

**HILLTOWN TOWNSHIP PLANNING COMMISSION**  
**REGULARLY SCHEDULED PUBLIC MEETING**  
**Monday, September 19, 2005**  
**7:30PM**

The regularly scheduled meeting of the Hilltown Township Planning Commission was called to order at 7:34PM by Chairperson D. Brooke Rush and opened with the Pledge of Allegiance. Also present were Mike Beatrice, Ken Beer, Denise Hermany, and Jack McIlhinney, with Bill Bradley arriving at approximately 8:00PM.

A. APPROVAL OF MINUTES – Action on the minutes of the August 15, 2005 Planning Commission meeting: Motion was made by Mr. Beatrice, and seconded by Mr. McIlhinney, to approve the minutes of the August 15, 2005 Planning Commission meeting, as written. Mr. Beer abstained from the vote since he was not present at that meeting.

B. PUBLIC COMMENT ON AGENDA ITEMS ONLY: None.

C. CONFIRMED APPOINTMENTS:

1. Mr. Tom Cuce’ – Land Development Waiver Request – On June 27, 2005, the Township received a land development waiver request for a proposed building addition at the site located at 2111 Bethlehem Pike within the Planned Commercial – 1 Zoning District. Mr. Wynn forwarded correspondence to Mr. Cuce’ dated July 28, 2005 noting several inconsistencies with existing feature information shown on the current plan submission relative to a previous plan, which was prepared by Urwiler and Walter, Inc. in 2003. The additional impervious surface and potential non-compliance with Zoning Ordinance, Subdivision/Land Development Ordinance, and Stormwater Management Ordinance requirements was directed to the attention of the Zoning Officer/Code Enforcement Officer at the time, Dave Taylor. As of September 12, 2005, Mr. Wynn had not received documentation from the Township indicating whether this matter was ever investigated by Mr. Taylor prior to his departure. Additionally, Township Staff’s review of the tax map parcel file indicates that there is no copy of any correspondence or notification of potential Ordinance violations issued by the Zoning Officer. As referenced in the July 28, 2005 engineering review correspondence to Mr. Cuce’, Mr. Wynn does not recommend approval of the land development waiver for this site until investigation and resolution of the potential Ordinance violations by the Township Code Enforcement Office.

Mr. Tom Cuce’, the owner of the auto repair business, was in attendance to present the plan. Mr. Wynn’s initial review dated July 28, 2005 and the most recent review dated September 12, 2005, were discussed.

Mr. Cuce’ is proposing to rent a small existing office space to a used car dealer. He noted that there would be no change to the footprint of the building, since it would simply require closing an interior doorway and creating one handicapped accessible entrance.

Mr. Taylor had advised Mr. Cuce' that there was a problem because the original plan did not show the same parking area as shown on a later plan. Mr. Cuce' explained that the plan was based on a survey done in 1998, when he first purchased the property. At the time, the driveway was badly overgrown. Mr. Cuce' since obtained a statement from his engineer, Urwiler and Walter, stating that the gravel area of the driveway was not shown. He also obtained a statement from the engineer who prepared the original plan in 1998, stating that the gravel driveway was not shown on the plan since it was in poor condition, and that the portion of the driveway that is shown is that which the applicant was actively using. Mr. Cuce' presented photographs taken in 2003, showing that the driveway is larger than what is shown on the sketch plan. Mr. Cuce' advised that there is a house on the site, located between the garage and the street, that is presently being used for storage. He is proposing to close off the front portion of the house to be used as office space for a used car dealership.

Chairperson Rush asked if there was a previous land development on this site. Mr. Cuce' explained that there has not been a land development on this property in the past. He had applied for and was granted a land development waiver in 2003 to construct a 20 ft. by 30 ft. building, and demolish a smaller building. Chairperson Rush does not recall this property being granted a land development waiver in 2003. Mr. Wynn was not aware that there was a building permit issued for the construction of the building Mr. Cuce' is referring to. In 2003, Mr. Wynn explained that there was a land development waiver granted, with conditions – including that the driveway entrance be paved. Mr. Cuce' stated that the driveway entrance was paved approximately 10 ft. in when Rt. 309 was paved. He plans on paving much more of the driveway, and re-roofing and painting the building once the tenant signs the lease.

