

EAST BRANDYWINE TOWNSHIP PLANNING COMMISSION
REGULAR SESSION
Wednesday, February 3, 2016 - 7:30 PM

Those in Attendance:

Mr. Ronald Fanelli, Vice-Chairman
Mrs. Nancy Frame, Member
Mr. Charles Giordano, Member
Mr. Michael Wagoner, Member
Mr. James Buczala, Member
Mr. Jonathan Wright, Associate Member
Mr. Scott T. Piersol, Township Manager
Mr. Bob Smiley, Inland Design Engineer
Mrs. Mary Beth Smedley, Secretary/Treasurer
Mr. Tom Oeste, Planning Commission Solicitor

Absent:

Mr. Bruce Rawlings, Chairman
Mr. Michael Corbin, Member

Opening of Meeting

Mr. Fanelli opened the meeting at 7:40 P.M. with a Salute to the Flag

Mr. Fanelli thanked the Township for their hard work and efforts during the recent snowstorm.

Planning Commission Minutes – January 6, 2016

Mr. Fanelli asked if there were additions or corrections to the minutes. Mr. Wagoner made a motion to approve the January 6, 2016, minutes, as presented. Mr. Buczala seconded the motion, with all voting Aye.

East Brandywine Center

Carlino East Brandywine L.P. is proposing a commercial development named East Brandywine Center, containing a supermarket (Giant) and retail building and a separate bank building in East Brandywine Township. The project is located to the west of the existing Brandywine Village Shopping Center and is zoned Mixed Use Commercial.

East Brandywine Township has condemned certain property to construct a connector road and the Rt. 322 right-of-way. Carlino will design, permit and build the connector road.

Marc Kaplin, Esq., and Chirag Thakkar, engineer for the applicant attended the meeting to discuss the plan and the January 27, 2016 Inland Design review letter.

Mr. Kaplin said that a preliminary/final plan dated December 17, 2015 was submitted to the Township on December 18, 2015. This is a resubmission of a plan dated October 16, 2015. This is the third submission for Carlino East Brandywine, L.P. After the first plan was approved,

Brandywine Village appealed the decision asserting there were several defects to the plan. According to Mr. Kaplin, Judge Nagle ultimately issued an opinion where he dismissed all of the issues except that the connector road shown on the plan was on property that was not owned by either the Township or by Carlino. In 2014, a second plan was submitted after the land in question was obtained through condemnation. Brandywine Village filed another appeal, which was sent back to the East Brandywine Township Board of Supervisors who held three days of hearings on the alleged defects. After hearing testimony from both Carlino and Brandywine Village Associates the Board denied the plan on what Mr. Kaplin describe as 9 or 10 minor items. Carlino appealed the Board's decision, but decided to submit a new land development plan. Inland Design issued a review letter in November 2015. From that letter, the applicant made corrections. Inland Design issued a January 27, 2016 review letter, which will be discussed this evening.

Mr. Paul Prince, attorney for the Brandywine Village Shopping Center said that this land development plan, in some form, has been under review by the Township for about six years. According to Mr. Prince, Judge Nagle rejected the 2011 plan and the Board of Supervisors denied the 2014 plan. There are still several lawsuits pending. Mr. Prince described this plan as a revision of the December 14, 2014 plan. Mr. Oeste objected to that characterization. He said this is a new land development plan and what happened with previous plans is not relevant to this discussion. Mr. Prince said the plan should be denied because it has the same defects as previous plans and does not address objections raised by Brandywine Village's consultant, Norm Ulrich from LTL Consultants, LTD. Mr. Prince provided copies of LTL's July 27, 2015 review and Carulo Associates, Inc. September 14, 2015 traffic review to the Planning Commission. Mr. Oeste noted that these reviews were completed before the most recent plan was filed. Mr. Prince asserted that all of the deficiencies in Mr. Ulrich's July 2015 review still exist on the plan. Mr. Fanelli acknowledged receipt of the information Mr. Prince provided. He noted that Planning Commission members would not have an opportunity to review this information prior to the meeting, did not recall previously seeing the two documents. Mr. Oeste said that the Planning Commission is not set up to resolve disputes between Carlino and Brandywine Village. Mr. Oeste also suggested that reviews provided by Brandywine Village should be dated after the plan was received, as the reviews he provided might not be up-to-date. Furthermore, if there is a recommendation for preliminary plan approval Mr. Prince will have the opportunity to present information to the Board of Supervisors.

The Planning Commission reviewed the January 27, 2016 Inland Design review letter submitted by Charles Dobson, P.E.

Chapter 399 – Zoning – Article IX: Mixed Use-Commercial District

1. §399-46F – Area and bulk regulations. Maximum impervious surface. Not more than 64% of the net area of any tract may be covered by impervious surfaces.

