

HILLTOWN TOWNSHIP PLANNING COMMISSION
REGULARLY SCHEDULED MEETING
Monday, August 15, 2005
7:30PM

The regularly scheduled meeting of the Hilltown Township Planning Commission was called to order by Chairperson D. Brooke Rush at 7:33PM and opened with the Pledge of Allegiance. Also present were Planning Commission members Mike Beatrice, Bill Bradley, Denise Hermany, Chuck Kulesza, and Jack McIlhinney; along with Township Engineer, C. Robert Wynn, and Lynda Seimes, Township Secretary, to record and take minutes of this meeting.

A. APPROVAL OF MINUTES – Action on the minutes of the July 18, 2005 Planning Commission Meeting – Mr. McIlhinney noted the following correction to page 4, first paragraph, which should state “Mr. McIlhinney disagreed, stating that homes constructed on 20,000 sq. ft. lots would **not** provide for the same value as if the dwelling was constructed on a 50,000 sq. ft. lot.”

Chairperson Rush noted the following correction to page 3, which should state “Mr. Bradley disagreed, noting that deed restricted open space, in his opinion, is not **too** beneficial to the Township.”

He also noted the following correction to page 4, second last paragraph, which should state “Mr. Bradley seconded Mr. McIlhinney’s original motion. Mr. Kulesza, Mr. Beer, **and Chairperson Rush** were opposed. Motion passed.”

Motion was made by Mr. Beatrice, seconded by Mr. Kulesza, and carried unanimously to approve the minutes of the July 18, 2005 Planning Commission Meeting, as corrected.

Chairperson Rush referred to the “Old Business” section of the agenda, noting that the Planning Commission is charged with making a recommendation to the Board of Supervisors as to the proposed amendment to the Zoning Ordinance with respect to the quarry. He announced that the Planning Commission has not reviewed, nor would it be providing the Supervisors with a recommendation on the proposed Stipulation and Agreement.

B. PUBLIC COMMENT ON AGENDA ITEMS ONLY:

1. With respect to the Planning Commission’s review of the proposed Zoning Ordinance Amendment concerning the Quarry, Mr. James Coyne of Rt. 113 read the following prepared statement into the record:

“In late 1995, concerned that Haines and Kibblehouse would attempt to expand their quarries, the Township Supervisors appointed a blue ribbon adhoc committee composed of Township residents, Township boards, and consultants to identify a preliminary list of concerns and to make appropriate recommendations. After a series of three meetings, the

Committee prudently and unanimously recommended, on February 7, 1996, that if and when Haines and Kibblehouse officially petitioned a zoning change from Rural Residential to Quarry, the Board of Supervisors should hire qualified experts to review all the reports and findings of the applicant's experts and report their results to the Board of Supervisors. In March of 2003, that anticipated petition was presented and the parade of experts was begun, with hearings that stretched from March 25, 2003 to June of 2004. Following is a partial listing of the credentials of the qualified experts who "spoon-fed" technical information to our Supervisors. For instance, there was a Masters Degree in Environmental Pollution Control, including water chemistry, mining economics, mine overburden analysis and wetland hydrogeology, a Masters Degree in engineering from Penn State Bureau of Highway Traffic, a Bachelor of Science Degree in geological science, and so forth. No one on our Board of Supervisors is educationally qualified to judge the content of what was presented to them.

At a meeting of the Board of Supervisors in June of 2003, I publicly requested that an effort to be at least as professional as H & K, to competently examine in depth, the wide range of testimony, and that they should implement the recommendations of the adhoc committee. For example, while H & K experts might demonstrate that each individual blast meets the DEP's regulatory arrangements or requirements, these standards do not take into account the cumulative impacts of repeated blasts, especially with respect to metal fatigue. I followed up on the verbal request with a letter to the Chairperson of the Supervisors on August 1, 2003. Subsequently, I was told privately by two Supervisors, that the experts had been retained as requested. No further information was given.

An article appeared on August 10, 2005 in the News Herald, under the caption 'Hilltown Officials worry that Zoning Amendments are taking too much time.' Speaking from the position of one who was privileged to serve for eight years on the Planning Commission, it is a tedious and mostly thankless job. Care must be taken to implement the Constitution of the Commonwealth of Pennsylvania to promote the health, safety, morals, convenience, order and welfare of the present and future inhabitants; and to protect and conserve the natural environment of the Township of Hilltown. The Constitution further decrees that the people have a right to clean air, pure water, and to the preservation of natural, scenic, historic, and aesthetic values of the environment, and to protect natural resources, which are a part of the ecological system to which we are all bound and therefore are common property of all people, including generations yet to come, and must be protected to ensure the health, safety, and welfare of all the people. I am hard pressed to find anything that negatively affects these values more than a quarry, which is essentially a strip mine and an open sore on the landscape.

As previously mentioned, the last of the H & K hearings and testimony ended in June of last year. Given the duties of the Planning Commission, one could legitimately expect that the planners would be given the benefit of the finding of the Township's panel of

technical experts and allowed to decide if the residents' rights as outlined in the Pennsylvania Constitution, were being protected if the requested zoning change came. However, the system was not followed. Several members of the Planning Commission that I spoke with had stated that they were not given any of this information whatsoever. Instead, last week the Planning Commission received a draft of a new Zoning Ordinance Amendment expanding the quarry as H & K previously requested. Haines and Kibblehouse, the petitioner, is the party who drafted the Zoning Amendment. It appears to me that the fox is in the hen house.

Since the Planning Commission does not have sufficient information to make an informed decision this evening, one that will follow the decrees of the Pennsylvania Constitution, I urge you Planning Commissioners to send the message to our Supervisors that you must be more than six rubber stamps. You're entitled to that. You invest your time and energy to make sure the Zoning Ordinance is done properly, yet here they are handing you this document the week before. What is wrong with this picture? That is high-handed arrogance as far as I am concerned. I urge you to unanimously reject this Zoning change and bring in one of your own.

In the same week, I received a Legal Notice that the Board of Supervisors of Hilltown Township, Bucks County, Pennsylvania, intends to make a decision of either accepting or rejecting a proposed Stipulation of Settlement and Agreement between Hilltown Township and Haines and Kibblehouse at a Public Meeting on Thursday, August 25, 2005. I called Supervisor Bennington and was arrogantly informed that there will be no discussion or testimony from the public on this matter, and yet our Church, Our Lady of the Sacred Heart, is included in this settlement and whose rights are referenced. I would think we should have the opportunity to know how our rights are affected. I am making the motion that there needs to be a public review of the entire settlement before the Board of Supervisors makes any decision. Thank you very much."

