

**PALMER TOWNSHIP PLANNING COMMISSION**  
PUBLIC MEETING - TUESDAY, APRIL 12, 2022 - 7:00 PM  
PALMER TOWNSHIP MUNICIPAL MEETING ROOM, 3 WELLER PLACE (LOWER  
LEVEL), PALMER PA 18045

The April 2022 meeting of the Palmer Township Planning Commission was held on Tuesday, April 12, 2022 at 7:00 PM with the following in attendance: Chairman Robert Blanchfield, Vice-Chairman Chuck Diefenderfer, Jeff Kicska, Robert Walker, and Robin Aydelotte. Also in attendance were Solicitor Charles Bruno, Ron Gawlik of The Pidcock Company, Planning Director Cynthia Carman Kramer, and Supervisor Michael Brett.

1. Minutes of March 2022 Public Meetings

March 8 Regular Meeting

Motion: Approve, Moved by Chuck Diefenderfer, Seconded by Robert Walker. Passed. 4-0. Commission Members voting Ayes: Blanchfield, Diefenderfer, Kicska, Walker

Commission Members voting Abstain: Aydelotte Commission Members Absent: Lammi, Wilkins

March 15 Workshop Meeting

Motion: Approve, Moved by Robert Walker, Seconded by Jeff Kicska. Passed. 4-0. Commission Members voting Ayes: Blanchfield, Diefenderfer, Kicska, Walker

Commission Members voting Abstain: Aydelotte Commission Members Absent: Lammi, Wilkins

OLD BUSINESS

2. Stocker Mill Estates - Preliminary/Final Subdivision Plan

2030 Stocker Mill Road - K9-7-4

MDR District

Request by Oieni Construction Co. Inc.

DISCUSSION

Present for the applicant Oieni Construction were Michael Houston of Art Swallow & Associates and Attorney Steve Goudsouzian.

The plan proposes the subdivision of a 5.8 acre tract into a total of 4 lots - 3 new lots for single-family dwellings and one lot to maintain an existing single-family dwelling. The property is located between Stocker Mill Road and Lewis Circle. Public water and sanitary sewerage services are proposed for the new lots. The lots propose access from Lewis Circle, a private street within the Estates at Penns Grant subdivision.

The property is located within the Medium Density Residential (MDR) zoning district. The properties surrounding the subject site in all directions are zoned MDR and are improved with single-family dwellings. The Comprehensive Plan

designates this area for residential use. The plans are in conformance with the Comprehensive Plan.

Housten explained that the applicant would like to subdivide the land in half. One half would include the proposed dwellings on Lots 1, 2, and 3 and the other half, Lot 4 would contain the existing dwelling. Stormwater impact for lots 1, 2, and 3 would be lessened by means of stormwater infiltration, swales, etc. Existing utilities are available within Lewis Circle.

Blanchfield explained that the applicant is seeking to amend previous relief that was granted for the number of units served by a cul-de-sac street, Lewis Circle. The relief that was previously given, for the Estates at Penns Grant subdivision, was for 28 lots and the applicant is requesting relief for the additional 3 lots, bringing the total to 31. Bruno questioned the justification for this. Housten explained that Oieni has come to an agreement with the HOA to allow the additional 3 units. Bruno explained that this subdivision is dependent on a deficient road that is not up to Township standards. Bruno questioned if there is an arrangement between the developer and the HOA to do something about it. Housten explained that Oieni has had conversations with Omega Homes and discussion about completion. Housten didn't know the status of the street in regards to repairs or corrections. Bruno expressed the need for additional information about this already problematic situation. Bruno would recommend against the waiver at this point, until this is resolved. Housten stated the developer will have to question the third party.

Blanchfield explained that Lewis Circle is technically a very large cul-de-sac and that is why there is a limit on the number of houses on it. Housten explained that the frontage along Stocker Mill Road is somewhat rural and contains some very mature trees along the edge of the road. Oieni's intention was to keep those trees for tree screening along the road and avoid additional road widening as a traffic calming measure. There are no sidewalks along that portion of Lewis Circle and the developer would like to match what is existing with the sidewalk waiver. Oieni can meet the requirement to keep 8 existing trees along the frontage of Lewis Circle, as stated in the Township review letter so that waiver can be removed.