Mr. Wynn noted that the Township does not have a plan from the applicant that dated 1998, which Mr. Cuce' referred to earlier. Mr. Cuce' stated that the site was surveyed in 1998. Mr. Wynn is in receipt of a 1999 plan prepared by Dan Hendricks, though that plan and the 2003 plan are not the same. Further, both the 1999 plan and the 2003 plan are different from the plan before the Commission, which currently identifies the driveway as existing. Mr. Wynn stated that all three plans are different to some degree. Mr. Cuce' stated that the two later plans are based on the 1998 or 1999 survey. Mr. Wynn disagreed, referring to a copy that did not show existing gravel parking in 1999; rather it showed "proposed parking." Mr. Cuce' believes that is where the vegetation overgrowth covered the existing paving and therefore, it was not plotted on the plan. Mr. Cuce' commented that there was a survey done in 1999 showing what was actively being used, since the remaining parking area was badly overgrown. Mr. Wynn was frustrated by the variations of the plan and the lack of continuity. He is not certain what exists and what has been added, noting that none of the plans done by two different engineering firms agree.

Mr. Wynn asked if the proposed auto sales would provide for any additional employees in the rental unit. Mr. Cuce' replied that there will be two additional employees. Mr. Wynn asked what type of restroom facilities the employees of the car dealership would use. Mr. Cuce' stated that there are no restroom facilities servicing that portion of the building, and noted that according to the former Building Inspector, none are required for car sales use. There is a restroom in the building, and if required, Mr. Cuce' would install one in the office. Chairperson Rush was surprised that there is not a requirement for a restroom facility for an office use. The building was originally used for storage, but now the applicant is proposing an office space for rental purposes, therefore Mrs. Hermany believes that a restroom facility would be required. Mr. Cuce' stated that the proposed tenant does not want a restroom because they did not want to be required to offer its use to customers. Further, the tenant told Mr. Cuce' that there are other car dealerships nearby, for example – RH Auto Sales, located next to Barney's Auto Salvage, that does not provide for restroom facilities. Mr. Wynn believes this site is serviced by a holding tank. Discussion took place.

Chairperson Rush asked if the remainder of the building will continue to be used for storage, and Mr. Cuce' replied that it would. He explained that the building is an old Cape Cod house, though it has not been used as a residence for many years. Mr. Wynn noted that the location of the parking area is non-conforming to Ordinance requirements because it is up against the property boundary. It also violates the Stormwater Management Ordinance because there is far more than 1,000 sq. ft. of impervious surface between all three plans. It appears to Mr. Wynn that all three plans show an increasing amount of existing parking on each generation of plans. Mr. Cuce' advised that the gravel parking area goes to a grouping of shrubbery in the rear where there is approximately a half acre of land where trailer homes were situated many years ago. Mr. Wynn referred to a hand-drawn plan that had been submitted at one time, showing a proposed metal building along with 20+ parking spaces. This plan was submitted with an application for a 40 ft. by 50 ft. Conestoga building and a Land Development Waiver Request. Mr. Cuce explained that he had originally wanted to construct a much larger addition, but has since decided to abandon that concept.

With respect to parking, Mr. Wynn noted that the hand-drawn plan also does not agree with the plan that was recently submitted. Mr. Cuce' had removed a large shed in that area, which was located over some of the parking area. He purchased the property in late 1995, and has been making improvements to the building, such as new siding and fencing; and has also been clearing the existing parking area. Lengthy discussion took place.

Chairperson Rush commented that the concern appears to be validating the plan as to the existing parking, and noted that no stormwater management facilities exist on the property. Mr. Cuce' pointed out that a large detention basin is located on the adjacent

property. Chairperson Rush acknowledged that, but noted that the basin is not located on the applicant's property, and therefore, the stormwater from this site is not being properly handled. Discussion took place concerning the amount of impervious surface of the site.

Chairperson Rush asked how the issue of an addition came to be. Mr. Cuce' believes there was a mistake when the Township referred to the prior plans addressing the addition that was constructed in 2003. He had applied for a building permit to renovate the interior of the existing building, and when reviewing the sketch plan, Mr. Cuce' assumes that Mr. Taylor compared it to the plan of 2003, which showed a proposed building addition. Chairperson Rush believes that the confusion stems from the fact that the plans keep changing, notably increasing the amount of "existing" parking. Mr. Wynn stated that the Mr. Taylor never mentioned that there was a building permit issued for this site since 2003. Mr. Cuce' advised that Mr. Taylor had told him to simply obtain a statement from the engineer confirming that the existing gravel was present on the site, though not shown on the plan. Mr. Cuce' obtained a statement from the engineer that conducted the only survey, which confirms that the parking area was not shown on the plan because it was overgrown and in extremely poor condition. Mr. Cuce' would be willing to pave the parking area, if that is the Township's desire. Mr. Wynn acknowledged that Mr. Cuce' obtained a confirmation from engineer Paul Dietz, however Mr. Cuce' also previously stated that Mr. Dietz did not conduct a survey of the site. Mr. Cuce' advised that Mr. Dietz prepared a sketch plan and reviewed the property, however he does not know whether Mr. Dietz actually surveyed the property or if he based his confirmation on the 1998 survey. Mr. Wynn commented that this plan does not agree with the plan prepared by Mr. Dan Hendricks, who actually surveyed the property. Discussion took place.