2. Mr. Ed Armstrong of 1320 Catch Basin Road has two daughters attending the Sacred Heart School and is very concerned about the proposed quarry expansion. Mr. Armstrong heard rumors that the deal has already been done, and that the Supervisors intend to grant the quarry what they have requested. As a community, Mr. Armstrong and other residents have voiced their concerns at the Public Hearings regarding the zoning change request. If word on the street is correct, Mr. Armstrong stated that the community must assume that the Planning Commission and the Board of Supervisors are more concerned with the accumulation of wealth and economic growth than with the protection of the rights of the individuals that make up this community. With the inevitable dangers that will threaten the children who attend Our Lady of Sacred Heart School, which Mr. Armstrong believes will only grow as the expansion encroaches closer to the school, continue to be a non-factor until a child is badly hurt, if not killed. Ultimately, Mr. Armstrong wondered who would be responsible for the safety of the

children – the Township, the quarry, or both. He asked if the inconvenience of the residents would really be remedied by the quarry expansion, such as the loss of wells, the continuous powdery residue, and the heavy traffic. Mr. Armstrong also asked if the replacement of broken or damaged items, through compensation, for the inconvenience and trouble that would not have happened without quarry operations, is worth it. He suggested that perhaps the Planning Commission can exact an envelope of inconvenience that will slash the property taxes for all of the properties that are within a 5 to 7 mile radius of the edge of the quarry, in any direction, including future development as fair compensation for the resident's trouble. If the Township receives a tax on the materials extracted from the quarry, for instance \$4.00 to \$6.00 per ton, Mr. Armstrong noted that the tax can only be collected one time. The quarry will eventually be exhausted of its resources and the Township will no longer generate any more taxes from this big ugly hole in the ground. The owners of the quarry will then find another place to dig and will leave this community. If the growth of the local housing construction and the value of the real estate continues to increase at the current rate, it seems obvious to Mr. Armstrong that it would be wiser to use the unmolested land for housing or a more traditional mercantile purpose. He noted that this non-quarry expansion scenario would continue to generate tax revenue past the proposed exhaustion of the quarry and would offer a time value of money based on its future value, not at today's dollars. Financially, in the short run, Mr. Armstrong commented that the quarry expansion may seem to be fiscally attractive. He wondered if the Board was willing to diminish the quality of life for the members of the community for the quick buck, or if they would decide to enact a "win-win" situation which would improve the quality of life and safety for the total community and would continue to generate income long after the quarry operations have ceased. It is Mr. Armstrong's hope that the word on the street is wrong, and that the Board will consider these comments with an open mind.

3. Mr. Bill Godek of 206 Broad Street asked if the Comprehensive Plan guides the Planning Commission. Mr. Beatrice replied that the Comprehensive Plan is a directional guide as opposed to the Zoning Ordinance, which is law. Mrs. Bush explained that a Comprehensive Plan is more general, and it is not always possible to align the Zoning Ordinance with the guidelines established in that document. However, she advised that it is now part of the Municipalities Planning Code that Zoning changes should be consistent with the Comprehensive Plan, which is something that will have to be considered as the Township moves forward.

In terms of the wording of the proposed Ordinance amendment, Mr. Godek referred to the following line, which states "A reserve extraction area – quarry," and wondered why that language was used, versus just calling it a "quarry" as the current Zoning Ordinance states. Mr. Godek commented that the Planning Commission has the information on which to make their decision. He has been a resident of Hilltown since 1978, and knows that there have been lawsuits going on prior to that time. Mr. Godek has heard promises

from the quarry, and has spoken to the previous Board of Supervisors – all of whom, in his opinion, have lied and capitulated. Mr. Godek noted that the value of the properties in the vicinity of the quarry have declined significantly, and those property owners have gained no benefit from the quarry. The 30 mile view Mr. Godek once enjoyed from his home is now blocked by large, ugly berm around the quarry. He expressed his opposition to the Zoning Ordinance amendment for the proposed quarry expansion.

There was no further public comment.

C. CONFIRMED APPOINTMENTS:

1. David Erb Land Development Sketch Plan – Ms. Cheryleen Strothers, the applicant’s engineer, was in attendance to discuss a sketch plan for a proposed “flex space” industrial development on a 17+/- acre property located on Reliance Road, immediately across the street from the BFI property. The applicant hopes to develop the site with “flex space,” either manufacturing or office, depending on what type of clientele is interested. There are three main buildings proposed, with between 12,000 and 15,000 sq. ft. per building, apportioned appropriately for the different tenants for offices and/or manufacturing. There is approximately a 30% impervious surface coverage area with the configuration as shown on the sketch plan. 60% impervious surface coverage area is permitted in the LI District. Additionally, parking has been provided acceptable to the maximum as far as the office space use (1 parking space per 200 sq. ft.), which is more than is required for manufacturing or other uses. If 100% of the area is used as office space, the applicant would be required to provide 242 parking spaces. Currently, 339 parking spaces are shown on the plan. It is Mr. Erb’s desire to retain the existing dwelling, but to convert it to a management/rental office,. The building to the west is the only one suitable to design with loading docks due to the slope of the property. The plan shows a roadway entering immediately opposite the BFI driveway, but is set up as a cul-de-sac with a turnaround area in the bulb to service the site. Mrs. Hermany questioned the traffic flow on the proposed roadway. Ms. Strothers explained that the east and west buildings have driveways entering at two points of the cul-de-sac. The building to the south, at the end of the cul-de-sac has only one access point. Chairperson Rush did not believe the road would be considered a cul-de-sac, stating it appears to be nothing more than a “T” street. Discussion took place.

Mr. McIlhinney asked the sizes of the various buildings. Ms. Strothers replied that they vary in size from 16,500 sq. ft. to 15,125 sq. ft. Mr. McIlhinney noted that the buildings appear to have an excess of parking proposed for their size. Ms. Strothers acknowledged that there is more than enough parking available because the applicant wanted to ensure that the entire property would yield these size buildings. It appears to Mr. McIlhinney that the parking area would provide for a sea of asphalt, and suggested that perhaps there

would be the potential to propose less parking for the manufacturing uses so that the area could remain green until such a time as the use might change. Discussion took place.

Mrs. Hermany wondered if the cul-de-sac street could facilitate truck traffic, and questioned the configuration. Ms. Strothers stated it was the applicant's intention of proposing a cul-de-sac street so that it acts as a separation for the three buildings for aesthetic purposes only. Mr. Bradley asked if the applicant considered subdividing the property into three lots – one lot for each building. Ms. Strothers replied that it is not a consideration by the applicant at this time, however she believes that the proposed building to the east, depending on where the lot line would be proposed, could experience a problem with impervious surface coverage if a subdivision was proposed. Discussion took place.

Mr. Beatrice asked the topography and condition of the property at present. Ms. Strothers replied that the property is primarily open, with some trees toward the rear of the site. Though a complete survey has not yet been conducted, there is a creek running along the property line or just off the property line, with an existing sanitary sewer line running through the site.

Mr. Kulesza asked the current use of the adjacent property. Ms. Strothers advised that there is a warehouse/manufacturing facility on that property. Mr. Wynn believes that property is the rear of the Bearings and Drive parcel, which takes access from Bethlehem Pike. Discussion took place.

Chairperson Rush asked the applicant to provide 11" X 17" copies of the proposal for review at the next Planning Commission Worksession meeting. Mrs. Hermany also suggested that the applicant consider an abundance of buffer around the site. Mrs. Bush commented that it would be helpful for the Planning Commission to have more information regarding the stream, trees, and existing natural features on the site. Ms. Strothers noted that the site consists of two parcels that would be consolidated for this proposal.

2. Suburban Equities (Preliminary) – Ms. Cheryleen Strothers, the applicant's engineer, along with Mr. Charles Ebersole and Mark Ginter, partners in the project, were in attendance to present the plan. Mr. Wynn's engineering review dated August 9, 2005 and the Bucks County Planning Commission review dated July 11, 2005 were discussed.