Gawlik explained that this development proposes lots 1, 2, and 3 to connect to a private roadway. Appropriate agreements, to allow proposed connections to a private street and any work outside of the property limits on private property, need to be provided to the Township for review. Goudsouzian stated there is a signed agreement between the HOA and the developer. Bruno questioned how an agreement can be made with the HOA, since the HOA hasn't accepted ownership of that road yet. The HOA wouldn't have the right to control road access. There can't be an agreement until the road is dedicated.

Blanchfield questioned if there is money secured to make improvements to the road. Kramer explained the Township is holding security for completion of the subdivision, including the road.

Blanchfield stated the owners of the new lots would be responsible for their own

stormwater management systems and the common discharge pipe, including the operation and maintenance. He questioned how owners will be made aware of their responsibilities and how issues with the common discharge pipe would be handled. Houston responded that Oieni would have agreements to make the homeowners aware of their individual lot responsibilities as well as a shared maintenance agreement between the three homeowners for the common discharge pipe responsibilities. Blanchfield stated the Township will need to know how that's being handled when it is decided.

Houston explained the intention is to clear 60% of the existing trees in lots 1, 2, and 3 and to put new tree screening between the lot lines. The Fire Commissioner had no additional comments. Houston stated that the Township's Geotechnical Engineer needs a carbonate study and additional infiltration testing, which they are working on. LVPC and Pidcock are in agreement on stormwater management.

Walker questioned why a title search was not furnished to the surveyor. Goudsouzian explained it is because it's a relatively small project. Gawlik stated it is not an ordinance requirement.

Bruno questioned if the developer had quantified the costs associated with the waiver requests if the work had to be completed for the waivers they're seeking. Bruno advised that the developer quantify the work that is asked to be waived and have it reviewed by the Township Engineer, before the Planning Commission makes a recommendation to the Board of Supervisors.

Blanchfield questioned the cesspool that exists for lot 4. Houston explained the cesspool will be removed and will be connected to the regular sewer system.

Seeing no further questions or comments, Blanchfield called for a motion.

The Commission voted to table this application pending receipt of further information.

Motion: Tabled, Moved by Robert Walker, Seconded by Robin Aydelotte. Passed. 5-0. Commission Members voting Ayes: Aydelotte, Blanchfield, Diefenderfer, Kicska, Walker  
Commission Members Absent: Lammi, Wilkins

3. Palmer Residences - Preliminary/Final Land Development Plan  
530 Milford Street - M8-8-1B-3  
HI District  
Request by Exchange 3, LLC

### DISCUSSION

Present on behalf of the applicant Exchange 3 LLC were attorney John VanLuvanee, Jason Buchta of Ott Consulting, Gene Berg, architect, and Lori Girvan of Barry Isett & Associates.

The plan proposes the construction of an 84-unit, 4-story midrise apartment building on a 2.9-acre lot. The property is located on the east side of Milford Street, within the Heavy Industrial/Mixed Use (HI) zoning district.

Blanchfield gave a background on the application. He noted that this plan has been before the Planning Commission and the concerns were not over the proposed development, but over soil contamination. The results of the Phase 2 environmental study detected arsenic in shallow soil samplings. The arsenic levels were acceptable if this was a commercial development, but exceeded the limits for residential development. Barry Isett, consultant for the applicant, had submitted a soil remediation plan. Blanchfield questioned if it has been submitted to DEP. The Planning Commission could consider approval for this project, if DEP has given acceptance of the remediation plan.

VanLuvanee commented on the requested waivers. Gawlik confirmed that Pidcock has no engineering objections to these requests. VanLuvanee explained the discrepancy in building height. Gawlik confirmed this explanation provides clarification that the height would not be greater than 60 feet. VanLuvanee explained the communication with Kramer to determine the traffic and recreation fee calculations, based on contributions that were previously made for the office building approval. Kramer will recommend the Township accept \$96,300 as the recreation contribution. Bruno stated the email exchange will suffice for the proposal in writing.