Mr. McIlhinney stated that the new Zoning Officer would be reviewing the application for zoning and building. If there is no addition proposed, Mr. Wynn does not believe there is a need for a Land Development Waiver Request, however he feels there are many unanswered questions as to what is existing, what is proposed for the site, and what conditions potentially violate the Zoning Ordinance or Stormwater Management Ordinance. Mrs. Bush commented that the application for Zoning Permit requests a great deal of information to be submitted, including existing and proposed parking areas, loading and unloading areas, lighting, water supply, sewer service, and stormwater management, to name a few. The land development requirement, under State Law, is for the establishment of a new non-residential use. Mrs. Bush feels that all of the information in Section 168-6 of the Zoning Ordinance for a Zoning Permit Application should be submitted to the Township, which would require addressing all the issues she mentioned. Mr. Cuce' submitted an application for Zoning and Building Permit, and was told by Mr. Taylor that everything was approved with the exception of the discrepancy in the parking area, which he told Mr. Cuce' could be handled by obtaining a letter from the original engineer who surveyed the property. Chairperson Rush suggested

that Mr. Cuce' resubmit a Zoning Permit application to the Township, along with the confirmation letter from the engineer who originally surveyed the site. Mr. Beer agreed that Mr. Cuce' should continue the process of the Zoning Permit application through the Township. Mr. Cuce' is under time constraints and is concerned that reapplication to the Township will delay the approval process. Chairperson Rush advised Mr. Cuce' to make an appointment with the new Zoning Officer to review what is on file at the Township office.

2. Derstine Land Development Waiver Request – Chairperson Rush recused himself from voting on this matter due to his past, current and future dealings with the applicant.

Mr. D. Daryl Derstine, the applicant, was in attendance to present the plan. Mr. Wynn's review dated September 7, 2005 was discussed. The Township received a request to waive requirements for submission of land development for a proposed 6,240 sq. ft. warehouse addition at the site located at 4416 Schoolhouse Road within the Light Industrial Zoning District. This site was converted from a non-conforming single-family residential use to a warehouse/wholesale use pursuant to a land development plan approved by the Supervisors on November 26, 1990. The site is connected to public water and sewer facilities provided by Telford Borough Authority. Pursuant to Section 508 of the Pennsylvania Municipalities Planning Code, "when a land development has been approved, no subsequent change or amendment in the zoning, subdivision, or other governing Ordinance or plan shall be applied to affect adversely the right of the applicant to commence and complete any aspect of the approved development in accordance with the terms of such approval within five years from such approval." Since the five-year "protection" has long since expired, the plan has been submitted for a land development waiver request to permit construction of the proposed warehouse.

Inspection of the site indicates that it remains in accordance with the original site plan approval in that buffer trees, stormwater management basin, and other such facilities have been installed and maintained. However, that the one-way direction of vehicles entering and exiting the site is reversed from that shown on the approved plan, and the reversal in access/egress occurred during the development of the site to improve traffic flow and sight distance.

Submission of a land development plan at this time may require the applicant to install additional road improvements such as cartway widening, curb, and sidewalk, which were required at the time of the previous plan submission, but waived as part of the land development review process. Although cartway widening and curb exists on the opposite side of Schoolhouse Road for the larger industrial developments, no cartway widening, curb, or sidewalk exists along the south side of Schoolhouse Road from the intersection of Bethlehem Pike to Keystone Drive. Additionally, the stormwater management basin

was constructed with the intention of the basin being lawn, although it appears that due to wet conditions, maintenance of the basin bottom has been difficult. The current Stormwater Management Ordinance would require the basin to be planted with wetland vegetation to improve water quality from the roof and other impervious surfaces on the site.

Mr. McIlhinney noted that the review states that the one-way driveways have been reversed, and asked if the plan shows the current driveway direction. Mr. Derstine replied that the plan before the Commission this evening is the original plan, and that the driveway directional is actually the opposite of what is shown. Mr. McIlhinney asked if conditions of Schoolhouse Road have changed within the last 15 years such that it would necessitate any roadway improvements. Mr. Wynn replied that very little has changed along Schoolhouse Road over the years. Mr. McIlhinney questioned whether the uses of the adjacent property owners have changed. Mr. Wynn advised that the immediate adjacent property was sold, but the non-residential uses remain the same.

Mr. Derstine is hoping to construct a 52 ft. by 100 ft. building, while the building envelope shown on the plan is actually 52 ft. by 110 ft. Mr. McIlhinney asked if the retention basin would be adequate to serve the site. Mr. Wynn explained that the basin was designed with construction of a 52 ft. by 110 ft. building in mind, however he did recommend that the basin bottom be planted with wetland-type vegetation. Mr. Derstine stated that a landscaper recently installed the wetland plantings. Discussion took place.