The proposed impervious surface of 59.5% (266,111 sf) and vegetative cover of 31.4% (139,405 sf) total 91.35% (405,516 sf). There is 8.65% not accounted for within the Zoning Table. The missing area appears to be the proposed porous pavement within the

parking area, which should be confirmed and noted either in the Zoning Table or somewhere on Sheet. 3 – Mr. Dobson indicated that this item was addressed by the December 17, 2015 submission. **RESOLVED.**

2. §399-G – Minimum vegetative cover. Not less than 30% of the gross tract area shall be planted and maintained with existing and/or installed vegetative materials.

See comments from #1 above. This item was addressed by the December 17, 2015 submission. **RESOLVED.**

3. §399-47L – Traffic Impacts. The Board may require that a traffic study be prepared and submitted as part of any application within the MU District.

The Traffic Impact Study was submitted as required. Sheet 3 indicates the issuance of the HOP Condition Statement date of August 29, 2012. If or when the HOP is issued, the permit number should be added to Sheet 3 and the Township should verify that the permit has been extended and current.

The Planning Commission asked that the Township's Traffic Consultant review the information from the previous submission and either re-issue a letter stating approval of the information as submitted or have the opportunity to provide additional comments or request updated information, if warranted.

4. §399-47M – Design compatibility. Compatibility of the proposed development with its physical surroundings shall be demonstrated, particularly with respect to architectural design and building materials. The means of screening solid waste facilities, air-conditioning equipment, and similar mechanical equipment shall be demonstrated. The township may, as it deems appropriate, request a signage plan showing proposed location, construction, and message of each intended sign.

Note #24 on Sheet 3 indicates the size and design of the sign will be provided at building permit. The applicant agreed that either the size and design of the sign will meet the Township Ordinance requirements or they will seek a variance. **RESOLVED.**

Article XIII: General Regulations

5. §399-79B.(2) – Buffering and screening of visual impacts.

Mr. Kummer has reviewed the most recent plan. In an email dated November 30, 2015 the Township's Landscape Architect said that there appear to be no changes from the original landscape plans that he reviewed and he is satisfied with the final landscape design.

In his review letter, Mr. Dobson indicated that it is his understanding that the applicant demonstrated to the satisfaction of the Township's Landscape consultant that the

proposed design measures achieve comparable results to the required number of plants. Mr. Smiley said that the Board had previously approved a modification of the plan. There is a reduction in the number of trees, but there are more plantings. It is his opinion that what is shown on the plan is sufficient. The applicant is seeking affirmation of the sufficiency of the Landscaping Plan. Mr. Fanelli noted that this request is also mentioned in the October 16, 2015 Arna Engineering memo asking for waiver requests and will be discussed in more detail later in these minutes.

6. §399-79C.(3) – Landscape design lines. The locations, dimensions, and spacing of required plantings should be adequate for their proper growth and maintenance, taking into account the sizes of such plantings at maturity and their present and future environmental requirements, such as moisture and sunlight.

Locust trees are located in 16 sf planting areas that are protected by a 6” curb. Mr. Dobson suggested that Mr. Kummer verify that this configuration is acceptable. Mr. Wagoner said that both he and Mr. Rawlings believe that these plantings will not survive under these circumstances. Mr. Kaplin said that Mr. Kummer previously reviewed this plan and found it to be acceptable. Nevertheless, the Planning Commission asked that Mr. Kummer revisit this issue and offer an alternative acceptable to the Township. Mr. Kaplin said that he is agreeable to considering a change as long as it does not interfere with the parking plan. **This issue will require further discussion.**

7. §399-79D.(2) – Delineation of views of the applicant’s property as it would be developed, as seen from adjoining properties used or zoned for residential or institutional purpose, and from existing adjoining public roads. Such views shall be classified according to whether views of the applicant’s proposed improvements would be hidden, filtered, or obstructed. With respect to adjoining roads, such views shall be based upon the viewer’s location at the far edge of the road cartway, the opposite edge of which yard distances as required by existing zoning for those properties.

An elevation view from Horseshoe Pike was provided. Mr. Dobson indicated that this elevation, along with the landscaping plans, were previously presented and discussed with the Township. Mr. Kummer should verify that this information is acceptable. Mr. Buczala said that it would be beneficial to have elevation drawings from the perspective of the Watters farmhouse to confirm that the landscaping will adequately buffer the historic resource from the Giant Development. Mr. Kaplin said that previously the Township accepted the elevation from Horseshoe Pike and did not require further elevations. He also said that a lot of time has been spent to create a buffer from the historic resource on the Watters property and the Historical Commission has approved the plans. Mr. Buczala clarified that the Historical Commission never received a copy of the landscaping plans and relied on Mr. Kaplin's verbal report to them that the landscaping plan provided sufficient buffering to mitigate the impact of the development. On this basis, and given the stage of the project, the Historical Commission had agreed to a modification of the Historic Resource Impact Study to

remove further consideration of mitigation requirements beyond landscape buffering relative to the Watters farmhouse. As elevation drawings from various perspectives are required in the Ordinance and that they would help to provide an understanding of the sufficiency of the current landscaping plan towards mitigation of the impact that the development will have on the Watters farmhouse, Mr. Buczala believes that they should be done. In the Historical Commission's letter regarding satisfaction of the HRIS requirements, it was stated that "As long as the landscaping plan does, in fact, provide sufficient buffering between the historic resource and the Giant Development, this should close the issue" [of the HRIS requirements]. Although it is Mr. Kaplin's opinion that this issue is satisfied, he agreed to revisit it between approval of the preliminary plan and before final plan approval, if the Board of Supervisors requests him to do so.