Kramer stated there were no additional comments from the Fire Commissioner. VanLuvanee was in agreement with the lighting comments from the Gilmore letter dated March 21, 2022. Blanchfield explained that Gilmore & Associates, Inc. is a new consultant who will be commenting on lighting and landscaping concerns for the Township. Regarding the landscape portion of the letter, VanLuvanee explained they would like to minimize the portion of the existing parking lot that needs to be dug up due to environmental concerns. Since the existing parking lot is a non-conforming condition, they would ask to waive the requirement for a minimum of 5% of total paved area to be landscaped within the paved area. They are only off by about 415 square feet. Gawlik explained this is really a zoning ordinance matter. Bruno agreed this is a zoning interpretation question that would need to be resolved. Blanchfield questioned if elevated planters would be an option. VanLuvanee explained this would result in a loss of parking. VanLuvanee commented on curbed island areas, agreed to provide a four foot high screening fence, and reviewed the remaining landscaping comments.

Girvan explained DEP has a voluntary Act 2 clean-up program. There are no requirements for submission. This is meant to provide property owners with a relief of liability on future DEP actions at the site. Blanchfield questioned if there is any other review that DEP offers besides Act 2. Girvan explained that arsenic is a naturally occurring element that is often found in soil when testing is done. Levels found in the soil were below the commercial standard. Since the site is a parking lot with an apartment building, no one will have contact with the soil. They are only going to excavate the sections of the parking lot that are necessary for construction of the building. The rest of the site won't be touched and will remain

capped. The pavement of the parking lot will be repaved and will not come in contact with the soil. The blacktop prevents people from coming in contact with the soil. The soil management capping plan would be the end result of going through the Act 2 process. Any soil that is excavated that can't be reused on site, either underneath the building or the paving, would be tested and taken off site for proper disposal. Once construction is complete, clean soil would be brought in to cap the professionally landscaped areas.

Bruno questioned if DEP will review that capping plan. Girvan stated since they are not going through the voluntary cleanup process, this would not go to DEP. Walker questioned if this capping procedure would be the end result of the voluntary cleanup program. Girvan confirmed. Blanchfield questioned if the new soil that would be brought in would be tested. Girvan confirmed it would be tested to make sure there were no contaminants. The parking lot would be milled and repaved, but this wouldn't affect the soils underneath. Girvan explained that the danger lies in ingesting arsenic. She gave an example of people gardening or doing yardwork and not washing their hands before they eat. Capping the site would prevent people ever coming into contact with the soil.

Girvan explained that DEP doesn't typically review documents that aren't a part of a program through the state. Just to ask DEP to review a document, you have to follow a lot of procedures. DEP will not simply give a formal opinion on it. Kicska questioned if it's beneficial to the property owner to have the Act 2 for anything that might turn up in the future. Girvan explained it's up to the property owner if they want the relief of liability through the DEP. Kicska questioned why the owner wouldn't go for Act 2 if he is already doing the remediation. VanLuvanee explained this is eliminating the exposure and is not a concern to the property owner from a liability standpoint. They are willing to make notes on the plan that will be on record indicating that arsenic samples were found on the property.

Kramer stated that the Township's Environmental Consultant indicated that Isett's plan was well developed and consistent with most Plans that they have prepared or reviewed. However, EARTHRES and Palmer Township do not have the regulatory authority to approve the use of proposed engineering controls to approve a plan with contamination. There are potential legal implications in approving such plans should DEP or other parties take issue with the approval. Bruno questioned if a disclosure would be put in leases and suggested some kind of indemnification between the developer and the Township should be considered to address this concern.

Walker questioned if work on underground utilities might disturb the cap. Kicska questioned if there would be a basement. Berg indicated there would be a partial basement. Girvan stated it wouldn't be an issue for workers to be on the site. Gawlik indicated there are utilities and grading that will be on the site. Diefenderfer expressed his concern that only ten spots were tested and there is a chance that excavation could be done in an area that has a higher arsenic content. Aydelotte questioned the possibility of contamination by breathing in dust during excavation. Girvan explained there is a paragraph on dust control in the soil management plan.