Motion was made by Mr. Beer, and seconded by Mrs. Hermany, to recommend waiver from land development for the Daryl Derstine Land Development, pending completion of all outstanding items as noted in the September 7, 2005 review, as noted above.

Discussion took place.

Mr. Beer amended the original motion to require that the wetland plantings be brought up to current Township standards. Chairperson Rush recused himself from the vote. Motion passed.

3. Crossroads Tavern Land Development Waiver Request – Mr. Al Hiller, the applicant, was in attendance to present the plan. Mr. Wynn's engineering review dated September 12, 2005 was discussed.

On June 29, 2005, the Township received a land development waiver request for a proposed 14 ft. by 30 ft. dining area addition at the Crossroads Tavern located at the intersection of Hilltown Pike and Route 152.

Subsequent to the receipt for a land development waiver for the proposed dining area addition, impervious surface on the site was significantly expanded by an increase in the parking area. Correspondence dated April 20, 2005 from Mr. Taylor, former Code Enforcement Officer, was forwarded to Mr. Hiller regarding the addition of impervious surface. Further discussions between Mr. Taylor and Mr. Wynn indicated that Mr. Taylor has had several conversations with Mr. Hiller regarding requirements of the Stormwater Management Ordinance relative to the increase of impervious surface. Mr. Wynn was contacted by Cowan Associates, Inc., who apparently has been retained by Mr. Hiller to address stormwater management pursuant to the Ordinance. A review of the tax map parcel file at the Township indicates that no other correspondence was directed to Mr. Hiller by the Zoning Officer, and no formal Notice of Violation had been issued. Additionally, Mr. Wynn was advised by the Township staff that file records do not indicate that a permit was issued for work previously performed at this site (building reconstruction).

Mr. Wynn recommended that resolution of Stormwater Management Ordinance and Zoning/Building permit requirements should be accomplished prior to consideration of a land development waiver or issuance of any zoning or building permits for the dining area. Pursuant to Article VIII of Ordinance #2000-5 adopted on May 22, 2000, in the event a person fails to comply with requirements of the Stormwater Management Ordinance, or fails to conform to requirements of any permit issued thereunder, the Township shall provide notification of violation. Article VIII also provides for enforcement and penalties for violation.

Mr. Wynn asked if the concrete pad shown on the plan has been installed. Mr. Taylor had told Mr. Hiller that a concrete pad was required at the doorway for handicapped access, which was installed, though a permit was not issued. Mr. Wynn was unable to find evidence of any permits in the file for the renovation work that was accomplished. Mr. McIlhinney wondered how inspections could have been scheduled if no permit was issued. Mr. Hiller explained that the necessary plans were submitted, that Mr. Taylor then gave permission to proceed and performed the necessary inspections. The Fire Marshal and electrical inspector also performed the required inspections. Chairperson Rush asked if L & I inspections were conducted. Mr. Hiller believes that L & I inspections are now done through the Township. Chairperson Rush disagreed. A few days prior to his last day with the Township, Mr. Hiller advised that Mr. Taylor inspected the footings for the concrete pad. Mr. Hiller assured the Commission that he had submitted the plans for the renovation work, for which Mr. Taylor gave a verbal approval and inspected as needed, however an actual building permit was not issued. Mrs. Hermany noted that a fee is required when an application is submitted, and there should be a record of that in the Township office. Discussion took place.

Not having record of a building permit application, Chairperson Rush commented that it is difficult for the Planning Commission to review. During the renovation process, Chairperson Rush had noticed that the parking area was greatly changed and enhanced. Mr. Wynn is not certain that the renovations would have required a land development at that time, however a building permit would certainly have been required, and the issue of stormwater management should have been reviewed due to the additional impervious surface. Mr. Wynn recalls that correspondence was sent from Mr. Taylor to Mr. Hiller in April of 2005, stating that the Township Engineer has determined that additional impervious surface was created and that the applicant may need to address stormwater runoff. Mr. Hiller noted that Cowan Associates is in the process of preparing a plan to address stormwater management for the site.

Chairperson Rush believes that the applicant has zoning and building issues that should be resolved prior to the Planning Commission making a recommendation on the land development waiver. He encouraged Mr. Hiller to visit the Township office as soon as possible to ascertain the exact status of permits that have or have not been issued, and to continue to move forward with the stormwater management plan. Lengthy discussion took place.

The request was tabled pending the receipt of additional information.