The 18.776 acre tract located in the Light Industrial Zoning District is proposed to be subdivided into two manufacturing (Use H1) lots, each with office (Use D3) and outdoor storage (Use I5) areas. Lot #1 (12.4571 acres, net) is proposed for construction of a new manufacturing building, paved parking lot and driveway with access to Bethlehem Pike.

Lot #2 contains 2.0131 acres (net) with no development proposed. The site contains areas of woodlands, heavy brush, steep slopes, and 100-year floodplain associated with Morris Run. Public water and sanitary sewer via Telford Borough Authority will serve the lots. Mr. Wynn's review notes that the plan does not include design information relative to extension of public water facilities to the site, as required pursuant to Section 140-41.

The site was previously the subject of development plans/proposals as follows:

Bethlehem Pike Business Park – a two-lot subdivision with a 77,980 sq. ft. manufacturing facility proposed on Lot #1. The subdivision was granted final plan approval by the Supervisors on September 25, 1995.

Fairhill Fabricators – a three-lot subdivision with proposed cul-de-sac street, which included a 78,000 sq. ft. manufacturing facility on Lot #1. The subdivision was granted preliminary plan approval by the Supervisors on February 26, 2001.

BFI Land Development/Re-zoning Petition – Request to revise the Zoning District from Light Industrial (LI) to Heavy Industrial (HI) to permit development of a 35,000 sq. ft. trash transfer station and recycling station. Zoning District revision was denied by the Supervisors on December 23, 2004.

Ms. Strothers noted that the PP&L line, a creek, a sewer line, and an underground AT&T line encumber the lot. Discussion took place concerning the existing site conditions, which have been shown on the plan as heavy brush and undergrowth, with portions of the site reverting to woodland. Mr. Wynn had recommended that the Township determine whether natural woodlands features at the site should be reclassified with the current application. Mrs. Bush commented that other municipalities simply require the applicant to document the existing vegetation.

Mrs. Hermany would prefer to see the entire site buffered from the roadway. The applicant is proposing one tree every 60 ft. and one evergreen every 60 ft. Ms. Strothers commented that the buffer that is proposed is according to the Ordinance requirements. If the site is already heavily buffered in other sections of the site, Mrs. Hermany suggested that those additional plantings that would not be used would be planted to screen the site from Bethlehem Pike. Chairperson Rush asked the present use of the property shown on the lower portion of the plan. Mr. Wynn explained that there is a combined use, with a machine shop located on the rear of the property and a residence on the front of the property. Lengthy discussion took place.

Ms. Strothers asked if the Traffic Impact Study prepared for the Fairhill Fabricators proposal (2001) would be acceptable for use on this proposal. Mr. Wynn suggested that a

copy be forwarded to the Township Traffic Engineer for review to determine if the 2001 Study would be acceptable.

The plan does not propose sidewalks along Bethlehem Pike as required by Section 140-36 of the SALDO. Ms. Strothers advised that a waiver of this requirement has been requested due to the non-existence of sidewalks in the immediate area. If a waiver is approved, Mr. Wynn recommended that the applicant contribute to the Township Sidewalk/Pedestrian path fund for extension of these facilities at other locations within the Township. Discussion took place regarding the sidewalk requirements that were considered during discussions of the previous Fairhill Fabricators plan.

Though not shown on the plan, the applicant is proposing some outside storage for the various uses, however if and when Phase II is accomplished, Ms. Strothers advised that the impervious surface from the outside storage would be converted to impervious surface associated with the building and the outside storage would cease. Mrs. Bush commented that the applicant would have to revise the limits of clearing and the tree removal, when the outside storage area is shown on the plan. Chairperson Rush asked why the issue of outside storage would disappear when Phase II is accomplished. Mr. Ebersole stated that there have been several inquiries of interest for the potential of what is shown as Lot #1 on the plan. Prior to full absorption on Phase I, which represents 48,000 sq. ft. could be 2,000 sq. ft. units or "incubator" space. It could be determined that any of the tenants, or someone from off-site has expressed interest in outside storage. Mr. Ebersole noted that the need for outside storage would not "disappear," however at this time there is no way of knowing if any of the existing tenants in Phase I would continue to require outside storage. This would be part of the applicant's determination when entering into Phase II of the proposal. Chairperson Rush summarized the proposal by stating that Lot #2 is shown on the plan but not proposed for development, and Phase #2 of Lot #1 is shown on the plan but not yet developed at this time. Mr. Ebersole commented that Lot #2 as shown meets Ordinance requirements for size in that Zoning District and is also designed, as is the retention facility, for the maximum use of that site. The applicant is not yet making a commitment as to what the uses may be until a market has been established, at which time Mr. Ebersole would hope that it would be subject to the building permit process only with respect to verification of the uses within the Zoning Ordinance. Mr. Wynn explained that Lot #2 would not be merely subject to a Zoning and Building Permit application, rather it would be a land development that would require approval from this Commission and the Board of Supervisors. Lengthy discussion took place.

Mrs. Bush noted that on the previous plan presented by Ms. Strothers, parking was proposed for the highest possible demand, which is offices, however on this plan, a mix of manufacturing and offices has been shown. However, if all the buildings are to be used as offices, there would not be sufficient parking. Therefore, Mrs. Bush stated that

the Township should insure that this could not all be converted to office space. Ms. Strothers believes it is the applicant's desire for this site to have micro and industrial type units, with associated office space for each one of those units, but not for independent offices. It is the applicant's intent to provide for more of a small scale, industrial manufacturing use for this site. Mr. Ebersole commented that the market that has been identified would be that such as a small contractor who is perhaps working from his home at the present time. He noted that these units have been designed to expand into a maximum of 6,000 sq. ft. per user. Discussion took place concerning the parking regulations for the various uses that might be proposed for this site.

Mrs. Bush suggested that additional information regarding landscaping and buffering would be helpful due to the way the site is graded with steep slopes and unnamed vegetation.

The Plan was tabled pending submission of preliminary plan or additional information.

3. Gitlin/Johnson Tract Subdivision (Preliminary) – Mr. William Benner, the applicant's legal counsel, along with Mr. Scott Guidos, the applicant's engineer, were in attendance to present the plan. Mr. Wynn's most recent engineering review of the revised plan dated August 3, 2005 was discussed.

Mr. Benner believes a precedent was previously set determining that a stub road and a temporary cul-de-sac would not invoke the 250 ft. cul-de-sac limitation, which is evidenced by the recently approved 7-lot project Rickert Farms Subdivision by Guidi Homes. Mr. Benner feels that the design as proposed is compliant because it is a temporary cul-de-sac. Discussion took place.

