

UPDATE ON SITE WORK FOR MOHAWK OIL & EXTENSION OF TIME ON FINAL SITE PLAN APPROVAL:

Mohawk Oil
c/o Mark Salisbury

Block #25 Lot #11
Corner Route 513 & Bunnvale Road B1

Mr. Salisbury was present this evening to discuss the site work and the Extension of Time. Mr. Salisbury stated that they had planned to be in construction of the Underground Fire Tank this month until they encountered some obstacles at Sprint and this has now been addressed. They have an amendment to the utility pole location of the curb line presently pending before the County Planning Board. The curb line adjustment should be approved this month and then they will be moving the pole to a location that will be a lot easier to work with than the prior location. At that point they will then commence with the underground storage tank work. Once that is completed the site will be completely graded, ruff paved and drainage will be in place. Depending on equipment delivery, weather, not encountering anymore unforeseen slow ups like the utility problem, they hope to have everything done except the store by the beginning of next year 2007. They received all their permits for construction in 2004 and would be done now except for problems like war, gasoline prices tripling which slow down small businesses.

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Mr. Salisbury also asked for the board to grant the extension of time they are requesting through December 17, 2006. Mr. Salisbury noted that they have had 1 extension which expired and now are seeking the balance of the extensions which will expire this December. They are hoping to have everything completed so they can get a CO by spring. The underground storage tank will be 6-8 thousand gallon and will be placed in the back corner of the property with a fixture for the tankers to hook up to.

Engineer Risse asked when the County Planning Board would hear their application. Mr. Salisbury thought October 26th, but that he was told by the Director that it might not even need to go before the whole Planning Board, that Tom Mathews the engineer might be able to handle it as a field modification. Chairman MacQueen questioned the extension to December 17th. Attorney Gallina informed the board that just because the extension will run out doesn't mean the approval will expire. The only problem for the applicant would be if after December 17th any ordinances changed that would affect this property then the applicant would have to comply with any new ordinances.

Ms. Glashoff informed Mr. Salisbury that Engineer Risse will be putting together a letter outlining the fees for inspections and then monies will need to be posted. Chairman MacQueen asked if the board had any questions of the applicant on the project and the extension of time on the Final Site Plan Approval. Ms. Schriver stated that we need to give the applicant our support. Chairman MacQueen asked for a motion at this time. Motion by Ms. Schriver and seconded by Ms. Bleck to grant the Extension of Time on Final Site Plan Approval to December 17, 2006.

ROLL CALL

Yes: Mr. Weeks	Ms. Bleck	Absent: Mr. Piasecki
Mr. Schmidt	Mr. Spatz	Mr. Gerlich
Mr. Rich	Ms. Schriver	
Mr. MacQueen	Mr. Weiler	

Attorney Gallina will draft a Resolution to be placed on the next Planning Board Agenda.

ITEMS FOR DISCUSSION:

- a. Update on Grant Monies from Highlands on Stormwater Ordinance – Ms. Glashoff**

Ms. Glashoff informed the board that the grant we applied for had been approved and we have now received the first of two payments. The total amount spent was \$7,800.00 and the grant money we are receiving is \$7,500.00 so it only cost us \$300.00 for all the work that was done on the Stormwater Ordinance. The money will be posted to the board's budget of 2006. Ms. Glashoff will let the board know once the balance is received.

b. Progress/Update Report on Lebanon Township Road Garage – Planner Bolan

Planner Bolan stated that the committee hasn't met but he has a map of the Piazza property which he passed out to the board for review. The Piazza property is located on Anthony Road and consists of 47 acres. The map shows the wetlands and the property is outlined in dark lines per Planner Bolan. This was taken from a 2002 aerial from DEP mapping. The blue lines are the wetlands and no buffers are shown on the map. You would need to show 150' buffers. Mr. Weeks noted that the Spruce Run stream runs right through the property. Mr. Weeks suggested the board look at the airport property which is located on Pleasant Grove Road owned by the Sliker family. The board discussed the pros and cons of both properties at length. Ms. Schriver mentioned the Diamond Aerosol property also on Anthony Road. Ms. Glashoff said that the Diamond site is still on the Superfund list as of end of August 2006. Chairman MacQueen asked if the Sliker property was on both sides of the road. Ms. Schriver answered yes. Planner Bolan asked if there was a lot of pavement on the property. The answer was no that there isn't any pavement on the property. Mr. Schmidt asked if the Township could get an exemption from Highlands. The answer was no. Also, how many acres of impervious do we need? It was noted that if we need 3 acres for impervious then we would need about 100 acres.