4. Hawk Valley Estates Subdivision (aka – Jakubowitch) – Mr. Robert Showalter, the applicant's engineer, advised that this plan was tabled at the regular meeting in August after a very late session when the applicant had just begun discussion about extension of the cul-de-sac into the adjacent property. The applicant was directed to discuss the plan further at the Planning Commission Worksession in early September, where there appeared to be interest by Commission members to consider alternatives with respect to the cul-de-sac. Therefore, Mr. Showalter submitted two alternatives – one is similar to SK-6 (Alternate #2), and the other (Alternate #1) shifts the cul-de-sac toward the Smith property. The applicant had also briefly discussed a possible connection to the adjacent Schafsteller property through Lot #4. Mr. Beatrice asked the size of the Schafsteller property. Mr. Wynn believes that both lots total approximately 10 acres. Chairperson Rush noted that Alternate #1 and #2 were received last week, subsequent to Mr. Showalter appearing before the Planning Commission at their last Worksession meeting, and Mr. Wynn has not had the opportunity to review both sketch plans.

Discussion took place regarding the two sketch plans. Chairperson Rush commented that the difficulty lies with trying to predict the highest probability of which neighboring lot would be developed first. Mr. Beatrice stated that the sheer number of houses that could be impacted is another factor that must be considered. For instance, there is the possibility of yielding only three additional dwellings on one property, while the other

parcel might yield thirty new dwellings. Mr. Showalter commented that any one of the three alternatives shows the feasibility of connection to an adjacent property.

Mrs. Bush asked what would be gained by the tiny bit of overlap onto the two adjacent properties of the end of Hawk's Nest Lane, particularly the Smith property, as shown on Alternate Plan #2. Mr. Showalter replied that the cul-de-sac could be curved down through the Smith property and tied into the existing cul-de-sac in Lynrose Estates, though he noted that the Smith family is very adamant about not developing their property. Chairperson Rush wondered if it would be possible to maintain the existing cul-de-sac location, and simply increase a future easement that would preserve that option to get across proposed Lot #4. However, he believes the concern was that the existing A/B or sewer system would have to be relocated. Mr. Wynn commented that the Township will not take land as an easement due to the location of the septic system, and further noted that internal roads are taken fee-simple.

Lengthy discussion took place concerning the inconsistencies between the sketch plans. Mr. Showalter acknowledged that on one depiction of the adjacent property line is incorrectly shown at the wrong scale. Chairperson Rush felt it would be beneficial if Mr. Showalter could show the correct scale dimensions for review purposes. If the adjacent lot #15-22-165 is able to sustain five new dwelling lots, Chairperson Rush asked if the Commission members would feel comfortable that the temporary cul-de-sac could service those new lots in a viable manner. Mr. McIlhinney and Mr. Beer were agreeable. Given the size of adjacent property #15-22-180, Mr. Beatrice believes the temporary cul-de-sac would be better served to it. Mr. Bradley would prefer that the temporary cul-de-sac ran to #15-22-180 as well, simply because it could eventually connect to the existing cul-de-sac on the opposite side. However, he believes that the Ordinance uses the word "viable." Mrs. Hermany agreed with Mr. Bradley, and believes that the applicant proposed the cul-de-sac at its current location is to permit the installation of an A/B system on proposed Lot #4 of this subdivision. If it proves to be a viable option where lot depth to width ratio is met and it produces a five lot subdivision on #15-22-165, Chairperson Rush would be in favor of the current location of the cul-de-sac going to that lot.

Mr. Rick Bevilaqua, owner of the site, was very frustrated with the lack of progress with the plan due to the temporary cul-de-sac issue. He is confident that a six-lot subdivision of the adjacent property is viable, and asked if the Planning Commission would consider a recommendation of conditional preliminary plan approval this evening. Chairperson Rush reminded the applicant that the Planning Commission did not yet consider the waiver requests and Planning Module issues. He did not feel that a conditional preliminary approval is warranted at this time. Mr. Wynn was not aware that the preliminary plan was going to be considered this evening. He learned that there was discussion at the last Planning Commission Worksession meeting from Mr. Showalter

last Tuesday morning, and was under the impression that only the sketch plans would be discussed this evening. Mrs. Hermany commented that the sketch plans have also changed since the Worksession meeting.

Discussion took place concerning the proposed right-of-way to the adjoining property for future connection, which would be owned by the Township. Mrs. Hermany wondered if it would be appropriate for the Township to accept a right-of-way, without knowing when or if that adjoining property would be developed.

The applicant provided a written extension for further review, and the plan was tabled pending receipt of additional information.

5. Gitlin/Johnson Tract Subdivision (Preliminary) – Mr. Bill Benner, the applicant's legal counsel, Mr. Scott Guidos, the applicant's engineer, and Ms. Jamie Sundermeier, the applicant's soil scientist, were in attendance to present the plan. Mr. Wynn's most recent engineering review dated September 12, 2005 was discussed.