Recent information received from PADEP and the Bucks County Department of Health suggests that they will no longer permit the use of alternate sewage disposal facilities, such as A/B systems and drip irrigation systems for lots created as part of a subdivision. Mr. Benner advised that the applicant filed for their Planning Module approvals prior to the July 31, 2005 deadline, and therefore, believes that the Planning Modules will be reviewed based upon the regulations that were in effect prior to this new policy change effective date of August 1, 2005. In this instance, Mr. Benner noted there is a sequencing issue. The applicant's design engineers contend that the sewer systems as tested show compliance to current regulations, and therefore the Planning Modules should be reviewed and approved based upon those current regulations. If that is correct, Mr. Benner believes there is no need to make any design changes. Obviously, if DEP denies the Planning Modules, the plan will be revised. If that is the case, Mr. Wynn noted that the plan as submitted is incomplete. He explained that the plan does not currently contain all of the soil test location and information, and has conflicting information with respect to contours disturbing areas of septic systems, which is not compliant with the design of

the septic systems. Mr. Benner advised that the applicant has agreed to provide additional design details for the laterals and believes that they can maintain the natural resource performance standards. Mr. Wynn stated that is not what he was referring to, and noted that grading must be revised. Chairperson Rush understands that if DEP does not approve the Modules, the applicant would have to propose spray irrigation systems which would require a different design criteria for buffering and may also change the lot configuration. Mr. Benner agreed, noting that the Planning Module approval process is long and arduous, however Toll Brothers is willing to take the risk in proceeding. They believe that the Planning Modules as submitted show compliance to the regulations, and that the design details that Mr. Wynn alluded to, including the grading for the laterals and for steep slope intrusion, will be adjusted outside of the Planning Module approval process for subdivision/land development and zoning issues. If DEP denies the Planning Modules and revisions to the plan is required, Toll Brothers would need to evaluate those consequences. Mr. Guidos explained that the Planning Module application was mailed to DEP prior to July 31, 2005, however the applicant has not yet received an acceptance or rejection of the Modules. Ms. Bush presented the Bucks County Planning Commission's review of the Planning Module dated August 4, 2005.

Lengthy discussion took place regarding Item #3 of the August 3, 2005 engineering review with respect to disturbance of steep slopes and woodland disturbances for the sewage disposal system locations for spray irrigation.

At the April Planning Commission meeting, Mr. Benner believes the consensus was that the new interior street would contain sidewalks and curbing on both sides, and except for the taper at the intersection, Diamond Street would not be widened, and that the Township would accept a fee in-lieu-of widening, curbing, and sidewalk. However, at the June meeting, the Planning Commission wished to re-visit that recommendation to determine whether or not sidewalks should be required along Diamond Street.

Mr. Beatrice referred to correspondence from Police Chief Christopher Engelhart dated June 17, 2005 with attached police reports for accidents at the Fairhill Road and Diamond Street intersection, noting that the cover letter contains the wrong data, compared to the detail reports that are attached. Specifically, Chief Engelhart's cover letter states there were seven reported accidents at this intersection over a three-year period, however the detail reports show that there were zero accidents in 2004, two in 2003, and zero in 2002. Therefore, the information suggests that there were two accidents in that three-year span, not seven, and in fact, one of those was a single vehicle accident. Discussion took place. Mr. Benner advised that at the April and June Planning Commission meetings, the applicant presented their proposal to improve the sight distances at the intersection in question, which lead to the site meeting with representatives of Mr. Wynn's office, PennDot, and Toll Brothers. The Planning Commission then asked the applicant to

consider other alternatives, including the possibility of a traffic signal, four-way stop sign, the possible realignment of the roadway, and to also provide more detail concerning the precise location of the rights-of-way in order to make a clear identification of the extent of the existing vegetation that might be at jeopardy.

Mr. Dave Horner of Horner Canter Associates, who prepared the original Traffic Impact Study in November of 2004 for the applicant, understood that the Study was to focus on the intersection of Fairhill Road and Diamond Street and the access location from the site onto Fairhill Road. As a result of that Study, a review letter was received from Mr. Heinrich, the Township's Traffic Engineer, dated February 24, 2005. Mr. Horner advised that the applicant subsequently responded to that review with an updated report dated July 1, 2005 and a response letter dated July 6, 2005. Mr. Horner acknowledged that there are some sight distance limitations at the intersection, particularly when traveling from the site to make a left turn, while looking to the right. One consideration to address this sight distance problem was signalization of the intersection, however the Study shows that even with the development of the applicant's parcel, the site would not be close to meeting PennDot's warrants for a traffic signal. Mr. Horner explained that there must be a certain amount of traffic volume during peak hours on a side street, which would be Fairhill Road in this case. Mr. Heinrich's review had recommended consideration of a four-way stop sign, while at the same time seeking the accident history. It was determined that the Township had previously made a request for a four-way stop at this intersection approximately three years ago, but that PennDot denied that request. Mr. Horner pursued the possibility once again at the site meeting, where Mr. Patel of PennDot's traffic unit was present. The criteria for a four-way stop sign is that there is fairly balanced traffic between the four approaches, however in this case that scenario does not exist. Mr. Horner explained that Diamond Street carries considerably more traffic than Fairhill Road, and in terms of volume, the PennDot warrants would not be met for installation of a four-way stop sign. Accident data for this intersection was collected from two sources. PennDot provided an accident history of the intersection for the past three or four years, and the Hilltown Police Department also provided an accident history. Mr. Horner stated that sometimes various agencies record different accident information depending on whether the accidents are considered reportable or non-reportable. The accident history for this intersection is not enough, in terms of number and types of accidents, to result in a four-way stop sign being absolutely required. Though Mr. Horner has not formally made application to PennDot on behalf of Toll Brothers for a four-way stop sign, Mr. Patel of PennDot indicated that they would not receive any different answer than was received a few years ago when the Township made the same request.

In terms of sight distance, Mr. Horner identified two large trees on the corner and then further beyond, along Diamond Street, existing vegetation and a fence. The two large trees are located beyond the PennDot right-of-way on private property, however the

existing vegetation and the fence is located within PennDot's right-of-way. Mr. Horner suggested the one possible betterment would be the removal of the vegetation and the fence, which definitely contributes to the sight distance problem. However, he noted that without removal of the two large trees, the entire problem would not be resolved. Mr. John Gras who owns the property on the southwest corner of Fairhill Road and Diamond Street, stated that his home was constructed when George Washington was 8 years old, and was identified as "a very old stone house" in 1798. He not only considers himself a homeowner, but also a curator of a historic property, and advised that the two large trees in question existed long before there was traffic along Diamond Street. Mr. Gras advised that the two trees provide comfort to the house by cooling it during the summer months and they also provide a certain degree of shelter from the snow that falls on the roof in the winter months. Mr. Gras conducted a survey of the trees along Diamond Street and discovered that 40% of them have traffic damage, some of which is quite significant. In addition, Mr. Gras commented that the trees provide a buffer to the house from road dirt, snow, and road vibrations. He would certainly be amenable to moving the fence, though he does not believe that the fence is of significant concern, rather it is the two trees. Mr. Gras does not feel that the nature of the historic property is such that the site should be put in jeopardy by removing the trees. If the trees are removed, Mr. Gras anticipates a safety hazard due to the dwelling's close proximity to the roadway, which also poses potential financial concerns to the house, barn, and the fence. He is not amenable to having either of the large trees removed from his property. Mrs. Hermany wondered if consideration has been given to erecting flashing warning signs on the Fairhill Road approach to the intersection stating "Dangerous Intersection Ahead." Mr. Horner commented that it is difficult to quantify how much this type of warning sign would help, however it was informally discussed with PennDot. Discussion took place.

