a stop controlled rural intersection but down the line might need a signal and some left turn lanes.
- Mr. Andrew Stein, Consultant for the township, identified himself. He asked in the capital improvement plan if they estimate the increased impermeable surface. This becomes an issue because the township is going through its storm water plan.
- Mr. Williams answered when they are developing costs for improvements, they do try to take into consideration some costs that would be necessary to manage for drainage, but not specifically calculating permeable surfaces. Act 209 is a planning tool.
- Mr. Stein asked about fee assumptions, because if you are looking over a 10 year horizon the cost would go up over that period. Mr. Williams answered he is almost certain there is some provision in the law to allow for some inflation adjustment over the life of the 10 year period. They are limited to what they can assume, but they can assume something for inflation.
- Mr. Stein asked during the Act 209 process and the 18-month period, is it acceptable to approve a subdivision in phases so the fees can be recaptured. Mr. Williams answered developments have been grandfathered once they file the application. Mr. Phillips answered the MPC dictates that once the originally application comes in any laws and ordinances in effect at that time would follow through the entire development.
- Chairman Craig noted Mr. Williams had commented there is a retroactive application for 18 months from resolution creating the Impact Advisory Committee, so we can go back 18 months from when the Board made the resolution. Mr. Williams answered once the resolution is passed, the township has 18 months to complete the process. Mr. Phillips added during that 18-month period you can collect up to \$1,000.

- Ms. Marie Beudet commented Mr. Williams had noted that once an application is in place that they are safe. There is a situation where there is a casino in the area. As far as we know, they did not do phases II and III in their initial development plan. Will Phases II and III then fall under this because they have 600 acres and they have only developed one part which is 16,000 trips per day. When Phases II and III come up, how do we deal with them.
- Mr. Phillips answered she is correct, he will answer from the MPC side of things and Mr. Williams can answer from the traffic side. Something that was not included on an original land development plan is not really considered phasing. That original casino plan that came in was that in itself that one plan. In order for them to do additional land development on that property, whether they call it Phase II or Phase III coming in, it would be a new plan. What they call the next phase would be in the township's eyes a completely new project and would fall under the ordinances that are in effect at the time the project is brought in, unless the original plan was approved with phases.
- Ms. Beudet asked how many of the 16,000 trips we can capture in Phases II and III. Mr. Phillips answered it is his understanding the 16,000 would go with the original; however, if they were to double size their building and under that additional land development process generate 5,000 more trips, then they are new trips and would be included in this.
- Chairman Craig asked if their level of service was tied to the original traffic study, what was above that. Mr. Webb added they would be required to have new development and would have to have estimates as to what the new development was planning. Mr. Phillips answered that was correct, and if it was new development, they would have to follow all the rules and regulations that are in place new development.
- Mr. Williams asked if they filed a sketch plan or a master plan. Mr. Phillips answered they have not filed one, but he thinks there is one floating around out there. Mr. Williams answered his understanding is if they filed one with a master plan, that would be included.
- Mrs. Lebo asked for clarification do additional slots equate to new development. Mr. Williams answered if it requires them to come back before the township for some kind of land development process, he thinks it would. If it can be tied additional traffic. Mr. Phillips added with that specific question, that's the million dollar question. It's not clear whether they have to come back in front of the township to add additional slots. There's items in the actual gambling legislation that gets them around that.
- Mr. Phillips also added if they put up a new building to put them in, I believe the answer is they have to come back before the township. If they are putting additional into the building, that is a gray area and would need to be looked at legally.
- Mr. Jones asked Mr. Phillips if they expanded the size of the building would that trigger a new land development plan. Mr. Phillips answered yes.
- Mr. Webb asked if the trips are based on estimates on the traffic study that they submit was part of the development process what if the actual number of

trips that occur is significantly different than what they estimate. Does the township have any ability after finding out what the actual impact is to go back and recover.