8. §399-79D.(3) – A delineation of views of the applicant's property as they would be seen at the time the applicant's mitigation improvements are in place.

As discussed in #7, this should be verified by Mr. Kummer.

9. §399-79D.(4) – Documentation showing the extent to which the landscape plantings and design measures conform to the guidelines in Table 1.

As previously discussed, the Planning Commission recommended that Mr. Kummer provide a final, formal review of the landscape plan.

10. §399-79E.(2) – The applicant shall make arrangements acceptable to the Township that all landscape improvements installed in accordance with this chapter shall be maintained in a healthy and/or sound condition, or otherwise be replaced by equivalent improvements for a period of at least 18 months following their installation.

The applicant agreed to comply with this section of the Ordinance and it will be memorialized in the developer's agreement. **RESOLVED.**

11. §399-80D. – Storage. Any organic refuse and garbage shall be stored in tight, vermin-proof containers and storage containers shall be enclosed on three sides by an architectural screen. **RESOLVED.**

Article IX: Off-Street Parking and Loading

12. §399-105C – Small car spaces. The Board of Supervisors may authorize the provision of up to 30% of the required parking spaces to be designed and designated for small cars for those uses of a site or lot which have little turnover and are typically occupied all day or overnight primarily by the same employees or residents, such as for non-medical offices or multi-family dwellings. Such small car spaces may be 8' in width if in perpendicular rows or 7' if on an angle and 10' in width if perpendicular or proportionately shorter if on an angle. Approved small car spaces shall be grouped and clearly marked for small car use, rather than being scattered simply to solve layout difficulties.

Mr. Dobson indicated that the Board of Supervisors, as part of a previous application, granted reduction of parking space size for 22 spaces of the 359 overall spaces labeled for employees. In an email dated January 11, 2016 Mr. Piersol expressed concern that the spaces near the seven Locust trees would be difficult to enforce. The Planning Commission asked that the Township's Traffic Consultant, Andy Heinrich, provide an updated letter on this issue, and that he review the plan in its entirety to ensure that all parking and traffic concerns are addressed to the satisfaction of the Township.

13. §399-110 – Parking reserve area. The number of parking spaces to be constructed may be less than the number required when certain conditions are met to the satisfaction of the Township.

Mr. Dobson indicated that, as part of a previous application, the Board determined that a reserve parking area was not required. The Planning Commission requested that as part of Mr. Heinrich's review, he confirm that parking is adequate and a reserve area is not needed.

Chapter 350 Subdivision and Land Development

Article V: Plan Content Requirements

1. §350-24B.(1) – This waiver request will be discussed later in these minutes.
2. §350-24B.(2) – This waiver request will be discussed later in these minutes.
3. §350-24B.(2)(a) – This waiver request will be discussed later in these minutes.
4. §350-24B.(3)(k) – This waiver request will be discussed later in these minutes.
5. §350-24B.(3)(K) – Note #25 on Sheet 3 indicates a Class I historic resource within 100' of the property. Although the Watters Farmhouse and Watters Barn have been identified on Sheet 3 the type of resource or contributing resource should be identified.
6. §350-24B.(3)(k)[1] – An historic resource impact study shall be prepared and submitted by the applicant. The applicant did submit this study and in a letter dated January 20, 2016, the Historical Commission approved it with the understanding that the landscaping provided a sufficient buffer to mitigate the impact of the development on the historic resource. **RESOLVED.**
7. §350-B.(3)(o) – This waiver request will be discussed later in these minutes.
8. §350-25B.(9) – Mr. Dobson requested that the applicant provide updated approval dates, as applicable for permits such as the NPDES, Chester County Conservation District, Act 537 and the PENNDOT HOP. This information will be provided prior the final plan being released for recording.

9. §350-25C.(5) – Scott T. Piersol, the East Brandywine Township Fire Marshall indicated that this item is resolved. Originally, he was concerned about the location of the fire hydrants. However, he did locate a second fire hydrant on the applicant's plan. The determination for adequate fire supply cannot be provided until the building permits are submitted to the Township for review. The buildings will have installed sprinklers as required by Ordinance.
10. §350-30M – Streets shall be designed for the safe passage of all emergency vehicles in East Brandywine Township and adjacent municipalities and shall be approved by the Board of Supervisors after considering the recommendation of the Fire Marshall.

Mr. Piersol stated that he has reviewed the information and this item is satisfied. The applicant used the template for a HP95 truck, which is larger than any of the vehicles currently owned by the East Brandywine Fire Company. The Planning Commission asked that Mr. Heinrich provide comments on this as part of next final review.