Mr. Beatrice read the traffic history of this intersection, stating that in 1999, there were two accidents, in 2000 there were four accidents, in 2001 there were five accidents, in 2002 there were zero accidents, in 2003 there were two accidents, and in 2004 there were zero accidents. While not minimizing the issue of sight distance that certainly exists, Mr. Beatrice commented that many of the accidents were due to motorists failing to stop at the stop sign on Fairhill Road. Mr. Wynn is not certain this had any impact, however he noted that oversize stop signs were erected by the Township within that timeframe. Prior to that, Mr. Gras advised that a huge tree was removed from the northwest corner of the intersection several years ago, and since that time, there has been a significant reduction of traffic accidents. Mr. Kulesza asked Mr. Gras if he would concur that there were 13 accidents at that intersection of a six-year period. Mr. Gras did not know the exact number, however it seems to him that there is one approximately every three months, and commented that there were quite a bit more when he first moved into the property than in recent years. Mr. Kulesza believes that the installation of the oversized stop signs has helped, as has the "Stop Ahead" warning that is actually painted on Fairhill Road at the approach to the intersection.

Several months ago, Mr. McIlhinney had asked that PennDot be contacted to see if they would be amenable to installing a traffic signal at this location. Mr. Horner replied that the issue was raised at the site meeting to the PennDot representative in attendance, however he knows, as do PennDot and the Township, that the intersection does not meet the volume warrants required. Mr. McIlhinney suggested that the developer ask PennDot if they would consider the installation of a traffic signal at this location if there was no cost to them. Mr. Benner stated that PennDot will only approve a traffic signal if the necessary warrants are present, and the cost is not a factor. Mr. Wynn agreed that PennDot would not approve a traffic signal if the location does not meet the warrants. Mr. McIlhinney believes it is a very credible question, considering the applicant is proposing 26 additional dwellings in the area, which will generate numerous additional daily vehicle trips. Mr. McIlhinney feels the applicant should make a written request to PennDot to install a traffic signal at this intersection at no cost to them. Respectfully, Mr. Benner commented that Toll Brothers is willing to take all reasonable steps to move this process forward, but he feels this task would be futile. Mr. Wynn noted that a request for a traffic signal or even a four-way stop sign at this intersection would have to be pursued by the Township, not the applicant. Further, the required Resolution the Township would have to adopt in order for PennDot to consider the traffic signal states that all the costs would be born by the municipality for the traffic signal installation. That being the case, Mr. McIlhinney believes this issue should be brought to the attention of the Board of Supervisors. Discussion took place.

At a previous meeting, Mr. Kulesza recalls that there was also concern about the Schultz Road/Diamond Street intersection. Mr. Horner agreed, noting that Mr. Heinrich had specifically requested that that particular intersection be included, which is one of the reasons the applicant conducted an updated Traffic Impact Study. He explained that there is a limited sight distance at Schultz Road and Diamond Street due to the existing horizontal curve to the northwest, which would be an even more difficult situation to correct. Lengthy discussion took place.

Mrs. Bush asked what the applicant's proposal is to resolving the sight distance problem at Fairhill Road and Diamond Street. Mr. Horner replied that the smaller vegetation on the southwest corner would be cleared, and suggested that the PennDot right-of-way on the southeast corner of the intersection be cleared, including relocation of the fence and removal of smaller existing vegetation. Further, Mr. Horner suggested that the turning radius on the corner that the applicant has control over be increased. Perhaps PennDot could also be pursued for approval of installation of additional warning signs on the south side if it is something the Township would consider reasonable.

Mr. McIlhinney wondered if the owner of Lot #26 has been made aware that if street improvements are not required at this time, those improvements could very possibly be

required with any future subdivision of that lot, even though a fee in-lieu-of may have been already accepted by the Township. Discussion took place regarding the improvements to Diamond Street. Mr. Wynn believes that there is a potential for much higher speed if Diamond Street is widened and curbing is installed, which may exacerbate the problems at the intersection with Fairhill Road, and perhaps Schultz Road. Further, the widening of the roadway does not lend itself to completing substantial sections of Diamond Street with those types of improvements. Mr. McIlhinney does not feel improvements to Diamond Street should be required at this time. Mr. Beatrice commented that his preference would be to provide either sidewalk or a bike path along Diamond Street. Chairperson Rush would not be in favor of street improvements along Diamond Street, noting that there are other areas of the Township those funds could be used to improve the greater health, safety, and welfare of the residents. Mrs. Hermany agreed. Mr. Kulesza would be inclined to recommend waiver of street improvements to Diamond Street, particularly if those improvements would increase the speed of motorists. He also feels that the Township should do as much as possible to preserve the historic dwelling at the Fairhill/Diamond Street intersection throughout the development process. Mr. Bradley agreed that the sidewalk, curbing, and road widening should be waived along Diamond Street, and noted that the applicant's proposal to install sidewalk along Fairhill Road and through the development down to Schultz Road would create a much safer area for pedestrians.

Mr. Benner noted that the applicant has agreed to provide on-site radius improvements at the intersection, and has also offered to provide off-site improvements by clearing out the right-of-way on the other corner properties, which do not touch their own property. This would entail the removal of the fence and existing forsythia bushes within the PennDot right-of-way in front of the Gras residence. Mr. Beatrice wondered if Mr. Gras would be compensated for this loss, and Mr. Benner replied that he would not, since technically, these items are located within the public right-of-way. Mr. Kulesza noted that in the past, Mr. Gras has been very willing and accommodating to clear as much brush as possible to address safety concerns of the intersection. He stated that Mr. Gras's home is a tremendous example of history in this Township, and feels the Commission must be sensitive to that. Mr. Kulesza would be very reluctant to ask PennDot to remove any of those existing trees. Mr. Beatrice suggested that the Planning Commission defer their recommendation about the off-site intersection improvements until a future date.

The Planning Modules have been submitted to DEP, however Mr. Wynn noted they will be found incomplete because the Township never signed them. Based upon that information, the Planning Commission was not willing to make a motion for recommendation of preliminary plan approval at this time, and the plan was tabled.

*Chairperson Rush called for a short recess at 10:15PM. The Hilltown Township Planning Commission meeting of August 15, 2005 was reconvened at approximately 10:20PM.

4. Holly Farms Subdivision (Final) – Mr. William Benner, the applicant's legal counsel, and Mr. Scott Mease, the applicant's engineer, were in attendance to present the plan. Mr. Wynn's most recent review dated July 21, 2005 was discussed.