- Mr. Williams answered when the impact fee ordinance is passed, some language should be put into the ordinance to allow for the township to come back. It has never been an issue whereby a township didn't feel they were homework when they were approving a land development and the actual development generated more traffic. Townships their traffic engineer and the developers' traffic engineers tend to be conservative so they always get the developer to assume the worst case and when the development is finally built, it tends not to generate more traffic than originally estimated.
- The Act 209 process does allow for a developer to complete a special study after the fact and if it shows they are generating less traffic, they can ask for a refund. The law allows that. When the process is finished and the final impact fees are passed, Mr. Williams advises his clients to put language in the ordinance there that stipulates in detail how an applicant can go about challenging an impact fee. In the case at present, the township is changing their language based on a case where a developer came back two years later and asked for money back because they conducted a study and said they were not generating the number of trips. It is important to add the language to say if they agree to it at the time of the land development, you cannot come back and ask for more. You need to identify your concern at land development that you think there might be less traffic down the line and a special study can be agreed upon whereby a study will be done later.
- Mr. Phillips added the factors are used when calculating peak hour trips that the trips per day on any type of development, there are specific numbers that are based on empirical data taken from national studies. It is based on potential build out for maximum use.
- Mr. Phillips also added you can go back if you have a change in use but if you have flex office space and the use changes to high density, you can go back because of the change of use.
- Chairman Craig asked why would it be fair for the developer to go and ask for a refund but the township can't go and ask for more. Mr. Williams answered it is the way the law is created.
- Mr. Stein asked if you have to be consistent throughout the all service areas within the township about what level you pick. Mr. Williams answered the preferred level of service has to be consistent within one service area but it can be inconsistent between adjacent service areas.
- Mr. Stein asked if different service areas can have different peak hours based on the anticipated development for that area. Mr. Williams answered generally it is not likely because usually the weekday afternoon hour is the critical peak hour. Mr. Stein added the casino may have peak hours on Saturday afternoon and people would avoid going to the casino during peak rush hour. Mr. Williams answered that might be a good example of where you could choose a different peak hour. He would need to double-check the law, because he knows we can assume different preferred levels of service

between service areas. He thinks the township can assume it at different peak hours. A casino or shopping center would generate more traffic on a Saturday evening than a weekday evening. Weekday evenings are chosen as the preferred peak hours because traffic uses are not just based on when the use is generating the most traffic but when the use is generating traffic and how the use is co-mingled with the existing traffic and the existing problems at these roads and intersections, most of which are at their worst on weekday evenings during the peak hour.

- Mr. Phillips added currently the casino traffic is actually township traffic because this program was not in place in 2003. That would be part of the base analysis of all of the traffic in the township, but there wouldn't be any fees assigned to the casino except future development. If you look at the casino peak would be different than the weekday p.m. peak, you may have more of an impact using that p.m. peak hour with the additional development that goes on. That may be more of an impact on the roads than if you use the casino peak hour that may not be affected because it is background traffic.
- Mr. Williams also added if the township had a concern in Service Area #1, Saturday at noon, there is no reason why you couldn't go through the process analyzing both peak hours for that service area and then make a decision at the end of the day which peak hours you would utilize.
- Mr. Kovarik added it probably allows from what he remembers you actually can base them on the land use assumption. If you do this properly, you should be able to pick those hours.
- Chairman Craig asked about the Advisory Committee if it was within the purview of the Advisory Committee, wouldn't that be up to the Board of Supervisors. Mr. Williams answered it would be the Board of Supervisors.
- Mr. Twaddell asked if there is money left over from a developer, can that money be used to fix another part of the road. Mr. Williams answered it would have to be used in that service area. There can be a seven square mile service area and the monies may have to be used to improve any other intersections or roads that are part of the capital plan within that service area. It can only be used for capital improvements.
- Ms. Beaudet asked if you put in a turning lane on both sides and a light, how much would an intersection, two turning lanes and a light cost. Mr. Williams answered it would be approximately \$400,000 to \$500,000. The traffic signal alone would cost \$100,000.
- Mr. Phillips added it would depend on whether or not you have to build new lanes or just re-stripe.
- Mr. Kovarik asked if part of the costs for development of the plan could be rolled over into the capital improvement. Mr. Williams answered if the capital improvement plan is \$10 million, \$2.5 million are improvements needed today, \$2.5 million are improvements needed in the future and \$2.5 million to \$5 million is based on the development impact. That is 50% of the capital improvement plan. The law allows the cost of the roadway sufficiency analysis, which is \$50,000. Half of that can be folded into the capital improvement plan and then that becomes part of the basis of the impact fee