Chairman MacQueen asked Ms. Glashoff to get the block and lot information for the Sliker and Diamond properties for Planner Bolan. Ms. Glashoff said that they last time Gen Sliker was in, they would be interested if something could be worked out.

c. Request to amend the Conditional Use Section of Ordinance – Planner Bolan

Planner Bolan stated the Conditional Use Section of the Ordinance refers to the camps, private recreational facilities and private country clubs. The board received a memo from the Township Committee on June 9th with the attached letter from the residents. The board then discussed the letter on August 15th concerning camps, private recreational facilities and private country clubs. Planner Bolan stated the board decided to have him draft an ordinance amendment for the board to look at based on the comments that were received by the residents. In the ordinance under Section 18-2.2 Definitions, Planner Bolan amended the definition section to delete the private recreational facilities within the Table which list all the uses whether they are permitted or conditional uses, then Section 18-3.5a1 and delete the reference to private camps, country

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clubs and private recreational facilities and replace it with camps. The next amendment #3 is the actual conditional use standards, Section 18-3.7b2. Number #2 is the conditional use standards for camps.

The first 5 conditions (a,b,c,d,e) are already in the ordinance and the second two are the conditions being added. The lot shall have access from a public road and second that the lot should consists of 75 acres. Chairman MacQueen asked if the board had any questions. Mr. Schmidt had a few questions. Without these changes and the property owner wants to make a recreational facility, what would be there course of action. Attorney Gallina stated that we have a Conditional Use with Site Plan Ordinance and the owner would need to file an application. If the applicant could not meet the standards of the ordinance, they would then go to the Board of Adjustment. Mr. Schmidt asked what would happen if the board passed these amendments would the applicant then have to go to the Board of Adjustment. Attorney Gallina said yes they would go to the Zoning Board. Mr. Schmidt said it concerned him that even though it is not illegal to do these amendments, he felt it was questionably ethical to do it. These

residents have asked the Planning Board to change the ordinance that would directly benefit them to get what they want.

Chairman MacQueen asked Planner Bolan for his comments regarding the amendments to the ordinance. Planner Bolan stated when the board does a Reexamination Report and identifies changes that we should make in the ordinance which we will be doing next year. The last time we did a reexamination was in 2001. We have made changes in the ordinances that have been brought to our attention by individuals. Making these changes will not only benefit one group. If the board does not think that private recreational facilities and private country clubs are a legitimate conditional use and in going through the definitions, found that private country clubs are not even defined in the ordinance. You don't make the change based on one circumstance, but that the change makes sense. Planner Bolan felt that having access on a public road certainly makes a lot of sense. Mr. Weeks interjected stating there is no way you could put a country club down on that road because the road could not handle the traffic that would be generated. Ms. Schriver stated we are here to listen to the concerns of the residents and we were not aware of this situation and if they can't bring their concerns to us what are we here for. The owner of the property would have to purchase land from the other land owners because the road is narrow and barely passable. It is not accessible to emergency vehicles and someone didn't do their homework when they purchased the property.

Mr. Schmidt said he has not heard the other side of the story but these are all very good points and assuming the letter from the residents has all the correct info. He went through the criteria for a conditional use and stated that if an applicant can not meet criteria the applicant would go to the Board of Adjustment for relief. Mr. Schmidt did not feel we need to change the ordinance in order to deny an applicants application. Mr. Weeks noted the safety factor for that road alone would be cause to deny. Mr. Schmidt stated that Mt. Grove Road and Hoffmans Crossing Road also could not handle all the traffic that would be generated but questioned changing the ordinance because of the possibility of a facility. You could deny this application for many other reasons without changing the ordinance. Mr. Schmidt wanted to know how big the property was. Ms. Glashoff said 40+ acres; Chairman MacQueen said around 37 acres. Mr. Schmidt did not think the board should change the ordinances for one group of citizens who have a vested interest in it being changed. Per Mr. Schmidt, Attorney Gallina stated that each application is judged on its own merits. Attorney Gallina informed the board that every zoning ordinance has to have a rational basis and there is nothing illegal about changing a zoning ordinance. A municipality can change a zoning ordinance in response to an application but it has to have a legitimate basis.