Kicska questioned if the basin area would be fenced off. Buchta confirmed that location will have a fence. Gawlik indicated the basin is not within the land disturbance area.

Bruno stated that EARTHRES suggests the developer contact DEP to review the project and to discuss the options available to them. VanLuvanee indicated the developer doesn't have a liability concern and will not be participating in Act 2. Bruno explained the Township can only rely on its consultant for issues like this.

Shirley Maiorca, 13 Kent Lane, questioned what the affect of arsenic is on a person if ingested. Girvan explained that if a large quantity of arsenic is ingested it would result in neurological disorders.

Diefenderfer questioned the level of capping material. Girvan stated the capping would be paving of typically 8 inches and clean topsoil would be 1 to 2 feet, if grading allows.

Harry Graack, Jr., 1380 Van Buren Road, questioned wells and below ground contamination. Girvan explained the samples collected were all below DEP's soil-to-groundwater number for arsenic, which is 29. The highest on this site was 25. Capping also helps to limit infiltration into water.

Charles Young, 33 Glasgow Way, questioned if the soil samples were looked at individually or averaged. Girvan explained it ranged from 7.4 to 24.7. There would be no concerns for using this site for a commercial basis because the arsenic number for that would be 61.

Seeing no further questions or comments, Blanchfield called for a motion.

The Planning Commission recommended approval of the plan by the Board of Supervisors, subject to the following conditions:

1. Comments of the Township Engineer's letter dated April 6, 2022 are satisfactorily addressed.
2. Township departmental comments dated April 7, 2022 are satisfactorily addressed.
3. Comments of the Township Geotechnical Consultant's letter dated February 7, 2022 are satisfactorily addressed.
4. Comments of the Township Environmental Consultant dated April 12, 2022 are satisfactorily addressed. Soil contamination issues need to be resolved to the satisfaction of the Environmental Consultant after further review and discussion with representatives of the Township, including provisions for notification to residents and indemnification for the Township.
5. Comments of the Township's Landscape & Lighting Consultant dated March 21, 2022 are satisfactorily addressed.
6. Comments of the Lehigh Valley Planning Commission letter dated April 5, 2022 are satisfactorily addressed.
7. Requested waivers are approved.

8. All terms and conditions of the Stipulation and Settlement Agreement among the applicant, the Zoning Hearing Board and the Township, as approved by Order of Northampton County Court of Common Pleas dated February 1, 2022, are incorporated by reference.
9. The applicant agrees to payment of \$96,300 in recreation fees, above the \$113,700 paid under the previous approval for this property for traffic and recreation.

Motion: Approve w/ Conditions, Moved by Robert Walker, Seconded by Robin Aydelotte. Passed. 5-0. Commission Members voting Ayes: Aydelotte, Blanchfield, Diefenderfer, Kicska, Walker  
Commission Members Absent: Lammi, Wilkins

## NEW BUSINESS

4. FR Newlins Logistics - Discussion of Corriere Road Improvements  
Newlins Mill Road & Tatamy Road - K8-12-4, K8-12-5 & K8-12-10A  
PO/IP District  
Request by FR Newlins Logistics Park, LLC

## DISCUSSION

Present on behalf of the developer FR Newlins Logistics were Shaun Haas and AnnMarie Vigilante of Langan Engineering, and attorney Greg Davis.

The subject plan proposes the construction of 4 limited distribution buildings ranging from 151,200 to 210,600 square feet on a 66.4-acre tract of land. The property is located west of Tatamy Road between Newlins Mill Road and Corriere Road.

Per §165-59.M(3) of the SALDO, the applicant is required to complete improvements to Corriere Road, which would require relocation of an existing Met-Ed transmission tower which is within the Township right-of-way.

The applicant has submitted a concept plan for modified improvements to Corriere Road that would not require the tower to be relocated. The Township Engineer has provided comments not recommending the proposed concept. The applicant would like to get the Planning Commission's feedback on the concept plan, before deciding how to proceed with the project. Kramer noted that the plan being presented that night was not the same plan referenced in Pidcock's comments. The engineer had just provided this version of the plan that day.