per trip. \$25,000 added to \$10 million when you divide that out per trip might only be pennies per trip but technically you are allowing the process to partially fund the study over time. The township bears the brunt of the cost up front and in a course of 12 to 18 months, the township will make an investment into this process but the first development that comes in the township will be paid back what will be spent on the Act 209 process.

- Mr. Kovarik asked if he ever saw a township to use the results of McMahon's study as collateral for allowing to pay you. Mr. Williams answered it has not been done yet. Mr. Webb added money collected is restricted in term of how you can spend it and it was not said that one of the ways you can spend it is paying consultant fees. Mr. Williams answered correct and added you can roll a portion of the cost of the plan into the capital improvement so over time, the trip might increase a little bit per trip based on the cost of the study but the actual dollars you collect cannot be used to pay the consultant.

3. Storm Water Ordinance - Chairman Craig noted there was a joint workshop on November 15. At the joint workshop between the Board of Supervisors and the Planning Commission, there was a subcommittee formed to look into the storm water ordinance. The subcommittee has met on two occasions and tried to meld in a DEP model ordinance along with the current ordinance. There is a draft form which will be posted on the township website shortly. As changes are made, they will be posted and will be looking for feedback from residents as it evolves. They do not know at this point if there will be a revision, an update or if there be a new ordinance.

He also noted it will need to be advertised for a public hearing and go to Dauphin County for their review. There is a target date for enactment of April 1, 2008.

Mrs. Lebo added it is still with the subcommittee with changes being made before it actually is sent to everyone. The amendments should be completed by the end of the year (2007)

4. Revision to Application Procedures – Chairman Craig noted there was changes over the past year. When new applications come in, they now have to be submitted 21 days in advance, and existing applications with revisions have remained at two weeks. He asked the Commission review this area and come up with different guidelines.

- Our current ordinance allows for seven days to look at something to deem it administratively complete, technically sound. Is there a way we can look at this so we can provide for a better review for the technical soundness so that we and the applicant are treated more fairly to get a better submission in front of us that is clearer and that maybe the individual submitting the application be better acquainted with our ordinances so that we are not going through revision after revision and extensions of time.
- Mrs. Lebo volunteered to be the point of contact as everyone is formulating their thoughts and ideas. She asked everyone to e-mail any suggestions to

her. She will try to get a draft together of the revised procedure before the next meeting. The intent is to also post that draft procedure on the website for public comments.