Mr. Benner referred to Item #5.A of the July 21st review, which states "Pre-development drainage area to Point of Study 3 (POS 3) discharging to the existing culvert crossing under Schoolhouse Road along the frontage of TMP #15-10-8 is 9.62 acres. The drainage area discharging to the same study point after development is 19.29 acres, according to the Stormwater Management calculation submitted by the design engineer. As referenced in Item #7 of the March 29, 2005 action letter, the Township is requesting an easement be obtained from the affected offsite property owners due to the increase in post-development volume of runoff." Mr. Benner advised that the Township Solicitor had previously agreed that the applicant was not obliged to obtain the easement from the property owner, Mr. and Mrs. Eshelman. The resolution of preliminary plan approval asked Beres Construction to request that easement from the Mr. and Mrs. Eshelman, which has occurred. Mr. and Mrs. Eshelman understand that they are under no obligation to grant that easement, and also understand that if they withhold that consent, the project will become compliant with the plan revisions the applicant has agreed to make with regard to the latest review. As a point of information, Mr. Benner noted that the Stormwater Management Plan proposes the collecting of stormwater into a large basin on Lot #1, discharging that water at a controlled rate through an existing pipe under Schoolhouse Road, and then the water will continue in that pipe for some duration before outflowing into an existing swale on the Eshelman property. At the preliminary plan stage, Mr. Benner stated that the design either does show or will show compliance with the applicable Stormwater Management Ordinance requirements in controlling rate and water quality. After providing the Township Solicitor with a reported Bucks County court decision, Mr. Benner advised that Solicitor Grabowski agreed that Hilltown Township could not require the obtaining of an easement, but nonetheless, the resolution of preliminary plan approval asked that the applicant request such an easement, which has been done. Mr. Benner believes that the stormwater management plan shows compliance to the design requirements of the Stormwater Management Ordinance. In private consultations with Mr. and Mrs. Eshelman's attorney, Mr. Benner explained that Beres Construction has agreed to make a minor design change to Lot #2, which would channel some of the flows that are currently proposed to sheet flow, so that those flows would be more channeled along a roadway swale to be directed to the inlet. This would not affect the calculations in any way, but would control a small amount of sheet flow. If Mr. and Mrs. Eshelman do not grant the applicant with an easement, Mr. McIlhinney questioned the status of the project. Mr. Benner replied that the project would still be

approvable by the decision of the Bucks County Court that held that municipalities can not require an easement, and that there is a common law right to continue to maintain the existing drainage pattern. Mr. Wynn commented that the easement is not a requirement of the preliminary plan approval because of the court case Mr. Benner referred to. He explained that the language in certain sections of the Stormwater Management Ordinance used in prior reviews, which stated that an easement was required, dealt with altering the character of the runoff. If Mr. Wynn understands it correctly, the court ruled the change in the volume of runoff is not altering the characteristics of the runoff, as opposed to concentrating flow onto someone's property where it was not previously experienced. Mr. Wynn noted that is not happening in this case. Solicitor Grabowski reviewed the lawsuit in question and advised the Supervisors that the section of the Ordinance was not consistent with the court decision. Therefore, the Township has asked the applicant to request the easement from the Eshelman family, but did not require that the easement be obtained as a condition of approval. Mr. McIlhinney asked if the post-development runoff volume would be greater than pre-development. As in most cases, Mr. Wynn replied that it would, but noted that the rate is reduced. If this plan had proposed changes to the Eshelman's property in order to accommodate these flows, then Mr. Benner noted that there would be a physical alteration to the channel and there would be a need to acquire that easement. The court case Mr. Benner alluded to did not hold for the proposition that these provisions and Stormwater Management Ordinances are invalid. Rather, the court interpreted this language to mean that the need for the easement arises when there is a physical alteration to the point of discharge, but that condition is not occurring in this case.

Mr. Ronald Bolig, who is Mr. and Mrs. Eshelman's legal counsel, stated that the applicant notified his client within the last month that a request for easement was being made. The Eshelman's contacted a local engineer to conduct their own review of the stormwater drainage calculations, and believe there may be a slight error in the applicant's calculations. The concern the Eshelman family has is that, from time to time, when there is a big storm, there is a sheet flow across Schoolhouse Road in addition to that which is piped beneath Schoolhouse Road. Mr. Bolig advised that the Eshelman's hope that there is an appropriate channel constructed across the street from their property such that the flow there would also go to the existing pipe beneath Schoolhouse Road.

If there are accommodations that the design engineers can make that would not slow the approval process, and that do not materially add to the cost, Mr. Benner advised that Beres Construction is willing to take all reasonable steps to be a good neighbor. For review purposes this evening, he believes that the only issue before the Commission is whether or not the stormwater management plan is compliant with the Ordinance. Mr. Mease commented that there are some reasonable steps that can be taken to improve the existing situation for the Eshelman property.

Discussion took place regarding the proposed wetland detention basin located within the boundary of Lot #1, which is proposed to be owned and maintained by that lot owner. Due to the size of the basin, Mr. Wynn recommended that a Homeowner's Association be established to maintain the basin, rather than a single homeowner. Mrs. Hermany read a portion of the February 21, 2005 Planning Commission meeting minutes, which states "A lengthy discussion was held concerning whether a Homeowner's Association would be established to be responsible for the maintenance of the detention basin associated with this development. Mr. Benner said that a document would be drafted outlining the exact items the homeowner would be responsible for associated with the detention basin being located on their lot, and that these responsibilities would transfer from owner to owner." Mrs. Hermany noted that Mr. Benner suggested that an individual lot owner be responsible for the basin, however the Planning Commission did not make a recommendation. Mr. Benner recalls that Mr. Beres came forward that evening to state that he currently resides on Lot #1 and would be responsible for the basin. Mr. Benner further recalls that he had made a comment that there would be a declaration of covenants, easements and restrictions that would make this basin obligation run with the land. Whether or not there is a Homeowner's Association, Mr. Benner commented that municipalities do not regulate the form of ownership; rather they regulate the functionality of stormwater management basins, as long as there is an effective mechanism in place to insure the future maintenance of the basin, which gives the Township the right to enforce the maintenance of that basin, if the responsible party should decline. Mrs. Bush believes that experience has shown that basins on individual lots can sometimes be ignored, and the Township may not be in the position to monitor that, where a Homeowner's Association would. Lengthy discussion took place.

Mrs. Hermany referred to the newly created corner lots and asked what type of buffering has been provided to those existing homeowners to buffer their second front yard from the newly proposed roadway. She believes that those two homeowners now have lots that have been reduced in value. Therefore, Mrs. Hermany feels that there should be some sort of compensation provided to those two property owners, perhaps through landscaping and buffering, and/or that they be granted some sort of grandfathering for the zoning of their property with respect to setbacks. Mr. Benner reminded Mrs. Hermany that this is a Subdivision/Land Development issue, for which the Township Supervisors granted a waiver. Mr. Mease advised that street trees (every 40 ft.) are proposed along both sides of that new roadway. Mrs. Hermany recommended that additional buffering be provided. Mr. Benner noted that part of the preliminary plan approval process was for the applicant to obtain the consent of those two property owners, which he did.

Mrs. Hermany feels it would be a generous thing for the developer to install additional buffer for those two properties, which will now be corner properties. Mr. Bradley agreed, noting that Mr. Beres obtained the consent of both those property owners at

7:00PM just prior to a 7:30 Planning Commission meeting in December, and does not believe those property owners realized exactly what they were consenting to.

Mr. Steve Alderfer of Rt. 113 asked if proposed Lot #6 conforms to zoning requirements. Chairperson Rush thought that area was to be joined to Mr. Alderfer's property and the other neighboring property along Rt. 113, however it now appears to be a right-of-way or easement out to Rt. 113. Mr. Mease noted that there is an inconsistency on the plan, which would be revised if Mr. Alderfer is not willing to consolidate that portion of land with his property. Mr. Alderfer noted that plans for consolidation with his lot, as well as lots owned by Dolores Delikat and Ronald Wise have not yet been finalized with the developer. Discussion took place.