Vigilante explained that they are required to make improvements on Corriere Road. They show a conceptual layout that shifts Corriere Road ten feet south with the proper lane shift tapers and cross sections without impacting the existing Met-Ed tower. The sidewalk placement would swing north behind the tower.

Blanchfield questioned the length of the area affected. Vigilante stated it is

approximately 350 feet. This would provide more clearance in front of the tower. Currently there is only about 3 feet from the edge of the roadway to the tower. The new alignment would provide approximately 11 feet from the travel lane to the tower. Blanchfield questioned if the tower still remains in the right of way. Vigilante confirmed. Aydelotte questioned if parking would be taken away from the strip mall. Haas explained the largest impact would be to the American Legion property. Vigilante explained they would be improving that section of Corriere Road with curb, shoulder, and sidewalk.

Gawlik asked for clarification on the right of way because the plan shows a need for some additional right of way to be acquired. Vigilante confirmed a small strip of right of way, a temporary easement, and relocation of sidewalk would be required for the American Legion property. Haas stated it doesn't impact their parking lot.

Gawlik stated the tower still remains in the right of way, creating a cross section that is not consistent with the Township standard. Vigilante stated the only thing not adhering to the Township standard is the location of the sidewalk. Blanchfield questioned if the taper is acceptable. Gawlik stated that the taper meets the standard for roadway tapers. Blanchfield questioned liability if the tower remains in the right of way. Davis stated the developer would be improving the current situation. Bruno explained that the developer's position is that the situation is being improved, although it is not being solved, but it is the Township Engineer's position that the problem should be solved. Bruno questioned why the developer would not solve the problem the way the Township Engineer would like to have it done. Davis commented on the uncertainty of the timeframe with Met-Ed. Haas explained that they started this process with Met-Ed about a year ago with very little progress made. Davis explained this property has no driveway access onto Corriere Road and would be directing their traffic away from Corriere Road.

Kicska questioned the comments from the Township's Director of Public Works. Kramer stated he would want full width reconstruction of the road. Gawlik explained this is commenting on the road materials, not the alignment. Gawlik feels the alternative of moving the tower and maintaining a straight road would be the better option, instead of having motorists make unnecessary movement. Kicska expressed concern for the businesses there being affected. Vigilante explained this meets all proper roadway standards and might be a traffic calming measure. Aydelotte commented on the amount of foot traffic. Vigilante explained the layout of the area with improvements in regards to the lanes, shoulder, and sidewalk. Aydelotte questioned if the home on the corner of Howard Lane and Corriere Road would be affected. Haas explained there would be some roadway improvements in the right of way in front of the home, but it wouldn't affect their property.

Walker questioned what progress has been made with Met-Ed. Haas explained they don't have answers on finalized review timeframes or estimated costs on construction, design or engineering. They need to determine what is happening with the tower before anything with the project can move forward. Blanchfield questioned if more than one tower would be affected. Haas explained it could potentially affect three towers. That still needs to be determined as part of the



design and engineering.

Kramer questioned if there have been any discussions yet with property owners in regards to required right of way. Haas stated they have not reached out. Kicska questioned if there is a 350 foot taper on both the left and right. Vigilante confirmed. Kicska stated he would prefer the tower to be moved, if possible.

Bruno asked about deadlines and the status of the plan. Kramer stated they had given an extension until May 31. The plan itself was not under consideration right now, they just wanted feedback on the road layout before moving forward with the plan. Davis stated he would like to present this one particular issue to the Board of Supervisors. Bruno stated that would be highly irregular for the developer to appear before the Board for one issue without the whole plan.

Gawlik restated his position that the proposal meets the Township standard for roadway tapers but does not meet the Township standard for the cross-section because the tower is still in the right-of-way where the sidewalk should be, which causes an unnecessary shift in the traffic lanes. Given the alternative where we have a straight roadway, the straight roadway would be preferred and he does not recommend the current proposal.