- Chairman Craig thanked Donna for volunteering. He also solicited any constructive ideas the public may have and noted Mrs. Eppinger is the Planning Commission's point of contact and forward them to her.
- Mr. Kovarik noted from the legal point of view for those who do not have access to the internet, a copy can be kept at the township for review.
- Ms. Beaudet noted part of the process when something is taken in on their face if it looks right. She asked if they noticeably have problems on their face, what is the real answer. Is on their face subject to debate. What is prima fascia to one individual may not be prima fascia to the other. Has the MPC or anyone delineated what it means, which would help out Mrs. Eppinger.
- Mr. Phillips answered it has always been his understanding that when the MPC refers to an initial completeness review. The completeness review is if a traffic study is required, it is there. If the storm water study is required, and it is there. If you need 10 copies to be submitted and it needs the application, and it needs to check. There is a checklist of administrative items that needs to be there. Sometimes when it comes in, you do not know it needs a traffic study until you actually review the plan. It is basically, the number of copies, the number of reports. They can be junk, but if they are there, it is complete. It is not technically sound, but it is administratively complete.
- Mr. Webb noted DEP had a checklist and they would look to see if you had all the blocks filled in on the application that was technically complete and move on to a review process.
- Mr. Phillips added DEP has a checklist and they have 30 days to determine they're administratively complete. Someone will sit there with the checklist and go down the list. If you do not have every item, the plan is rejected and sent back out the door. The MPC allows the township seven (7) days to determine something is administratively complete.
- Ms. Beaudet added when developers complain about the time spent in the Planning Commission, wouldn't it be prudent for them to submit an application that is clean and technically sound.
- Mr. Webb noted he worked in State government for almost 36 years and he noted the applicants never had time to do it right, but they always had time to do it over.
- Mr. Phillips noted in the developer world, there is a time is money mantra that they go by. They tend to at times push their consultants to get something in. and get something in front of the township and get the process going. It is not the best way to do it, but that is the way the majority of developers operate.
- Chairman Craig added that is precisely what he would like to try to curb so that we get more of the quality. It is their money and they can spend it any way they want.
- Mr. Phillips added unfortunately they have a right to do that. It is a bad process, but they can submit junk, we can go all over the place and review it and then it goes back and forth and back and forth.

- Chairman Craig asked according to the MPC and our ordinances, say something comes in and it lands there and there are 24 glossy photos and everything, so it is administratively complete. Then it goes out and goes out and the Commission is looking at it and sees a ton of bullet holes in it. Technically, we have 90 days to review it. Mr. Phillips commented technically the Board of Supervisors must act within 90 days or require an extension be granted by the applicant.
- Chairman Craig continued is there a way by the first meeting that we can say that this is bad and you need to take it back and bring us something that is worthy of review. Can they just keep throwing junk back at you. Mr. Phillips answered they can keep throwing junk back at you.
- Mrs. Lebo asked if the ordinances were very specific in terms of what they require as part of the initial submission for a new plan and very specific in terms of what is required for a technical review completeness of application, would they then be required to adhere to the ordinances and take it back through a new submission. Mr. Phillips answered any applicant is required to adhere to the ordinances no matter what they apply to.
- Mrs. Lebo asked if there is anything in the MPC to allow the township to build into the process a review period once it is before the Planning Commission. Mr. Phillips answered he believes when it comes to the MPC that the only limits on review time are the 7 day completeness and the 90 day clock.
- Chairman Craig asked if we could short circuit the 90 days and say this thing is incomplete and recommend directly to the Board of Supervisors that the plan is rejected. Mr. Phillips answered a difference between calling something incomplete and technically deficient and it can be further explained by an attorney. There is a different threshold.
- Mr. Kovarik commented he would like to clarify what was said. There is a list which should be completed when the application is supposed to be administratively complete. The question is what is the list. The ordinance for a preliminary plan goes from Section 402 on page 28 to 44, a very detailed description of what needs to be in a preliminary plan. Any person who can look at the preliminary plan and say if a certain is not there, it is incomplete. The other issues which is apparent on the face of the document in plain view, there can be some debate about that.
- Mr. Phillips added there is a list at the beginning of that section or further in front that talks about the number of copies. Typically, that is what is considered administratively complete. The larger list being referred to is gets involved in the technical review. If something is missing in the big list, it would be incomplete, but it is not necessarily picked up in the completeness review that is done in the first seven days because the actual effort it would take to go through the eight or ten page requirement list just to see if those items are there is not feasible with the staff doing that in the first seven days.
- Mr. Phillips went on it is typically, is the application there, is the check there, are the right number of copies there, are the right reports there. Someone can't walk in and say they have a 300 home development and here is one page of my application. That would not be administratively complete. If they