Motion was made by Mr. McIlhinney, and seconded by Mr. Beatrice, to recommend conditional final plan approval to the Holly Farms Subdivision, subject to the issue of the lot line on Lot #6 being rectified on all sheets of the plan; subject to consideration for additional landscaping and/or buffering along the two lots that have been turned into corner lots along the internal roadway, conditioned upon the easement issue with the Eshelman's property with respect to stormwater runoff being satisfactorily resolved; and with responsibility for maintenance of the detention basin to be that of the owner of Lot #1; and pending completion of all outstanding items in the July 21, 2005 engineering review.

Motion passed unanimously.

5. Murphey Subdivision (aka – Hillside Estates) (Preliminary) – Mr. Bob Showalter, the applicant's engineer, was in attendance to present the plan. Mr. Wynn's most recent engineering review dated August 3, 2005 was discussed.

The applicant has requested the following waivers:

- From Section 140-29.F.4 – Waiver is requested from improvements to the cartway of Skunkhollow Road, including cartway widening and resurfacing of the existing roadway.

Mr. Kulesza commented that the Open Space Plan has identified the area along Skunkhollow Road as being a secondary priority link, and therefore, believes that the Township should consider requiring a walking path along that roadway. Discussion took place as to the fact that this side of the roadway does not lend itself to construction of a walking path, as well as the location of the neighboring active quarry. Mr. Showalter advised that the applicant would be willing to provide funds for the eventual construction of a walking path in the future.

Motion was made by Mr. McIlhinney, and seconded by Mrs. Hermany, to recommend waiver from Section 149-29.F.4 from improvements to the cartway of Skunkhollow Road, including cartway widening and resurfacing of the existing roadway for the Murphey Subdivision, with the caveat that the cartway leveling/overlay be installed pursuant to Section 140-28.P of the Subdivision Ordinance, with a fee in-lieu-of those improvements to be determined by the Township Supervisors.

Mr. Kulesza wished to amend that motion to recommend that the fee in-lieu-of those improvements be used for construction of the proposed walking trail through that area in the future, at the discretion of the Board of Supervisors. Discussion took place. Mr. McIlhinney was amenable to the amendment of the motion. Mr. Beatrice was opposed to the motion. Motion passed.

- Section 140-34.B.4 – This section requires shared driveways to be centered on common property lines. As proposed, the 4 lots will all access Skunkhollow Road via a shared driveway and stream crossing utilizing an existing bridge structure. The proposed driveway access will be contained within a driveway access easement.

Motion was made by Mrs. Hermany, seconded by Mr. McIlhinney, and carried unanimously to recommend waiver from Section 140-34.B.4, which requires shared driveways to be centered on a common property line, conditional upon the establishment of a legal mechanism to guarantee the future maintenance of the driveway, for the Murphey Subdivision.

- Section 304-12L (Stormwater Management Ordinance) – This section requires roadway crossings located within designated floodplain areas to convey 100-year storms.

The review notes that the applicant intends to utilize the existing drainage structure installed in 1999, which they have identified as being approved by the Township, though Mr. Wynn had no knowledge as to whether this structure was indeed approved. Specifically, the waiver requests use of the structure conveying a 50-year storm event. Mr. Showalter suggested that the Township enter into a hold harmless agreement with the property owner, stipulating that the Township is not liable for anything related to this existing drainage structure. Lengthy discussion took place.

Public Comment:

1. Mrs. Phyllis Antunes of Callowhill Road commented that there are a number of dwellings on Skunkhollow Road that have existing wooden bridges as part of their driveway.

2. Mr. Bill Godek of 206 Broad Street stated that when the existing neighboring quarry goes through the reclamation process, a large lake would be constructed on the quarry property, which is located upstream from this site.

There was no further public comment.

Motion was made by Mrs. Hermany, seconded by Mr. McIlhinney, and carried unanimously to recommend waiver from Section 134-12L of the Stormwater Management Ordinance to allow for the existing drainage structure that was installed in 1999 to remain, with an acknowledgement as part of the legal agreement on the shared driveway easement that the Township takes no responsibility or liability for the existing drainage structure, as noted above.

Motion was made by Mr. Kulesza, seconded by Mr. McIlhinney, and carried unanimously to recommend conditional preliminary plan approval to the Murphey Subdivision, pending completion of all outstanding items as noted in the August 3, 2005 engineering review.

6. Hawk Valley Estates (Preliminary) – This 17.31 acre site located in the RR Zoning District is proposed to be subdivided into 11 single-family detached dwelling (Use B1) lots. Lots range in area from 50,002 sq. ft. (Lot #7) to 104,315 sq. ft. (Lot #1). Lots #1 through #10 contain frontage on a proposed internal cul-de-sac street; with Lot #11 having frontage on Church Road via a private residential driveway. The site contains areas of steep slopes, wetlands, and scrub/understory vegetation, with a dense stand of evergreen trees located within the area of Lot #11. Lots will be served by public water facilities provided by the North Penn Water Authority, and on-lot sewage disposal facilities. Mr. Michael Yanoff, the applicant's legal counsel, and Mr. Bob Showalter, the applicant's engineer, were in attendance to present the plan. Mr. Wynn's most recent engineering review dated August 8, 2005 was discussed.

Mr. Kulesza was not involved with the early planning of this development, and wondered why the cul-de-sac is proposed to head toward TMP #15-22-165, rather than TMP #15-22-180. Mr. Yanoff replied that initial discussion was held many, many months ago, with respect to the adjoining properties and access to properties beyond that. Mr. Showalter detailed the applicant's proposal and their reasoning for it. If TMP #15-22-180 is ever proposed for future subdivision, Chairperson Rush asked if there was any way to connect that development to this cul-de-sac. A very lengthy discussion took place about the placement of the cul-de-sac. Mrs. Hermany felt that the cul-de-sac street should be centered so that it can be accessed from either TMP #15-22-180, or TMP #15-22-165, and Mr. Beatrice agreed. Mr. Wynn commented it would not be possible to access either of those properties if the cul-de-sac was centered. Mr. McIlhinney believes

that the cul-de-sac as proposed is just as feasible as it would be if it were to be extended to TMP #15-22-180. Mr. Kulesza agreed with Mrs. Hermany that the cul-de-sac should be extended to TMP #15-22-180, however he understands Mr. McIlhinney's point of view as well. Mr. Bradley feels that the eventual connection to the temporary cul-de-sac of Jessica Lane, through TMP #15-22-180, would make more sense, however it is understood that the property owner of TMP #15-22-180 remains adamant about not developing his property. It appears to Chairperson Rush that a majority of the Planning Commission is not in favor of the proposed cul-de-sac street. Mr. Showalter was very disappointed since he believed he had obtained the consensus of the Commission many months ago on a sketch plan submission, after very lengthy discussions. Even though the Planning Commission did not take a formal vote, Mr. Yanoff recalls that there was a consensus regarding the location of the temporary cul-de-sac as proposed this evening. If this is not considered a viable, "temporary" cul-de-sac, Mr. Wynn reminded the Planning Commission that the non-conformity to the Ordinance is that the length of the permanent cul-de-sac is too long.

*11:50PM -Chairperson Rush advised that this meeting would be adjourned at midnight because he is not prepared to go past the advertised date of this meeting, which is August 15, 2005.