Ms. Bleck felt that the amendment for fronting on a public road made a lot of sense. We found a problem/loophole and we need to deal with it. Ms. Bleck said this is a serious issue and was glad it was brought to the board's attention. Mr. Rich stated that regardless of how something comes to the board, its a worthy question and we should take a look at the request. Mr. Rich felt that the amendment (f) presented by Planner Bolan was an excellent idea. Mr. Rich said he does have a problem with eliminating other uses as golf and hunting clubs. We shouldn't be so exclusive and item (g) regarding the 75 acres. Mr. Rich did not think putting a number for acreage was a good idea because it would depend on the use that was presented. A proposed use that was good could work on 20 acres and if something is bad it won't work anyway. Mr. Rich suggested adding (f) and eliminating (g) and keep all other uses as a possibility which will be subject to review by this board. Chairman MacQueen agreed with Mr. Rich and said having access on a public road is a must. Mr. Rich suggested having Planner Bolan tightened up (e) which could make it better like type of use, safety factors and disturbance to neighborhood. Planner Bolan noted these items are already asked for. Mr. Rich said that safety is not addressed and would be a must which is a concern. Mr. Schmidt agreed with having these uses on a public road.

Planner Bolan questioned the standards in the A Section of the Conditional Use substantially impaired, Section 18-3.7a, and are those legitimate to apply to something otherwise meets the Conditions of the Conditional Use. Attorney Gallina stated the language is very broad and considered vague. During the discussion, Planner Bolan stated that he does not like item (e) where we have a discretionary lot size. Planner Bolan felt we should have a lot size. The ordinance states: "shall be sufficient". When a judge looks at a Conditional Use ordinance with that type of standard he will just take that standard out. We need to have a minimum lot size. Mr. Rich recommended 25 acres as a minimum. The ordinance states that no building shall be located within 100' of a property line, but that the use itself should be so many feet from the property line. Mr. Rich stated that adequate parking, egress and ingress off the road was important. Everyone on the board agreed that (f) public road access was a must.

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Chairman MacQueen asked the residents that that presented the request had any comments they wish to make at this time. The following residents made comments: Andy Kozlowski stated that parking needs to be addressed and that having parking at least 100' off the property line was important. Planner Bolan agreed. Comments were also made by Jack DeChristofaro and Ken Wlazlo. At the conclusion of the board's discussion, Planner Bolan will revise and make adjusts in the ordinance that needs to be amended and have it ready for the next board meeting on November 7, 2006.

d. Tree Ordinance – Planner Bolan

Chairman MacQueen asked Warren Newman, Chair of the Environmental Commission to explain to the board the amendments to the Tree Ordinance they are proposing.