come in with a big stack and they have reports and they have a big set of drawings and all the copies, it may be determined to be administratively complete. Then you would start the technical review and start to find out if it is correct. That is what the MPC provides for. For clarification he noted between those 7 and 90 days, they are not compelled as a board to have anyone appear in front of you if reviews are not complete to your satisfaction. They can come in and talk to you all they want. You do not need to take any action until you get up against that 90-day window. What typically has happened in front of this board is a plan comes in, the applicant comes in and talks to us, it goes through another review and next month the applicant comes back and there is more comments. You do not have to entertain that applicant every month. If there are comments that are going back and forth through the engineer's review, the zoning officer and any other consultant review, unless the Board chooses to have that dialogue with the applicant on a month-to-month basis. He noted it doesn't know if they request to be here every month or they assume they need to be here because the Board will entertain other questions or not.

- Chairman Craig suggested maybe the process should be when the applicant submits their plan, Mrs. Eppinger does her completeness review, the first meeting the applicant comes in and outlines their plan for the Commission, they are acquainted with the project and they go back and have a month to review it, look at and sit down and discuss it at the following meeting, get everything together, send it out and outline the deficiencies and if you can come back at the following meeting and tell us which ones you plan on addressing and how you are going to address. We are not looking for a revision, we just want to hear are you going to address it or are you not going to address it and how you are going to address it and we can make our recommendation at the next Supervisor's meeting whether or not we grant them an extension.
- Chairman Craig also added that having revisions month after month the Commission sitting here trying to hit a moving target trying reviewing it is not fair to the Commission. He added his understanding from Mr. Phillips is they can do that. Mr. Phillips answered they can do whatever they want until they get to day 89.
- Mr. Kovarik suggested if the Commission wants to have it more pre-screened, it is not very feasible for Mrs. Eppinger to go through all eight pages have looked for maps, tables. Ideally, that is what should be done before you start reviewing it because if you find this out, you are wasting your time because it will go back anyway. It might be desirable to have the ordinance beefed up on this intake portion and do a full administrative screening for all of the documents before it actually goes to the Planning Commission for study because then you know you are getting a complete document which has all of the appendices, all of the documents, all of the tables, all of the maps. They may not be good, but at least they would be all there instead of having a report which might still be missing one appendix or one map. It causes

- trouble for the developer because then he needs to come back. It causes trouble for the Planning Commission because they still have to do the review.
- Mr. Phillips commented some of the confusion with the Commission is because a lot of times these engineers are used to coming in the first meeting, giving an overview and they receive a review letter from the Township. They address the comments in the letter, resubmit something. They are used to going back and forth with just the consultants; i.e., engineer, zoning officer, and not coming back entirely through the process, but trying to get each of those comments addressed. Once they think those comments are substantially addressed, they come back and maybe get an approval or a conditional approval by resubmitting the whole package. With some of his other clients, the input from the Planning Board happens early on in that first month or first review process. After that it is addressing some of the individual items in the letter that goes out.
 - Mr. Phillips added what happens at East Hanover is he doesn't hear any comments from the Planning Commission until we sit down at the meeting. There is already a letter that is issued to the Township and copied to the applicant. Those comments that go out don't include necessarily any of the Commission's comments because he has not received them. The Commission addresses the comments at the meeting and nothing is ever formally forwarded to the applicant memorializing the Commission's comments. His letter is not the official response of the township. If there are additional items that the Commission wants the applicant to address, that needs to be communicated to the applicant. Most applicants will wait for a letter instead of fixing the issues. When a resubmission comes in, Mr. Phillips reviews his previous letter and any comments that are provided to him by the Commission and another letter goes out to the Township.
 - Mrs. Lebo asked if it would make sense to have all the comments coming into Mrs. Eppinger and then have her be the key person to disseminate that information. Mr. Phillips answered absolutely, that would be one way to handle it. Mrs. Lebo also added the timing of those comments need to be in a time frame that allows review for all parties including the Planning Commission members, the engineering comments. Mrs. Lebo seemed to remember there was a time line before the meetings.
 - Mr. Phillips added 14 days is not for comments, it is 14 days is when the applicant can resubmit the plans for review. If there was an applicant here tonight that would have taken his previous review letter and gotten the plan back to the township 14 days previous to the next meeting, they are conforming with the submission requirements. You act on it or consider acting on it 14 days later. There may or may not be sufficient time to do sufficient time to do any review. Mr. Phillips added when he first started with the township, he commented 14 days is not sufficient time for an adequate review of a plan.
 - Mr. Stein commented the Commission is referring to a process and efficiency. In lieu of talking back and forth, he suggested setting up a time at a meeting with a calendar, flow chart it out and create a standard operating procedure.