Diefenderder questioned if the development was still proposed to be phased. Haas confirmed. Gawlik stated these road improvements could be deferred until the time the tower would be moved. Bruno added they would need still need approval of their plan with this issue being addressed. Walker acknowledged that the process to move the tower would take a long time and he understands that the developer wants to know what they are in for before moving forward.

Seeing no other questions or comments, Blanchfield called for a motion.

The Planning Commission voted to deny the proposed Corriere Road improvements plan, based on the opinion of the Township Engineer.

Motion: Deny, Moved by Jeff Kicska, Seconded by Robin Aydelotte. Passed. 5-0. Commission Members voting Ayes: Aydelotte, Blanchfield, Diefenderfer, Kicska, Walker  
Commission Members Absent: Lammi, Wilkins

5. St. Janes Church Facilities Building - Minor Land Development Plan  
4049 Hartley Avenue - L8-25-1  
MDR District  
Request by Roman Catholic Diocese of Allentown

### DISCUSSION

Present on behalf of the applicant, the Roman Catholic Diocese of Allentown, were Kevin Horvath of Keystone Consulting Engineers and attorney Joe Piperato.

Blanchfield gave background on the project. The plan proposes the construction

of a 17,100 square foot athletic and gathering facility building on the 27-acre site of the existing St. Jane's Roman Catholic Church and Rectory. The lot is located on the northeast corner of Hartley Avenue and South Nulton Avenue within the Medium Density Residential (MDR) zoning district.

At their April 5, 2022 meeting, the applicant was granted a variance by the Zoning Hearing Board from the following section of the Zoning Ordinance: §190-42.H - maximum height in the MDR district: 35 feet permitted, 47 feet proposed

Piperato explained this is somewhat of a revision of a plan that was approved in 1999. Horvath explained the original Phase 2 would have included a gymnasium and a community facility that would have connected to the south end of the existing church. The current plan proposes a single building containing these two facilities on the east side of the site. Piperato explained they received a height variance from Zoning.

Gawlik provided clarification on the road widening requirement on Hartley Avenue of a 32 foot wide cartway, consistent with what the Palmer Point apartments just installed. Piperato explained that the church doesn't ever utilize either road for parking, as there is adequate parking on the facility property. Gawlik stated a waiver or deferral of that widening would be deemed appropriate. Walker suggested the use of No Parking signs. Blanchfield summarized they will leave this as a waiver for the road widening requirement and request that No Parking signs are installed.

Piperato discussed the waiver request for sidewalk along Nulton Avenue. Kicska questioned if there would be sidewalk along Hartley Avenue. Piperato confirmed. Diefenderfer would like to see sidewalk around the corner from the intersection of Hartley and Nulton to the first parking lot entrance so that people walking would have access to the sidewalk without crossing the road.

Piperato explained they are trying to address the sidewalk separately to eliminate the need for an NPDES permit. If the sidewalk is shown on this plan, it would require the permit. Gawlik stated there can be conversations with the Conservation District as it relates to staging of the work. Blanchfield clarified they are talking about putting the sidewalk in after the building has been built. Piperato suggested it could be an improvement agreement item and construct the sidewalk at a different time, so it doesn't hold up the project.

Piperato stated the church is looking for a waiver on the recreation fees due to the extensive recreation area that already exists on the property. Kramer determined this is a non-issue since they are in agreement on installing the widened sidewalk.

Piperato discussed a waiver for the fencing around the existing detention basin. Diefenderfer and Walker both indicated they are not comfortable waiving or deferring the fencing.

Piperato discussed a waiver for the requirement to construct a fire apparatus

access road within 150 feet of all portions of the proposed building and commented on exceptions to the Code. Horvath explained they would be requesting 200 feet, instead of 150 feet. Kramer explained that the Fire Commissioner is not comfortable with this due to the nature of the building as a Place of Assembly and indicated that the Planning Commission does not have the authority to waive this. A waiver on this would have to be requested from the Building Code of Appeals. Blanchfield stated the Fire Commissioner would prefer a paved road, but would accept a sub-stone base road. Kramer explained he would have to review it to ensure that it would be capable of the weight.