Mrs. Hermany commented that this subdivision was removed from the March 21, 2005 agenda and therefore, there was no significant discussion regarding the cul-de-sac at that time, as Mr. Yanoff referred to earlier, and stated that the cul-de-sac issue was never discussed in a formal, public meeting. Mr. Yanoff disagreed, and noted that there was a very lengthy discussion about the cul-de-sac at a previous Planning Commission meeting, though he is not certain of that date. Mr. Yanoff suggested that the Hawk Valley Estates Subdivision Plan be tabled until the next meeting.

The Hawk Valley Estates Subdivision Plan was tabled.

D. PLANNING: None.

E. OLD BUSINESS:

1. Zoning Ordinance Amendment – Quarry – The Bucks County Planning Commission review dated August 3, 2005, along with the actual proposed Zoning Ordinance amendment with respect to the quarry with a cover letter from Solicitor Grabowski dated July 12, 2005 was discussed. Chairperson Rush advised that the Planning Commission has not seen nor been asked by the Supervisors to review the proposed Stipulation and Settlement Agreement.

Mr. McIlhinney commented that he had 30 questions/objections to the proposed amendment, which would have to be answered before he would vote favorably for this amendment. Before the Board of Supervisors approve or even consider this Ordinance amendment, Mr. Kulesza believes that the Township should hire legal counsel with an expertise in this field. As a point of clarification, Mr. Wynn noted that the Supervisors did hire special legal counsel to provide their opinion. Without having access to that special counsel information, Mr. Kulesza does not feel that he can make a reasonable recommendation on this matter. Further, he believes that the Planning Commission should have been charged with drafting this Ordinance, not H & K Quarry. Chairperson Rush commented that the Planning Commission would be doing that as part of the proposed amendments to the current Zoning Ordinance, at which time quarry zoning would be addressed within that process. If the Supervisors accept and approve the Stipulation and Agreement, Chairperson Rush commented that the proposed Ordinance amendment before the Commission this evening would be adopted. Mrs. Hermany noted that there are many conditional uses included with permitted uses and feels that the Ordinance has been written in H & K's favor. She expressed great concern with the proposed 50 ft. minimum setback from property lines, and feels that there are issues on every single page of the proposed amendment that must be addressed. Mr. Wynn noted that the 50 ft. minimum setback from a property line remains unchanged from the current Ordinance. In general, Mrs. Hermany feels that the proposed amendment favors the applicant rather than the Township, and believes it must be addressed. Mr. Bradley recently returned from vacation and did not have the opportunity to thoroughly review the proposed Ordinance amendment. Therefore, he would suggest additional time for review of the document. Chairperson Rush advised that the Planning Commission was given 45-days for review and recommendation. Mr. Beatrice had a number of problems with the amendment as proposed. One issue in particular is that a quarry would only need 10-acres to operate. Further, while the quarry agrees to limit their operations from 6:30AM to 6:30PM, it does not limit the delivery of asphalt, cement, and maintenance work at all, which Mr. Beatrice noted would result in heavy truck traffic traveling throughout the Township at all hours of the night. Chairperson Rush referred to a section of the Bucks County Planning Commission's review of the proposed amendment, which states "We recognize that the proposed Zoning Ordinance Amendment is substantially different than the previously proposed amendment in many respects. Several of the requirements are more stringent and provide protection from potential impact of resource extraction activities. We still have some concerns regarding certain uses, reduced setbacks, maximum height, and the expansion of the quarry district as discussed in the previous review. Nonetheless, we believe that the Township officials have painstakingly weighed these concerns against the benefits of moving forward in amicably resolving current litigation, while still protecting the health, safety, and welfare of their constituency." Chairperson Rush commented that this amendment is not in a vacuum and that there is existing litigation, a process of which the Planning Commission was not

privity to. Chairperson Rush did not feel at all qualified to review this Ordinance based on the extremely technical issues of blasting, etc..

Public Comment:

1. Mr. Ron Theis asked if an amendment to an Ordinance must be advertised. Mr. Wynn explained that the Board of Supervisors Public Hearing to amend an Ordinance must be advertised. Mr. Theis does not believe that this Ordinance has been properly advertised. Mrs. Bush commented that an Ordinance must be advertised twice, no more than 30 days and no less than 7 days before the Hearing for two successive weeks. The entire text of the Ordinance must be published, or must be indicated in the advertisement where copies are available for public review. One copy of the proposed amendment must also be forwarded to the Bucks County Law Library at the courthouse, one copy must be available at the Township office, and a copy must be available at the newspaper where the Public Hearing was advertised. Mr. Theis did not see how the Planning Commission could possibly make a recommendation if there has been no public input due to lack of advertisement of what those revisions and changes are. Mr. Wynn explained that the Ordinance amendment has been advertised for the Board of Supervisor's Public Hearing, not necessarily for the Planning Commission's review and recommendation. Mr. Theis understands that, however he would expect that the Planning Commission would want to obtain resident's input before making a recommendation.

Motion was made by Mr. Beatrice to recommend denial of the proposed quarry amendment to the Zoning Ordinance, as written, due to the numerous concerns as expressed by the Planning Commission, and also recommended that the Planning Commission have the opportunity to prepare a draft of this Ordinance amendment.

Mr. McIlhinney suggested that the Supervisors also provide the Planning Commission with all of the expertise that they have been privy to so that if and when the Planning Commission is ready to draft the Ordinance, there is a sensible way to do so since much of the information is very technical.

Mrs. Hermany is not certain that she is as concerned about the technical information, as she is about the way the entire Ordinance amendment is written, which permits the quarry to do retail, wholesale, and manufacture of stone related products, and also provides far more benefits to the quarry itself rather than the Township. Mrs. Hermany felt that this proposed Ordinance amendment gives the quarry carte blanche with respect to their rights.

Public Comment (Continued):

2. Mr. Jim Coyne felt that the timeframe of this proposal speaks for itself. He noted that Haines and Kibblehouse took a period of 14 months to make these technical presentations to the Township. The Board of Supervisors possessed this information for 14 months, however they only recently provided it to the Commission, which Mr. Coyne felt was a sad commentary of the Supervisor's opinion of the Planning Commission.

3. Mrs. Mary Schiavone of Township Line Road agreed with Mr. Coyne, noting that the Board of Supervisors were supposed to have their experts review the notes of testimony from the many public hearings. If the Ordinance amendment was to be written and adopted, Mrs. Schiavone felt that it should have been done by the Township experts, and not by Haines and Kibblehouse.

Motion passed unanimously.

F. NEW BUSINESS: None.

G. PLANS TO ACCEPT FOR REVIEW ONLY: None.

H. PUBLIC COMMENT: None.

I. MYLARS FOR SIGNATURE: None.

J. PLANNING COMMISSION COMMENTS: None.

K. PRESS CONFERENCE: A conference was held to answer questions of those reporters present.

L. ADJOURNMENT: Upon motion by Mr. Beatrice, seconded by Mrs. Hermany, and carried unanimously, the regularly scheduled meeting of the Hilltown Township Planning Commission was adjourned at 12:13AM on Tuesday, August 16, 2005.

Respectfully submitted,

Lynda Seimes
Township Secretary