It sounds formal, but it can be accomplished in approximately 45 minutes. If everybody signs on board to it and everybody knows what the process is, it will improve the flow of work and the communications. The stricter the Board interprets the ordinances, the more money it costs a developer to do his project. There comes a point where he is either going to lose money in the time it takes to get it approved or he is going to save money on what he can get away with. If you want that to end, you get a reputation of being a tight fair firm consistent township with a defined process in every project and that way a developer knows that the township will hold them to the ordinances that the developer is on the clock.

- Mr. Phillips commented that the equitable enforcement of the ordinances is a very good point.
- Chairman Craig commented Mrs. Lebo's idea that all correspondence should run through Mrs. Eppinger. Comments made as individuals should be given to Mrs. Eppinger and she will globally send them out to the Commission. If either a professional or Commission is communicating with an applicant outside of a meeting in an informal setting, a synopsis should be written up and given to Mrs. Eppinger to shared with the Commission so everyone knows what is said and what direction you are going in.
- Mr. Stein commented it would be best not to have ad hoc conversations. It is best to refer to the letter or the engineer. Do not make more work for yourselves. As a commission, you can make it a policy that you do not give outside encouragement. If it is public policy these conversations are not official guidance, no one can stand here and indicate they did not have to contact a particular individual. If you have a formalized policy, it will create efficiencies in the long run.
- Mr. Phillips noted as a policy now when an applicant or developer calls him, he refers them to the ordinance and does not provide an interpretation.
- Mr. Kovarik noted what Mr. Stein commented on is correct. You can create huge liabilities for the township and potential for yourself because everyone who works for the township or volunteers for the township is viewed as a potential agent of the township. So if you actually give instruction to somebody you meet out and they act on it, the township can be sued and you can be sued.
- Mr. Phillips noted he has realtors that call almost daily and ask how many homes can be put on a particular property. He refers them to the zoning and subdivision ordinances.
- Chairman Craig asked Mr. Phillips if he waits for comments from the Commission before he sends out his review comments. Mr. Phillips answered he has not done that because other than Chairman Craig, he has not received any comments from anyone from the Planning Commission while a plan is being reviewed. Mr. Smith commented he assumed his position is to review it to the zoning ordinance; he takes the plan, interprets it to the ordinance and provides chapter and verse as to where he sees there are issues and provide that list to Mrs. Eppinger to be dispersed to the Planning Commission.

