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FRANKLIN TOWNSHIP PLANNING COMMISSION MEETING MINUTES October 6, 2016

Call to Order: Planning Commission (PC) Chairman Dave Hoffman called the meeting to order at 7:08 p.m. Present were Planning Commission members Chuck Phillips, John Gontarz, Brent Van Lith and Mark Harris. Planning Commission Alternates in attendance were Penny Schenk and Zach Elwyn. Also present were Township Mgr. Joan McVaugh, Township Secretary Sharon Norris, Township Engineer Pete Eisenbrown and Township Solicitor Max O'Keefe. There were 16 members of the public in attendance including 3 representatives from Gourmet's Delight Mushrooms, Ron Ragan, Gabe Valentino and Joe Ripper and four members of the Board of Supervisors.

Public Comment: No Public Comment.

Approval of Minutes:

- a. September 1, 2016: Mr. Gontarz moved, seconded by Dr. Harris, that the minutes of the September 1, 2016 PC meeting be approved as submitted. Motion passed 5-0.

Planning & Zoning:

- a. Gourmet's Delight Preliminary Plan: This is a continuation of the review of the applicant's preliminary plan which began at the September 1st PC meeting. At that meeting, Mr. Talwin requested that the PC answer several previously submitted questions on behalf of himself and several concerned residents. Dr. Hoffman requested that he resubmit the questions in advance of the October meeting so that it could be determined if the subject issues are within the purview of the PC to discuss. The resident's questions were discussed as follows:

1. **Water Consumption:** This question was regarding Gourmet's water consumption and the possibility that they will need to drill additional wells and if so, how that will affect the aquifer. Solicitor O'Keefe noted that since no new wells are shown on the plan, this is not under the Township's purview. The Township does not have authority to withhold approval of a plan due to what might happen sometime in the future. If Gourmet's wants to dig new wells, the Chester County Health Department would have jurisdiction, not the Township. Mr. Overton asked if Gourmet's might consider tapping into London Grove Township's public water system. Mr. Ragan acknowledged that Gourmet's is currently connected for drinking and flushing and there is an option to purchase more water, however it is not being considered at this time. Mr. Overton asked if there is a limit to the amount of water Gourmet's could pump out of a well. Mr. O'Keefe explained that everyone has an equal right to water. If a property owner deliberately deprives adjacent landowners of water, it could result in a lawsuit between the affected landowners and the applicant. It would not be regulated by local government. Mr. Overton asked if they are considering using gray water and Mr. Ragan said they are producing an edible product and are very hesitant to use gray water as part of the process.
2. **Traffic Impact Study:** This discussion dealt with the impact of additional traffic on Auburn Rd., specifically heavy truck traffic, and also the safety issues related to the "S" curve on Auburn Rd. Dr. Hoffman noted that the "S" curve isn't under the Township's jurisdiction and secondly, the Township can only apply ordinances that have been enacted. Solicitor O'Keefe added that

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legally, this plan doesn't extend to implications that it may have on alternate roadways. The MPC contemplates the idea that new development can increase traffic and therefore townships can have developers do certain things, but a municipality can't make a developer improve off-site areas. Mr. Talwin pressed the Commission to consider this important safety issue before a serious accident takes place and asked that the PC recommend to the BOS that they collaborate with London Grove Township to find a solution to the safety issues on Auburn Rd. Dr. Hoffman remembered this issue was contemplated several years ago but due to the complexity of such an undertaking, nothing was done. Dr. Hoffman conferred with the PC members and agreed that they recommend that the BOS consider the possibility of collaborating with London Grove to improve Auburn Rd. Mrs. Suzie Konopka also participated in this discussion.

3. **Conformance with the Subdivision and Land Development Ordinance (SALDO):** This discussion was regarding conformance with SALDO and Mr. Eisenbrown's first SALDO review letter. Mr. Tony Lauria asked if London Grove was legally obligated to let Franklin Township know what Gourmet's is doing in London Grove. Solicitor O'Keefe stated that the Township cannot regulate what London Grove requires. Any changes to the MFEMP plan fall within the state's jurisdiction. Only the state would need to be apprised of any changes to the operation of the applicant's facility.
4. **Stormwater Management:** Because of the ACRE ruling, Mr. O'Keefe stated that Gourmet's plan is in compliance with Franklin's Stormwater Ordinance and is currently awaiting approval from the PA DEP through the NPDES permit. If the Stormwater Ordinance is satisfied, the Township has no further authority to take action concerning drainage or groundwater. It was noted that the Stormwater Ordinance does not contain buffering and screening requirements.

Mr. Talwin asked about the stormwater narrative and Mr. Ragan said the NPDES permit is under technical review and Gourmet's is complying with the ordinance. Mr. Ragan said that due to the discussion at the September 1st meeting, Gourmet's has now included hay storage at 75% impervious in the narrative. He feels they have bent over backwards to accommodate the Township's requests and had there not been so much public comment, they would have asked for stormwater waivers because following the ordinance is to our detriment.