Piperato stated the church is prepared to install the 8-foot wide sidewalk along Hartley Avenue and the section of sidewalk that the Planning Commission mentioned around the corner, but would request it be kept off of this plan, by the extension of the previous deferral. There would be an agreement that they are prepared to do any improvements that the Planning Commission and Township would require. Gawlik suggested a conversation with the Conservation District and a stipulation in the improvements agreement.

Gawlik questioned the number of parking spaces depicted on the site. Horvath indicated they are compliant based on new calculations and the table will be updated on the plan. Blanchfield commented there is no change to the stormwater system, but the Geotechnical comments stated that it should be examined for sinkhole possibilities and any other erosion. Horvath indicated the church is responsible to maintain that basin regardless. An engineer will review and any corrective measures that are necessary will be taken.

Seeing no further questions or comment, Blanchfield called for a motion.

The Planning Commission recommended approval of the plan by the Board of Supervisors, subject to the following conditions:

1. Comments of the Township Engineer's letter dated April 6, 2022 are satisfactorily addressed.
2. Township departmental comments dated April 12, 2022 are satisfactorily addressed.
3. Comments of the Township Geotechnical Consultant dated April 10, 2022 are satisfactorily addressed.
4. Any comments of the Lehigh Valley Planning Commission are satisfactorily addressed.
5. All conditions of the April 5, 2022 Zoning Hearing Board decision letter are incorporated by reference.
6. Requested waivers and deferrals are addressed, as follows:
  - §165-59.C(2) - requirement for additional right-of-way and roadway widening along Hartley Avenue and Nulton Avenue is deferred provided that No Parking signs are installed.
  - §165-69 - installation of concrete sidewalk along Nulton Avenue north of southern driveway is deferred; installation of 8 foot concrete sidewalk on Hartley Avenue and 4 foot concrete sidewalk on remainder of Nulton Avenue are deferred, pending further discussion with the Conservation District.
  - §165-63.K(7) - installation of fencing around the detention basin is denied.

Motion: Approve w/ Conditions, Moved by Robin Aydelotte, Seconded by Jeff Kicska. Passed. 5-0. Commission Members voting Ayes: Aydelotte, Blanchfield, Diefenderfer, Kicska, Walker  
Commission Members Absent: Lammi, Wilkins

6. Exchange 12 - Conditional Use Application - Distribution Buildings in PI/C District

1492 Van Buren Road - K8-10A1  
PI/C District  
Request by Exchange 12 LLC

DISCUSSION

Present on behalf of the applicant Exchange 12 LLC were attorney John VanLuvanee, George Hartman of Bohler Engineering, and Rick Roseberry of Colliers Engineering.

Blanchfield gave background on the application. The applicant, Exchange 12 LLC, is requesting conditional use approval for construction of two distribution buildings, one at 128,876 square feet and one at 138,743 square feet on a 36.63 acre lot. The property is located on the west side of Van Buren Road, south and east of Route 33, within the Planned Industrial/Commercial (PI/C) zoning district.

The applicant is seeking conditional use approval under the following provisions of the Zoning Ordinance: §190-125.G - Distribution center in the PI/C district; meeting the conditions of §190-210.B(23) as it refers to §190-210.B(33) - Additional requirements for a trucking company terminal

The requested use requires conditional use approval in the Planned Industrial/Commercial (PIC) zoning district, subject to the performance criteria listed in the zoning ordinance. This request is identical to the application submitted by a previous applicant, FGC Van Buren, which was ultimately withdrawn.

By decision letter dated January 25, 2018, the previous applicant was granted special exception approval from the Palmer Township Zoning Hearing Board pursuant to Section 190-154.K of the Zoning Ordinance, to allow for construction of a driveway within the 100 year floodplain (Schoeneck Creek). As part of the Special Exception approval, the applicant is required to have all local, state, and federal governmental agencies having jurisdiction review and approve project impacts on the adjacent floodplain. The Zoning Hearing Board at their meeting of April 5, 2022 confirmed that the previous approval was still valid.