- Mrs. Lebo commented historically that seems to be the way it operated. The comments would come into the Planning Commission at a set time and would be discussed formally in a public forum.
- Chairman Craig asked if there is a way they can get Mr. Phillips' comments earlier and has on occasion sent questions to Mr. Phillips and gotten responses or direction to go in. Sometimes they may spin a different question. For new applications, would we be able to get them earlier. Mr. Phillips asked when they would like them. Chairman Craig answered before the weekend before the meeting.
- Mr. Phillips added for clarification Mr. Smith responds directly to the applicant. Mr. Smith tries to respond to the applicant and Mrs. Eppinger at the same time and tries to do it so that it is not done the day of a commission meeting.
- Mr. Phillips noted his comments becomes the record that goes to the applicant. It's been policy here that goes to the applicant, most of the time, at the same time or before the commission has the opportunity to review it. The commission's comments are not included in the review letter, and as a matter of policy, the commission would like Mr. Phillips to issue a copy of the review letter to them and not copy the applicant at all or just issue his comments to Mrs. Eppinger and the township and the township needs to take an official stance of notifying the applicant because when you get a plan, the MPC requires that it be rejected for cause and that cause be itemized by deficiencies in the actual ordinance. That needs to be done in an official capacity by the township but historically it has been the engineer's response.
- Mr. Phillips added he would be happy at whatever part of the process that any of the members contact him with questions or concerns and they can be included in the review letter. That does not happen until this meeting. Mr. Phillips pointed out last month the letter came the day of the meeting. Other months it has come a few days before and has been issued to the applicant.
- Mr. Webb noted it was an issue this last time because the draft letter provided ran right up until the deadline the commission was charged with doing something. Mr. Phillips answered typically that is not a draft letter. He made the conscious decision to leave it a draft letter and not give it to the applicant.
- Mr. Webb added a draft submission is not necessarily a bad thing from his perspective as long as there is enough time to be able to review it and able to provide something before they get into a deadline issue to provide a recommendation to the Board.
- Mr. Phillips noted the commission does not have to have the applicant come in every month. They can be told not to come back until all the issues are addressed. A month is not a very long time when you're talking about having an applicant's engineer address issues, bring it back in here and everyone review it. Mr. Webb noted there is a 90-day window with the initial 7 days if the submission occurred before the first meeting and will have three meetings before you run into a deadline. Maybe sometimes maybe not doing an ongoing review process with resubmission and re-reviews.
- Chairman Craig agreed with Mr. Webb noting the members have 89 days to get through a plan. A larger plan will take more time, and if it is not

accomplished in that time frame. Mr. Phillips noted extensions are very commonplace. The current schedule is putting the applicant, the township and the consultants are on a two-week schedule trying to get through the process. That is partially driven because they come back on a monthly basis. The applicant can be told not to come back until the items are addressed. Chairman Craig asked if there are 28 items can the members request the applicant not come back until 28 items are taken care of, not 27 items. Mr. Phillips answered that is correct.

- Mr. Phillips noted with some of his other clients, it is very commonplace for them to call the applicant and tell them not to come to the meeting because they are not in a position to have their plan considered because there are outstanding items on the plan that need to be addressed. That stops this two-week process of cramming everything in.
- Mr. Stein recommended that we can agree on a work session to get a 90-day calendar and meet maybe an hour before the next meeting. Chairman Craig was in agreement.
- Mrs. Lebo commented she would like to target the January meeting and meet an hour before and take care of this if everyone is available and amenable to the schedule. Mr. Stein noted the key players would be Mrs. Eppinger, the engineer and the zoning officer, because they drive the process. Mrs. Lebo noted she asked Mrs. Lebo to send out an e-mail regarding this meeting.

OTHER BUSINESS

1. Hilton Garden Inn Plan – Chairman Craig made the announcement the Hilton Garden was withdrawn at the Board of Supervisors meeting on Tuesday, December 18, 2007.

ADJOURNMENT

Mr. Webb made a motion to adjourn the meeting. Being no further business, the meeting was adjourned at 9:45 p.m.

Respectfully submitted,

Transcribed by Dawn E. Eppinger

Cc: Board of Supervisors
Marie Beaudet
Keith Espenshade
Dave Marshall
George Rish
Tom Shutt

Planning Commission
David Craig
Donna Lebo
Mike Kovach
Ed Twaddell
Mike Webb

Roger Phillips, Township Engineer
David Smith, Township Zoning Officer
Deborah Casey, Secretary-Treasurer
Matthew Jones, Dauphin County Planning Commission
Zoning Hearing Board