11. §350-34E – This waiver request will be discussed later in these minutes.
12. §350-40N.(2) – This waiver request will be discussed later in these minutes.
13. §350.41B – The Township Fire Marshall issued a review letter dated January 7, 2016 regarding emergency access routes. The applicant's engineer shall address the comments provided in that letter. The signature block for the Fire Company must be signed prior to the plans being recorded.
14. §350-47B.(2) – Public Sewer System. This waiver request will be discussed later in these minutes.
15. §350-48D-E – Water Supply. Aqua Pennsylvania has provided documentation (a flow test report) that there is adequate water supply for this land development plan and proposed buildings.
16. §350-50B.(1-3) – Recreation land and facilities. Mr. Kaplin stated that the applicant agreed to install a sidewalk adjacent to the proposed connector road, from Rt. 322 to North Guthriesville Road, as requested by the Board of Supervisors. He said that the fee-in-lieu calculation was approximately \$60,000. The sidewalk construction will actually cost approximately \$122,000.
17. §350-51A-C. – Easements – When water and/or sewer facilities are intended for dedication, the requirements for easements shall be determined by the Board. Easements shall be similarly established as necessary for other utilities. Storm drainage easements shall be provided as required by the Township. The applicant will comply and an Operation and Maintenance Agreement will be executed prior to recording the final plan.

18. §350-52F. (2) – This waiver request will be discussed later in these minutes.
19. §350-53E.(4)(b)[3] – This waiver request will be discussed later in these minutes.
20. §350-54B. – This waiver request will be discussed later in these minutes.

General Comments

1. Sheet 3 of the plan set shows duplicate building setback lines. For the sake of clarity, the redundant labels should be removed. **RESOLVED.**
2. Easement line types should be consistent throughout the plan set and references in the legend. **RESOLVED.**
3. The Landscaping Parking Border inset noted in the landscaping plan on Sheet 8 does not appear to correlate to the landscaping design shown on the same sheet. The purpose of this inset should be clarified and be consistent with the location of the proposed plantings. **RESOLVED.**
4. Erosion & Sedimentation details on Sheets 18-19 are outdated and should be replaced with those of the 2012 PADEP Manual or latest version thereof. **RESOLVED.**
5. The applicant's engineer shall ensure that all plan notes are consistent throughout the plan set. **RESOLVED.**
6. Pursuant to comments of the Planning Commission as identified in the January 11, 2016 email from Scott Piersol, Sheet 3 appears to show a sidewalk proposed along Rt. 322 from the entrance driveway to the western property line. This sidewalk should be labeled and the applicant shall address how this sidewalk will be constructed to avoid conflicts with the proposed riprap channels shown on Sheet 5 of 32. All proposed sidewalks should be clearly labeled.

Mr. Kaplin said that the Supervisors asked for an easement so that a sidewalk could be installed. However, the applicant never agreed to install the sidewalk. Mr. Buczala said that it is a very tight area for a sidewalk and thought a better location would be on the south side of Rt. 322. Mr. Kaplin pointed out that his client did not own that property. There has been some discussion about a crosswalk near the Rt. 322/Bollinger Road intersection but that improvement is not part of this plan.

7. Pursuant to the comments of the Planning Commission, the applicant should consider a blanket easement to allow for the connection of any sidewalk to the Watters property to the west. As discussed in item, #6 above, the applicant has agreed to the easement, but will not install the sidewalk.

Chapter 345 Stormwater Management

Article III: Chapter 301 – General Requirements

1. §345-301C.(2) – The applicant has received a letter of adequacy for the erosion and sediment control plan from the Chester County Conservation District and the plans have been revised to be consistent with the latest requirements. **RESOLVED.**
2. §345-301J – The erosion control details have been updated to be consistent with the latest requirements. **RESOLVED.**

Chapter 302 – Permit Requirements by other government entities

3. §345-302A – The erosion control details have been updated to be consistent with PADEP requirements. **RESOLVED.**

Chapter 306 – Infiltration Requirements

4. §345-306R.(5) – This item was addressed in the December 17, 2015 submission. **RESOLVED.**

Chapter 311 – Other conveyance and system design standards

5. §345-311A.(3) – This waiver request will be discussed later in these minutes.
6. §345-311B.(2) – The applicant would like to use HDPE pipe for storm sewers. The Township does not object as long as it is installed to the manufacturer's recommendations.
7. §345-211B.(7) – This waiver request will be discussed later in these minutes.
8. §345-311B.(9) – The provided detail on Sheet 8 should differentiate between upright curb and the depressed curb within the planting islands. Additionally, any requirements of minimum slope or grade changes within the islands required to facilitate drainage into the inlets should be provided. Lastly, the applicant shall verify that any storm sewer that runs below these islands is sufficiently deep to allow shrubs proposed above these pipes to thrive. Mr. Kaplin stated that his client would comply with these requirements.
9. §345-311B.(10) – This waiver request will be discussed later in these minutes.
10. §345-311B.(12) – This waiver request will be discussed later in these minutes.
11. §345-311B.(15) – Modified inlet boxes shall be used when required in accordance with the PENNDOT RC standards. This item was addressed in the December 17, 2015 submission. **RESOLVED.**

12. §345-31D.(12) – This waiver request will be discussed later in these minutes.