Bruno explained there would be a public hearing before the Board of Supervisors for this matter and that the Planning Commission is aware that this will be a contested matter. There will be an opportunity for a full hearing on April 26, 2022. Bruno commented on the recent Zoning Hearing Board decision.

VanLuvanee explained that Exchange 12 is now the owner of the property. Hartman explained that the numbers on this application and plan are accurate in regards to parking stalls, loading dock spaces, and building areas. VanLuvanee stated no variances are being requested. The special exception was the only Zoning relief required. VanLuvanee and Bruno discussed the Zoning Hearing Board decision and previous denials based on a withdrawn application and the developer not providing the requested outside agency approvals.

VanLuvanee explained there was a traffic study and pavement analysis done. Kramer stated the pavement analysis was not submitted as part of this application. Gawlik requested they resubmit the prior pavement analysis. VanLuvanee said they were asked to look at the intersection of Prologis Parkway and 248, but the calculated number of vehicle trips that would impact that intersection was deemed insignificant and no improvements would be necessitated from the results of the traffic study. Roseberry confirmed the calculation determined 15 peak hour trips. VanLuvanee commented they have no objection to requiring any potential tenants to submit an additional conditional use application to be reviewed by the Zoning Officer, Planning Director, and Fire Commissioner. They were in agreement with the comments from Fire, Public Works, and Recreation as listed in the April 8, 2022 Township letter.

Bruno questioned how the applicant will handle the requirement to have all local, state and federal governmental agencies having jurisdiction review and approve project impacts on the adjacent floodplain before any final development approval is considered by the Township. VanLuvanee stated that this has no relevance on the conditional use approval. VanLuvanee believes a municipality cannot condition a preliminary land development plan approval on outside agency approvals. The applicant would have to have all of those approvals in place prior to final land development plan approval. Bruno stated the Zoning Hearing Board was being asked to review a special exception which takes into account the concerns of the public's health, safety, and welfare and would have the right to impose conditions. VanLuvanee doesn't believe that the Zoning Hearing Board has the power to expand the authority of the Township.

Harry Graack, Jr., 1380 Van Buren Road, read a statement from Bill Harkin, 1375 Van Buren Road, requesting the Planning Commission to reject this application for development in the floodplain because of the harm done to the surrounding community with stormwater runoff and flooding. Graack is the property owner south of this project and expressed his concerns for soil conservation, Schoeneck Creek flooding, and the Van Buren Road bridge project.

Tim Fisher, 68 Moor Drive, questioned if Atiyeh has withdrawn the plan for development of 496 apartments on this property. Bruno stated that this application is what is being considered. Fisher questioned which proposed projects and former traffic studies were taken into account in the Colliers traffic study. Roseberry listed everything that was included in the traffic study. Fisher asked if the public would be provided with a copy. Kramer confirmed it can be requested from her.

Dorothy Wilson, 172 Glenmoor Circle, expressed her concern for traffic and the pollutants and chemicals that are affecting our health.

Seeing no further questions or comments, Blanchfield called for a motion.

Consistent with their previous recommendation for the same application, the Planning Commission recommended denial of the conditional use application by the Board of Supervisors.

Motion: Deny, Moved by Robert Walker, Seconded by Jeff Kicska. Passed. 5-0. Commission Members voting Ayes: Aydelotte, Blanchfield, Diefenderfer, Kicska, Walker  
Commission Members Absent: Lammi, Wilkins

#### PLANNING DIRECTOR COMMENTS

Kramer reminded the Commission of the Workshop Meeting on Tuesday, April 19 at 7 PM.

#### PUBLIC COMMENT

None.

#### ADJOURNMENT

Aydelotte stated that documentation needs to be submitted by the deadline dates so that the Planning Commission members have the necessary time to review the materials and prepare themselves for these meetings.

The meeting was adjourned at 10:34 PM.

Motion: Adjourn, Moved by Chuck Diefenderfer, Seconded by Jeff Kicska. Passed. 5-0. Commission Members voting Ayes: Aydelotte, Blanchfield, Diefenderfer, Kicska, Walker  
Commission Members Absent: Lammi, Wilkins