The plan has been revised to propose retaining walls at the rear of Lots #20 through #22, which is intended to eliminate extensive grading between the rear of the lots and the stormwater management facility, apparently for the purpose of maintaining existing grades within the area of drip irrigation systems. The review further states that in accordance with Section 304.J.8 of the Stormwater Management Ordinance, retaining walls shall not be utilized as part of any embankment or cut slope that is appurtenant to construction of the detention/retention facility. As the design of the retaining walls affects grading of the slopes into the basin at the rear of Lots #20 through #22, Mr. Wynn's review suggests that the plan must be revised to eliminate wall construction appurtenant to the grading of the stormwater management facility, unless a waiver is requested in writing and approved by the Township. In response to the review comments, Mr. Benner presented a written waiver request this evening seeking relief from Sections 304.J.8 and, if necessary, from 304.J.4 (also numbered Chapter 134 Section 134-12.J.(4) and (8) of the Stormwater Management Ordinance to authorize a retaining wall planned at the rear of Lots #20, #21, and #22. The waiver request notes that Section 304.J.8 states "Retaining walls shall not be specified for use within the one-hundred-year water surface elevation area of any detention/retention facility or as part of any embankment or cut slope that is appurtenant to the construction of a detention/retention facility." In this case, the design of the retaining wall places the structure outside of the basin itself, but within the slope section, at an elevation that places its bottom higher than the one hundred year surface elevation of a one-hundred-year flood and higher than the elevation of the emergency spillway. The purpose of the waiver is not to circumvent the 4:1 slope ratio requirements of Section 304.J.4 since it is clear that the lots are large enough to accommodate the 4:1 slope. Instead, the purpose of the waiver is to maintain the current topography in the areas of on-site septic systems for

Lots #20, #21, and #22, which would otherwise be disturbed by adhering to the slope requirements of Section 304.J.4. Chairperson Rush reminded Mr. Benner that it is the Planning Commission's policy not to accept or consider waiver requests that are presented the evening of a meeting. Mr. Benner advised that the primary basin is located on what is proposed to be the retained parcel and is largely defined by the limits of the floodplain. He commented that the retaining wall is to be constructed primarily not to affect the functionality of the basin as such, but rather to maintain the grades on Lots #20, #21, and #22, in those areas that are planned for on-site septic systems. Mr. Benner noted that it is possible to comply with the Ordinance requirements, however the cost of compliance is that it would interfere with that area of the property proposed for installation of on-site septic systems.

Chairperson Rush asked who would own and maintain the retaining wall. Mr. Benner replied a Homeowner's Association would be responsible for its maintenance. Chairperson Rush inquired as to the height of the wall, and Mr. Guidos replied that the wall would 8 ft. tall at its maximum height. Mr. McIlhinney asked if the entire retaining wall would actually be 8 ft. above ground level. Mr. Guidos explained that there would actually be an excavation to install the wall to address the 4:1 slope. Additionally, a fence would be installed along the top of the wall. The retaining wall itself would be designed to Township standards.

Mr. Beatrice wondered what the applicant would point to as a hardship in order to request this waiver. Given the extensive amount of testing that has already been accomplished, Mr. Benner replied that the applicant would prefer not to have to re-test the lots to find alternate suitable areas for installation of sewage systems. Since the purpose of the waiver request is not to aid in the functionality of the stormwater management design, and because the Ordinance has the 4:1 slope ratio requirement, he felt this was an appropriate way to maintain the integrity of the site, and to provide for less site disturbances. From a strategic planning standpoint, it appears to Mr. Benner that this is an appropriate solution, which would not result in a density bonus, but would yield a better result. Chairperson Rush noted that the detention basin is entirely contained within Lot #26, and suggested that perhaps the basin location be moved further into the lot. Mr. Benner stated that it would not be possible because it would then push the basin into the floodplain line. Mrs. Hermany asked how much soil testing was conducted on the three affected parcels. Ms. Sundermeier replied that a soil morphologic evaluation was required for a drip irrigation disposal system, which would be, at a minimum, four test pits at each test location. She also noted that additional testing would be required if the sewage disposal system sites were relocated. If an alternate site could not be found on each of those three lots, Mrs. Hermany asked what would occur. Ms. Sundermeier believes the applicant would have to consider altering lot lines. Mr. Beatrice asked how much disturbance would be involved. Mr. Guidos replied that there would be an area of approximately 30 ft. of disturbance involved. Mr. Wynn noted that the retaining wall is