Chapter 402 – Other conveyance and system design standards.

13. §345-402A.(2)(c) – The PENNDOT HOP will be forwarded to the Township once it is received.
14. §345-402A.(3) – The applicant has provided a statement on the plan acknowledging that any revision to the approved stormwater management site plan shall be submitted to and approved by the Township and that a revised erosion and sediment control plan shall be submitted to, and approved by, the Chester County Conservation District or Township, as applicable, for a determination of adequacy prior to construction of the revised features. This must be signed and dated prior to the submission of the plans for Township signatures.
15. §345-402A.(4) – A signature block that will be signed and sealed prior to recording the plan should acknowledge that the stormwater management facilities meet design standards and criteria in East Brandywine Township Ordinance 02 of 2013.
16. §345-402B.(11)(e) – Percent of the site covered by impervious surface for both the existing and proposed post construction conditions have been provided on the plan.
RESOLVED.
17. §345-402B.(18)(c)[7] – As requested in an earlier submission the applicant has agreed to provide a blanket easement for the proposed stormwater management facilities.
18. §345-402F – The applicant has agreed to submit an Operations and Maintenance plan and an agreement for inspection, operation and maintenances of all stormwater facilities and BMP's.

Article V: Performance and Inspection of Regulated Activities; Final As-Built Plans

19. §345-501 – The Township reserves the right to inspection the installation of the proposed SWM facilities. **RESOLVED.**

Article VII: Operations and Maintenance O & M Responsibilities and Easements

Chapter 703 – Operations and Maintenance Agreements

20. §345-703 – An Operations and Maintenance Agreement will be required for this project.

Chapter 704 – Easement and Deed Restrictions

21. §345-704A.(2) – Mr. Dobson recommended that a blanket easement be provided to allow for access and inspection of all stormwater elements. The applicant has agreed to provide this prior to recording of the final plan.

General Comment

1. The plan has been revised to ensure that the notations and references to the Infiltration Basin and Bioretention Basin are consistent in the plans and calculations.

Waiver Requests

The applicant has submitted a letter requesting certain waivers.

1. §350-24B(2) – The applicant is requesting a waiver from the requirement to complete the Four-Step Design Process. The Planning Commission and Mr. Dobson have no objection to this waiver request.
2. §350-24B.(3)(i) – The applicant is requesting a waiver from the requirement to show all features within 300 feet of the property. The Planning Commission and Mr. Dobson had no objection to the request as the plan complies in all areas but opposite sides of Horseshoe Pike and Guthriesville Road.
3. §350-24B.(3)(o) – The applicant is requesting a waiver from the requirement to provide a shadow analysis. This is typically required when the shadow of one building will envelope another and it is more for an urban environment. The Planning Commission and Mr. Dobson had no objection to this waiver request.
4. §350-34E – The applicant is requesting a waiver requiring streets to have a leveling area not to exceed 4% at the approach of any intersection. It is Mr. Dobson’s opinion that this waiver is not required, as the referenced “right-out-only” driveway should not be considered a street. Mr. Wagoner asked what the actual percent is Mr. Thakkar said it is between 7.4% and 9.3%. The Planning Commission did not object to this waiver.
5. §350-40C – The applicant is requesting a waiver from the requirement of a maximum grade of 5% within the legal right-of-way or within 14’ from the edge of the shoulder at the approach of any intersection. The Planning Commission and Mr. Dobson do not have an objection to granting this waiver as long as the driveway is approved and permitted by PennDOT.
6. §350-40N.(2) – The applicant is requesting a waiver from the requirement to provide a 30’ radius for all non-residential driveways. The Planning Commission and Mr. Dobson have no objection to granting this waiver.

7. §350-47B.(2) – The applicant is requesting a waiver from the requirement that all subdivision and land development be self-sustaining relative to the storage and disposal of treated effluent. Mr. Dobson stated that PADEP has approved the Planning Module and he has no objection to this waiver request

Mr. Kaplin explained that there is not sufficient area on this 10-acre property for a disposal area and the connector road. However, there is sufficient disposal area on the Applecross property where the effluent is proposed to be disposed.

Mr. Prince stated that this Section of the Ordinance is not the problem. The issue is Section 399-47K of the Zoning Ordinance, which states:

Sewage facility and water supply. The applicant's proposals for sewage facilities for water supply in relation to the proposed use shall be in compliance with the requirements of §350-47 and 350-48 respectively of Chapter 350, Subdivision and Land Development. Any approval of an application for development within the MU District shall be contingent upon the requisite approvals and certifications from the Chester County Health Department and/or the Pennsylvania Department of Environmental Protection.

It is Mr. Prince's opinion that since the SALDO requirements are linked to this Section of the Zoning Ordinance it is not waivable and will require a variance. He also said that the East Brandywine Township Municipal Authority has an almost identical requirement.