Mr. Newman stated they had a sub-committee that worked on the Tree Ordinance. Sean Kelly a member of the Commission did most of the work on the ordinance. The sub-committee looked at several other Tree Ordinance from neighboring municipalities. Mr. Newman asked if he should go though this ordinance item by item. Chairman MacQueen said yes and asked who has an ordinance like this one. Mr. Newman said they looked at Bethlehem, Union and several others and did not have a list of all the ordinances that had been reviewed during the process. At this time, Mr. Newman went through each page for the board and giving the reasons for the changes. During the discussion, the board asked questions and made comments. At one point, Mr. Rich asked to make a comment about the original Tree Ordinance. Mr. Rich stated that the intent of the Planning Board back at that time when they drafted the ordinance is still valid today. The board did not want clear cutting and indiscriminate trees coming down in the Township but strongly wanted to protect individual property owner rights and if the board still feels that why then everything else will fall out from that. But if there is now a different feeling and property rights are not as sacred as they once were and we want to be stricter, more stringent then we should approach in that light. Then it will be easier for us rather than pick apart each individual point without knowing the general umbrella and what the overall philosophy is. Mr. Schmidt agreed with Mr. Rich's comments. Mr. Schmidt said in reviewing the document he wrote no on almost everything except the last page with the construction equipment and basically feels that it's your property, your trees and trees are a renewal resource and they grow back. Mr. Weeks stated that he does not like having too many restrictions, trees should be of a certain size if you are going to cut, you should be able to lumber your land off if you want to but also agree that you need a certified forester to mark the trees. Mr. Schmidt stated that if you have forested land you would be insane not to be in a forester plan which is covered by a forester. What you are doing is attacking homeowners and new home construction. Ms. Bleck felt we should be giving some leniency to the property owner and not having an ordinance like this. Mr. Spatz stated the Environmental Commissions intent was good but we are just getting carried way and there is just too much in this ordinance. Mr. Spatz quoted a section of the ordinance, "farmland preservation, agricultural use, farmland assist lands can't be completely exempt" this proposal is going too far. Mr. Weiler agrees with the original intent of the ordinance and basically less is more. You shouldn't have to think that every time you cut down a tree you need to come in a get a permit. Ms. Schriver felt that the ordinance was too cumbersome and too hard to enforce but did feel the existing ordinance needed to be tweaked.

When opened to the public, Mr. Terzuolo gave his comments. He referred to the section of the proposed ordinance on Steep Slopes. He suggested amending and enhancing the Steep Slope Ordinance. Mr. Terzuolo stated that if he is not mistaken, Stream Corridors and Buffers fall under the NJDEP jurisdiction. You don't have to create another law on top of a law when it already exists. We now have the Highlands which has taken our land and taken our rights away and they are no going to let you do any of this away so why make it more onerous for the homeowner. Ms. Darios gave her comments.

Ms. Bleck noted that the Environmental Commission heard the Planning Board at least 2 years ago complaining over erosion on Shady Lane. The whole conversation had started over several properties and the board has always talked about the value of the trees. Mr. Terzuolo referred to page 9 of the ordinance and asked if this is new wording or part of the original ordinance. Mr. Terzuolo was told that the original ordinance only went to page

8. These standards that are quoted on page 9 are 19th century. These standards were abandoned several years ago by the Extension Service. Mr. Terzuolo noted that you have to understand the soils that you have up here in the Township. Mr. Newman invited Mr. Terzuolo to the Environmental Commission Meeting. At this point, Chairman MacQueen thanked Mr. Newman for coming to the meeting.

e. Fence Ordinance – Planner Bolan

f. Monuments & Pillars on Residential Properties – Planner Bolan

Planner Bolan suggested tabling these two items and address them at the next Planning Board Meeting since two board members were not present this evening. Board agreed.

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g. Update on COAH Letter Items – Planner Bolan

Planner Bolan stated that we responded to all the items in the letter and sent it in to COAH on October 6th with the deadline of October 8th. The Township Attorney coordinated everything. We had 90 days to address the 16 items that were listed in the letter. Planner Bolan said that he addressed 8-9 items, Gail & Karen addressed 4 items and Attorney Bernstein took care of the balance. We now wait and see if COAH is satisfied.

h. Memo from Zoning Officer re: Davara Industrial Park Site Walk

Chairman MacQueen asked Engineer Risse to address the memo from the Zoning Officer. Engineer Risse informed the board that he and Mr. Skene did a site walk and everything looked like it was conforming to the most recent Site Plan.

i. Memo from Executive Director Eileen Swan re: Update on proposed changes to the Preliminary State Plan & Scheduled Cross-Acceptance Negotiations