located in what would be the rear yard setback area of those lots. Mr. Beatrice commented that the Township would simply be deferring possible disturbance until the new property owner decides to remove trees or vegetation to install a swimming pool, shed or some other improvement. If the grading was allowed to extend to its 4:1 ratio, Chairperson Rush asked if the lot lines would be permitted to include that grading. Mr. Wynn replied that they would and noted that it is not part of the actual basin and area of the 100-year flood elevation, so the grading would then be just part of the lot. Mrs. Hermany believes the applicant is not willing to consider relocation of the sewage disposal systems. Chairperson Rush commented that these types of systems could be installed at a minimum of 10 ft. from the dwelling, which he does not believe would serve the planning purpose. Mrs. Hermany agreed, however she is not certain that an 8 ft. high retaining wall plus a fence is the best alternative. She felt that perhaps it should be investigated as to whether or not the sewage disposal systems could be relocated on the lots, and if not, perhaps there would be a net loss of a lot or two. Mr. Wynn noted that if a suitable on-site location cannot be found, treatment facilities for each individual lot could be installed, though it is a less desirable alternative. Discussion took place.

At the last meeting, Mr. Benner advised that there was a fair amount of confusion concerning a change in DEP's policy with respect to Planning Module approval, which became effective in June. Consistent with normal procedures, the applicant submitted and filed the Planning Modules with the Township prior to July 31, 2005. DEP has clarified that if the Planning Modules had been filed with the municipality before July 31, 2005, they would be processed through DEP based upon the regulations in effect as of the date of the change of policy. Mr. Benner emphasized that what has occurred is not a change in regulations, rather DEP's Regional Offices interpretation of those regulations have changed. The director of the planning section of the Southeast region of DEP clarified that this new policy would be applicable for those Planning Modules that were filed after the effective date of July 31, 2005. In this instance, Mr. Benner stated that the Planning Modules were filed before the policy change went into effect. The Modules themselves provide for on-site sewer for each of the lots, though exactly which lots are planned for drip systems or other forms of sanitary sewer, is yet to be determined. Mr. Beatrice noted that Mr. Guidos's letter to the Township dated August 29, 2005 indicates that the Planning Modules were submitted to the Township on July 28, 2005. Ms. Sundermeier advised that the Modules were hand-delivered to the Township office and stamped "RECEIVED" on July 28<sup>th</sup>. That being the case, Chairperson Rush asked why Mr. Wynn's September 12<sup>th</sup> review (Item #7, second paragraph) notes that "when sewage facilities Planning Module, executed by the responsible soil scientist and Township Sewage Enforcement Officer (Bucks County Department of Health), is received by the Township....." Mr. Wynn advised that the Modules have not yet been executed by the Township's Sewage Enforcement Officer, which in Hilltown's case is the Bucks County Health Department. Chairperson Rush clarified that when he made the following statement "knowingly deficient application" at a previous meeting, it was in reference to

Modules being submitted to DEP without the appropriate signatures. Ms. Sundermeier explained that DEP's change in policy was generated via email, and noted that the initial email of July 14<sup>th</sup> left some confusion by stating "Alternate systems can no longer be used as primary systems during the Planning Module process, however subdivisions already in the pipeline could still fall under previous interpretations of the regulations." Given the amount of confusion that the wording "already in the pipeline" caused, Mr. Cleaver of DEP's Southeastern Office issued another email on June 29, 2005 stating that the Health Departments may continue scheduling and evaluating testing for primary sewage disposal systems that are alternate systems through July 31, 2005, and that every Planning Module that was submitted to the municipality by July 31<sup>st</sup> was still considered under the previous interpretation of the regulations, which did allow for alternate systems to be used as a primary system in creating a lot through Sewage Facilities Planning Module. Mr. Wynn noted that the Township has not yet signed the Planning Modules, nor can the Township forward them to DEP until they have been executed by the Bucks County Health Department, which is not typically accomplished until the final plan approval process.

Mrs. Bush asked what roadway improvements have been proposed at the Fairhill Road/Diamond Street intersection. Mr. Guidos explained that on the applicant's corner of the intersection, full widening of the radius will be accomplished, and the roadway would then be extended to that width. On the opposite corner of the intersection, the applicant has proposed that the radius be increased and widened, both of which would be within the right-of-way that presently exists. Grading associated with the widening would stay within the right-of-way. Chairperson Rush was under the impression that the existing fence and forsythia shrubs on the adjacent property were to be removed or relocated. Mrs. Hermany purposely visited the site to experience the sight distance at the intersection. She noted that the sight distance was very limited by the existing fence and the forsythia, but was further complicated by the curve of the roadway. Mr. Guidos agreed, but believes there would be a different sight line if the fence and the forsythia shrubs were removed. He recalls that the adjacent property owner made it clear at the last meeting that he would not want the two trees removed, and would really not be in favor of removing the fence and the forsythia shrubs either, because they offer protection for his historical dwelling from noise, road debris, and weather. Mr. Beatrice asked if there has been an opinion from the Township Traffic Engineer concerning what could be accomplished on the adjacent intersection property. Mr. Wynn referred to correspondence from Mr. Heinrich dated February 24, 2005 and August 30, 2005. As previously discussed, the only way to improve the sight distance necessary under PennDot regulations would be to remove trees that are outside the right-of-way, which would require a condemnation of that adjacent property. Personally, Mr. Beatrice feels that it is a travesty that development impinges on the individual rights of current residents. It does not appear to Mrs. Bush that the Township received any new information pertaining to the Commission's suggestions at the last meeting, including