Mr. Oeste suggested that this issue would need further investigation. The Planning Commission took no position on this waiver request.

It was noted that Mr. Prince's client has been ordered by the Chester County Court to connect to the public sewer system.

8. §350-52F.(2) – The applicant is requesting a waiver from the requirement to use reinforced concrete pipe or corrugated metal pipe for the stormwater sewer conveyance system. HDPE pipe is proposed. The Planning Commission and Mr. Dobson have no objection to this waiver request.
9. §350-53E.(4)(b)[3] – The applicant is requesting a waiver from the requirement to minimize topsoil removal and earthwork between the dates of November 15th and April 1st. The earthmoving that will take place is covered by the NPDES permit. Mr. Kaplin stated that his client would ensure that topsoil and vegetation is adequately covered. The Planning Commission and Mr. Dobson have no objection to this waiver request as long as all appropriate erosion controls are installed and maintained in accordance with the requirements of the Chester County Conservation District and PADEP.
10. §345-311A.(3) – The applicant is requesting a waiver from the requirement to provide all open channel side slopes with slopes no steeper than 1 vertical for every 4 horizontal. Mr. Thakkar was asked about the slope and how many areas were affected. He said he

could not give a number on the areas but some of the slopes were 2 to 1. Mr. Dobson had no objection to this request as long as all appropriate erosion controls are installed and maintained in accordance with the requirements of the Chester County Conservation District and PADEP.

11. §345-311B.(7) – The applicant is requesting a waiver from the requirement to allow no more than 4 feet of encroachment for runoff into the travel lane of access driveways and roadways. Mr. Dobson has no objection as long as all encroachment into the travel lanes of access driveways and roadways is within PennDOT Standards. Typically, PennDOT allows encroachment of up to ½ width of the travel lane. As long as the applicant complies with PennDOT Standards, the Planning Commission has no objection to granting this waiver request.
12. §345-311B.(10) – The applicant is requesting a waiver from the requirement to maintain a minimum velocity in stormwater sewer pipes to be of at least 3.0 feet per second. Mr. Dobson has no objection to this as long as the appropriate O & M Agreement is in place. Mr. Wagoner asked if there is positive flow through the pipes. Mr. Kaplin said there was a positive flow. The Planning Commission has no objection to this waiver request.
13. §345-311B.(12) – The applicant is requesting a waiver from the requirement to maintain a minimum of 1 foot of cover from the subgrade to the crown of a storm sewer pipe. Mr. Thakkar said there is one instance where the pipe does not sit in the body of the black top. Mr. Prince questioned the type of pipe that is to be used. He said it was not Class 5 specified, which it should be. Mr. Thakkar will look into this. With the condition that the Township approves the type of pipe to be used, the Planning Commission had no objection to this waiver request.
14. §345-311D.(12) – The applicant is requesting a waiver from the requirement to have a stormwater basin with a drainage area of 4 to 10 acres be no closer than 75 feet to a property line. The basin located behind the proposed Giant will be 0 to 12 feet from the property line. It spills out towards the connector road and will be built to withstand a 100-year storm. Mr. Thakkar said that if it overflows it would not affect the Brandywine Village Shopping Center. Mr. Prince said that it will spill in an easterly direction and may affect other houses if it overflows. Mr. Thakkar said there would only be a remote chance of it affecting any of those properties. Furthermore, basins are typically constructed to handle the 100-year storm, not 500-year or 1,000-year storms. The Planning Commission had no objection to this waiver request.
15. §350-54B – The applicant is requesting a waiver from the requirement that street trees shall be planted by the subdivider outside the street right-of-way, but as close to the street line as is practical to avoid conflicts with the right-of-way functions and with sight distance, while still permitting clear orientation of the trees to the street. Such trees shall be spaced 40' to 60' apart, staggered along both sides of all but commercial streets. Any tree to be installed shall be a minimum of 2" DBH and a minimum of 6' in height. This waiver is requested due to the limited right-of-way provided for the connector road. It is

Mr. Dobson's opinion that while the total number of street trees has been provided, the locations have been adjusted due to the limited amount of right-of-way on the western side of the connector road and the preset of stormwater conveyance facilities within the right-of-way. The Planning Commission had no objection to this waiver request.

Other Comments

Mr. Wagoner asked Mr. Kaplin if his client was asking for any variances. Mr. Kaplin replied no.

Mr. Fanelli said that there is a January 19, 2016 letter from Joseph Boldaz the Municipal Authority Engineer. Mr. Kaplin said the issues in that letter have been addressed.

Mr. Kaplin stated that he filed a Preliminary/Final plan. Mr. Wagoner reminded him that the Township does not grant Preliminary and Final Plan approval at the same time. Nevertheless, Mr. Kaplin stated that it his intention to attend the February 17, 2016 Board of Supervisor's meeting and request a Preliminary/Final Plan approval.

The Planning Commission will request that Mr. Heinrich conduct a final review of the Traffic Study.

Mr. Kaplin was asked about traffic impact fees. These fees will go toward construction of the connector road and other improvements previously discussed such as changes to the Rt. 322/North Guthriesville Road intersection.