Planner Bolan said that the whole process was stopped for 1½ years for various reasons given, the pertinent one the DEP wanted to have the aerial photography and land use land cover mapping from 2002 and of course there was the change in Governors. And now per Planner Bolan we have these changes that are referred to in the letter along with the companion letter from the Hunterdon County Freeholders. We had all those meetings where representatives from each municipality spent time looking at all the maps and affirmed our planning areas and met the criteria. Lebanon Township is planning areas 4b & 5 which are environmentally sensitive rural planning area and the environmentally sensitive planning area. The letter from Ms. Swan doesn't even ask for our comments, it just tells us what it is. Planner Bolan said that there won't be many changes, because it is all 4b or 5 planning areas. He did not know what the incorporation of new data would change those particular planning areas is based on the criteria that we had applied. Secondly, since it is all in the Highlands, Planner Bolan stated that he didn't want to spend time looking at the planning area stuff because ultimately when the Highlands comes out that will have to go through the whole State Planning process. Mr. Rich asked if maybe there would be additional changes within planning areas 4b & 5. Planner Bolan thought that could be a possibility. Mr. Rich said if the board feels that 4b & 5 planning areas are correct for the Township, how can we voice a constructive comment or complaint. Planner Bolan said that the letter from the County Freeholders and County Planning Board was pretty reasonable. Mr. Rich asked if the board wanted to endorse the County's letter who would you send it to. Planner Bolan answered stating they would send it to the Chair of the State Planning Commission. It would then get distributed to everyone in their agenda packets. Ms. Bleck suggested that Planner Bolan review everything. It was noted that the public meeting for Hunterdon County was scheduled for February into March which gives us time to send a letter to the State Planning Commission. Planner Bolan asked for the board meeting dates for November. Ms. Glashoff stated that the

board is scheduled to meet on November 7th and November 28th with the last meeting for the year on December 12th. After a brief discussion, the November 28th meeting will be cancelled. Mr. Rich stated that his comments are valid even if there are no changes for the Township, it is outrageous what is being done. The board should go on record. Chairman MacQueen asked the board for these opinion on sending a letter. The board agreed that a letter should go out in support of the county letter. Planner Bolan will draft a letter and send it to Ms. Glashoff for processing.

j. Review Schedule of Fees – Ms. Glashoff

Ms. Glashoff stated that we just amended the Schedule of Fees, but in reviewing all the Escrow fees found that some of these fees need to be increased and pointed out which ones and why they needed to be increase.. Planner Bolan agreed with the Conditional Use Escrow Fee. Ms. Glashoff said she would like the board to look over all the Escrow Fees and she will place this item back on the November 7th agenda.

k. Review road Standards for Class III Common Driveways – Engineer Risse

Engineer Risse stated that there are some issues where there are steeper Class III Common Driveways. Gravel driveways on slopes have a tendency to erode and wash out and maybe we should look into possibly having them paved over a certain percent of slope with asphalt. There are problems popping up. The road that has had a problem is off of Penwell Road and backs up to county land and Engineer Risse reviewed for the board the problems that have occurred. Ms. Glashoff stated that when the road was built it was built to the Township Spec's that we have. Chairman MacQueen said there had been discussion a few years ago about paving private road, but it didn't happen. Mr. Spatz suggested coming up with a minimum slope for paving. During the discussion, it was noted that after the washout, the developer re-piped and changed things and now the Fire Department can't get to the Fire Tank. Engineer Risse informed the board that he is involved with road at this point. Chairman MacQueen asked Engineer Risse to come up with a number (percentage) and get back to the board.

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PRESENTATION OF BILLS & REPORT:

a. John Gallina, Esq.	\$3,418.59
b. Banisch Associates	\$1,263.80
Total:	\$4,682.39

Ms. Glashoff referred to the amended Bill Report with the additional bills from Bayer/Risse Engineers that total \$252.50 bringing the new balance to \$5,064.89. Motion by Mr. Spatz and seconded by Ms. Bleck to approve the bills as amended. Unanimously approved.

CORRESPONDENCE:

Ms. Glashoff informed the board that at the September 20th Township Committee Meeting she was appointed the Municipal Housing Liaison for COAH. Because of new regulations with COAH each municipality has to appoint a liaison.

Ms. Schriver informed the board the Township Committee will have a guest at their meeting tomorrow evening who is our Assemblywoman Marsha Karrow and invited the board to attend.

Being no further business to come before the board nor comments from the public, motion by Ms. Bleck and seconded by Mr. Rich to adjourn the meeting at 8:55 p.m. Unanimously approved.

CHAIRMAN GARY MACQUEEN

GAIL W. GLASHOFF, PLANNING BOARD CLERK