installation of intersection warning signs and extra large stop signs, or a 4-way stop sign, etc. Mrs. Hermany commented that the Supervisors were not in favor of installing warning signs due to possible liability issues. The applicant's traffic consultant, Dave Horner, had previously advised that the traffic volume at this intersection would not warrant a four-way stop sign or a traffic signal. If the Township succeeds in securing a permit for a four-way stop sign, despite this very negative prognosis, the applicant would have no objection. Mr. McIlhinney asked if the applicant would be willing to absorb the cost of a traffic signal if the Township were able to obtain an approval from PennDot. Mr. Benner replied that if such an application succeeds, the applicant would be willing to discuss the issue at that time.

Motion was made by Mr. McIlhinney to recommend that the Township apply to PennDot for the installation of a 4-way stop sign or a traffic control signal for the Diamond Street/Fairhill Road intersection for the Gitlin Tract Subdivision. There was no second to the motion. Motion failed.

Chairperson Rush asked Ms. Sundermeier to address the effect of the installation of drip irrigation systems on existing features. She replied that the only part of a drip irrigation system that would affect existing features is the supply and return line, which would be dug with a backhoe, and would consist of one trench along the side of the system. The sewage from the septic tank passes through the trench to the disposal fields, and the drip fields are then flushed via that line. Ms. Sundermeier explained that the tubing is installed 6" to 12" into the ground with a vibratory plow, which would not have any affect on major trees or anything with a caliper of more than a few inches. Chairperson Rush asked Ms. Sundermeier's firm previously supervised other installations of these types of systems through wooded areas. Ms. Sundermeier stated that Del Val Soils has supervised numerous installations in wooded areas, and noted that Delaware Valley College even has an experimental system program at the college. The Bucks County Health Department also witnesses installation to insure it is done according to plan. Mr. Wynn commented that there is still some confusion on the plan as to how the systems have been delineated and what is proposed to be disturbed and what is not. At the present time, Ms. Sundermeier explained that all lots are proposed to be served by drip irrigation systems, except for three lots to be serviced by A/B systems, and one lot to be serviced by a Spray Irrigation System.

The plan was tabled pending review of the additional waiver request by the Township Engineer.

D. PLANNING – None.

E. OLD BUSINESS –

1. Mr. Beatrice prepared and emailed a Parcel Analysis project to the Board of Supervisors, seeking authorization to make a public presentation at a future Supervisor's meeting. Mr. Bennington, Township Manager, responded that feedback and direction on the parcel analysis from the Planning Commission would be required prior to being granted space on the Supervisor's meeting agenda. Mr. Beatrice believes that there is great value in maintaining a parcel analysis database for use by all Township boards and commissions.

Mrs. Hermany believes the parcel analysis would be worthwhile presenting to the Board of Supervisors, but noted that it is only as good as the information that is entered. She commented that the database would have to be maintained on a regular basis so that the information is current to remain useful. Mr. Beatrice noted that Tim Koehler of the Bucks County Planning Commission has offered to update the maps showing highlighted parcels that have been submitted for or are already under development. Unless there is an absolute commitment from the Township to update and maintain the database, Chairperson Rush noted that the parcel analysis could be rendered less valuable very quickly, since the information would always be influx. Mr. Beatrice is hoping that the Supervisors would endorse and support an initiative to insure that the database would be maintained. Discussion took place.

It was the consensus of the Planning Commission to forward Mr. Beatrice's parcel analysis to the Board of Supervisors for review.

F. NEW BUSINESS – None.

G. PLANS TO ACCEPT FOR REVIEW ONLY:

1. Scott Lot Line Adjustment (Prel./Final)
2. Braccia Subdivision (Final)

H. PUBLIC COMMENT: None.

I. PLANNING COMMISSION COMMENTS:

1. Mrs. Bush complimented the Commission on the great job they did in the connectivity discussion in creating a network for transportation.

J. PRESS CONFERENCE: No members of the press were in attendance at this time.

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K. ADJOURNMENT: Upon motion by Mr. Beer, seconded by Mrs. Hermany, and carried unanimously, the September 19, 2005 Hilltown Township Planning Commission meeting was adjourned at 10:24PM.

Respectfully submitted,

Lynda Seimes  
Township Secretary