Mr. Wagoner clarified that the applicant will install a sidewalk along the new connector road from Rt. 322 to North Guthriesville Road but will only provide an easement along Rt. 322 for a possible, future sidewalk. Mr. Kaplin said that was correct.

A trail connection between the East Brandywine Center and the development on the rest of the Watters' tract will be discussed once that development moves forward.

The applicant has agreed to provide a small macadam area between the connector road and the Brandywine Village Shopping Center so they can connect to the new road. A construction sequence for the connector road and Brandywine Village Shopping Center and a detour plan will be submitted and must be approved by PennDOT. Although some delays may be expected, there are two other entrances into the shopping center so patrons should be able to have access.

Although not present at this meeting, Mr. Rawlings asked (via a previously submitted email) that a maintenance agreement be submitted for the porous paving. Mr. Kaplin said he would be glad to include a protocol with the Operations and Maintenance agreement if someone could provide him language to insert.

Mr. Wagoner asked if there were different layouts for future expansion. Mr. Kaplin said there is only one layout. They are going to build a Giant grocery store, some of the retail in the front and there is possible future expansion in the back.

Mr. Rawlings, in that same email, wanted to know how many employees will be working in the shopping center. Mr. Kaplin said that it is a guess but the assumption is about 100 people. Mr. Kaplin also said that the fee-in-lieu of open space improvements (sidewalk along the connector road) would exceed the amount that would be calculated by using 100 employees. Mr. Kaplin said that the Board of Supervisors previously agreed to this.

Mr. Rawlings also expressed his concern that some of the homes in the Quail Hill development will be subjected to glare from vehicular headlights exiting the new connector road on to North Guthriesville Road. He wondered if the applicant would consider adding some screening for the Quail Hill Development. Mr. Kaplin said that he client would not enter anyone else's property to do this.

Signage will be located at the front of the East Brandywine Center property. The applicant will apply for sign permits that must be reviewed and approved by the Township.

Mr. Prince said that he assumed the Planning Commission would defer a recommendation until he can see updated reports. Mr. Oeste reminded Mr. Prince that he knew there was a submission and could have received any documents he wished to review before this meeting. Mr. Prince said that he received the plan but no supporting documents. In addition to his opinion that the plan does not comply with §399-47K of the Ordinance Mr. Prince also said that the proposed bank building does not comply because it does not meet the Township's setback requirements. This relates to whether the bank building is on a street or driveway. Mr. Prince said it is on a street. Mr. Smiley said that this driveway is similar to ones in the Brandywine Village Shopping Center. Mr. Buczala wondered if this issue was a problem whether the bank pad could be moved or relocated to comply with setbacks for a street.

Mr. Kaplin has granted the Township an extension to review this plan until February 29, 2016. Mr. Oeste asked if Mr. Kaplin would be willing to grant an additional extension. Mr. Kaplin said he would not grant another extension and said that no matter when his client receives approval Mr. Prince will appeal the decision as he had done in the past. Furthermore, Mr. Kaplin said that these plans are very similar to the plans previously filed except that he had corrected the deficiencies enumerated by the Board of Supervisors when they denied the last plan. Mr. Oeste said that if Mr. Kaplin is not willing to grant an extension, then the Planning Commission should make a recommendation to either approve the plan or deny it.

Mr. Wagoner asked Mr. Smiley's opinion. Mr. Smiley said based on the plans he has seen and conditioned on addressing those items he is not recommending changes based on Mr. Prince's information. Mr. Smiley also indicated that it is his opinion that the driveway located near the proposed bank is no different from the driveways on the Brandywine Village Shopping Center. Inland Design has now completed three engineering reviews of the plan.

Mr. Wagoner said that he is inclined to give a recommendation for preliminary plan approval with conditions. That way, some of the issues raised this evening can be discussed and resolved prior to Final Plan approval.

Mr. Oeste asked Mr. Ulrich if he wished to provide any comments. Mr. Ulrich is an engineer with LTL Consultants who primarily works for municipalities, not developers. He said that he had major concerns with some of the issues. Mr. Ulrich had not had the opportunity to look at the revisions in depth but it appears that some of the previous comments he raised in the July 2015 review have been resolved while other comments remain outstanding. He mentioned that one of the deal breakers is the bank setback issues and the fact that the applicant refers to it as a private drive. He disagrees with this. He said that if it were a private drive the ordinance would require a cul-de-sac.

After this above discussion, Mr. Fanelli made a motion to recommend the Board of Supervisors grant only Preliminary Plan approval subject to the following conditions (these conditions reference items in the Inland Design letter dated January 27, 2016:

1. Heinrich and Klein review the traffic impact study and require the applicant to comply with any recommendations they suggest.
2. The applicant complies with Item #3 on the January 27, 2016 Inland Design letter under Zoning.
3. The applicant complies with Item #6 in the January 27, 2016 Inland Design letter under Article XIII General Regulations and that the information is reviewed by Township Landscape Consultant Thomas Kummer and confirm that the applicant complies with §399-71C.(3), verify that the proposed Locust trees will survive in the proposed 16 square foot planting islands, and consider reducing the size of parking spaces to accommodate larger inlands.
4. The applicant complies with Items #7, 8, and 9 under Article XIII General Regulations and have Mr. Kummer verify that the elevation view, the mitigation plan and the landscaping plan is sufficient. The applicant shall comply with any recommendations of Mr. Kummer.
5. Comply with Items # 12, 13 and 14 under Article XV: Off-Street Parking and Loading. Heinrich and Klein shall review the adequacy of the parking space sizes, number and configuration, and the proposal for parking reserve. The applicant shall comply with any recommendations of Heinrich and Klein.
6. Comply with Item #5 under Chapter 350 Subdivision and Land Development – Article V: Plan Content and Requirements by labeling the Class I and II contributing historic resources on the plan.
7. Comply with Item #8 under Article V: Plan Content Requirements.
8. Comply with Item #10 under Article VI Design Standards regarding turning templates to make sure they comply with any Heinrich and Klein recommendations.

9. Comply with Item # 13 under Article VI Design Standards.
10. Comply with Item #15 under Article VI Design Standards that Aqua Pennsylvania approves the water service plans.
11. Comply with Item #16 under Article VI Design Standards that the applicant provides a fee-in-lieu of recreation lands and facilities or other improvements as determined by the Board of Supervisors.
12. Comply with Item #17 under Article VI Design Standards and provide utility easements for the basins, BMP's and a blanket easement as necessary; comply with executing an Operations and Maintenance agreement satisfactory to the Township.
13. Comply with Item #6 under General Comments and provide an easement for a sidewalk from the entrance drive along Rt. 322 to the western property line with the understanding that the applicant will not build this portion of the sidewalk.
14. Comply with Item #8 under General Comments regarding stormwater management.
15. Comply with Items #13, 14 and 15 under Chapter 402
16. Comply with Item #17 under Chapter 402 and provide an easement satisfactory to the Township.
17. Comply with Item #18 under Chapter 402.
18. Comply with Item #20 under Chapter 703 to the satisfaction of the Township Solicitor.
19. Comply with Item #21 under Chapter 704 to the satisfaction of the Township Solicitor.
20. The applicant must submit a detour plan satisfactory to the Township and PennDOT to minimize disruption to the existing Brandywine Village Shopping Center during construction
21. Comply with Hydraterra Professionals letter of January 19, 2016.
22. Submit a porous paving maintenance plan for Township review and approval.
23. The Planning Commission has no objection to granting the waivers outlined in the Inland Design January 27, 2016 review letter subject to the qualifications noted by Mr. Dobson, with the exception of Waiver request #7 on which the Planning Commission took no position.

Mr. Wagoner seconded the motion, with all voting Aye.

Animal Resorts

The applicant is granting an extension to review this land development application until May 14, 2016. Mr. Wagoner made a motion to recommend the Board of Supervisors accept the extension. Mr. Fanelli seconded the motion, with all voting Aye.

Ordinance Task Force

1. Mr. Wagoner made a motion to recommend the Board of Supervisors advertise the Zoning amendment for Riparian Buffer standards for March 3, 2016. Mr. Fanelli seconded the motion, with all voting Aye.
2. Mr. Wagoner made a motion to recommend the Board of Supervisors submit revisions to Changeable (LED and electronic) signs amendment to the Chester County Planning Commission for their second Act 247 review. Mr. Buczala seconded the motion, with all voting Aye.
3. Mr. Wagoner made a motion to recommend the Board of Supervisors submit the revisions to the revised Definitions Chapter to the Chester County Planning Commission for their second Act 247 review. Mr. Buczala seconded the motion, with all voting Aye.
4. Mr. Buczala made a recommendation to recommend the Board of Supervisors submit an amendment to Article XII – Historic Resource Protection to the Chester County Planning Commission for their Act 247 review. Mr. Wagoner seconded the motion, with all voting Aye.
5. Mr. Wagoner made a motion to recommend the Board of Supervisors submit proposed As-Built Plan amendment to the Chester County Planning Commission for their initial Act 247 review. Mr. Fanelli seconded the motion, with all voting Aye.

Old/New Business

Mr. Fanelli asked if there was any old or new business to discuss. There were no items brought forth for discussion.

Comments from the Audience

Mr. Fanelli asked if there were any public comments. There was none.

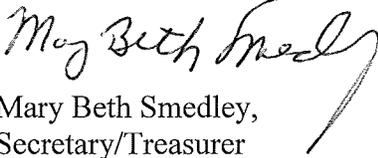
Next Meeting

The next Planning Commission meeting will be held Wednesday, March 2, 2016, at 7:30 PM.

Adjournment

There being no further business, Mr. Wagoner moved to adjourn the meeting at 10:55 PM. Mr. Buczala seconded the motion, with all voting Aye.

Respectfully submitted,


Mary Beth Smedley,
Secretary/Treasurer