5. **Zoning:** Mr. Paul Overton asked whether mushroom growing and composting operations are agriculture. Mr. Konopka asked about transferring substrate out of state and Mr. Lauria asked about moving substrate from one township to another and expressed concern regarding a 45 ft. structure. Mr. O'Keefe stated that mushroom operations are agriculture. If composting materials are grown and used on site it is agriculture. Mr. Lauria expressed concern that Gourmet's is making substrate and compost in Franklin and growing mushrooms in London Grove. Mr. O'Keefe noted that although the facility straddles a township boundary, it is the same facility.

Mr. Talwin inquired about the status of reviews by the PA Department of Conservation and the US Fish and Wildlife Service. Solicitor O'Keefe explained that those reviews are part of the NPDES Permit requirement which has been delayed due to the technical reviewer being on maternity leave. It is expected to be completed soon and certainly prior to recording the plan. Dr. Hoffman clarified that those reviews do not come back to the Planning Commission, they go

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to the applicant, and plan approval is often conditioned upon receipt of those reviews from the applicant.

Mr. Talwin asked if the applicant's plan meets the state regulations regarding steep slopes. Mr. Eisenbrown explained that the fact that the comment regarding steep slopes in Ms. Royer's first review did not appear in the second review, is confirmation that the issue was successfully addressed prior to the 2nd review.

Mr. Talwin had questions about the MFEMP Plan. Dr. Hoffman said that although the Township has access to the MFEMP plan, they do not have purview over it. Mr. Talwin says that water is not mentioned in the section on how compost is made – is that an oversight? In prior plans they have identified water usage but in this plan they don't. There was discussion regarding the abbreviation MC = mushroom crop or mushroom compost under "Operation Statistics" on pg. 5 of the MFEMP plan. Mr. Ragan said the MFEMP plan was prepared by a consultant but he believes MC stands for mushroom crop. Mr. Talwin requests clarification.

6. **CCPC's Letter of 6/1/16:** Mr. Talwin referenced several open items under "Primary Issues" in CCPC's 6/1/16 review letter as follows:

- Regarding discharge into the White Clay Creek, the determination is made under the NPDES permit.
- Regarding the Fire Marshall's approval, see West Grove Fire Co.'s letter of 9.29.16 – "The plans look acceptable to us pertaining to fire company needs." Mr. Overton spoke to the Fire Chief regarding storage of hay bales. The Fire Chief was told bale storage was small and he can't regulate it because the Township doesn't have regulations for bale storage. About 20 years ago, the surrounding townships drafted an ordinance that says that bales cannot be more than 20' high, 30' wide, 150' long. Rows must be 50' apart. The Fire Chief suggested that Franklin follow that same guideline. Mr. Overton asked if the ordinance regulates the distance that the bale storage should be from resident's properties. The old ordinance doesn't address it because 20 years ago there were no surrounding houses, but he would suggest approximately 200 ft.
- Mr. Talwin read a statement from the CCPC's letter recommending the use of public water. Mr. Ragan again said that to the extent possible, they plan to meet the infiltration and release requirements by retention and reuse. There is a wharf surrounded by curbing that sends the water to a holding tank for reuse – there is no longer a spray irrigation system.

7. **National Pollution Discharge Elimination System (NPDES) Report and Recommendations:**

Mr. Talwin noted that there is an opportunity for the Township to submit comments to DEP. The Township's policy has been not to participate in this review process.

8. **Administration:** Mr. Eisenbrown's review letters of 5.26.16 and 8.25.16 state that the application cover letter, and Note 1 on Sheet 1, indicate that this submission is a separate submission from the 2014 Land Development Plan and that this aspect should be discussed with the Solicitor. What is the Solicitor's response and current status – it seems odd to have two plans before the PC. Solicitor O'Keefe said it is not unusual, particularly where the first one has related litigation or dispute. Regarding the first application, while there could be a hearing on

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various aspects, there was a general agreement worked out between the Township and the Attorney General's office. In light of that, there was a second land development plan submitted. At the risk of speaking on behalf of the applicant, the first application ultimately would be withdrawn if and when the second application progresses to the point where it receives approval subject to conditions recommended by the Planning Commission and ultimately adopted by the Board.

9. **Other Concerns:** Gourmet's has implied an extended period of time for build-out and achievement of full capacity – 1) what is the expected production phasing for the major components in this proposed land development plan and what is the expected completion date? 2) what are the stormwater management provisions during the regrading and construction phases? Chairman Hoffman indicated that the PC cannot answer those questions. The applicant's attorney, Joe Riper, said there is no specific time table or phasing plan at this time. Mr. Pia doesn't know how long it will take. The financing has to be in place. Their goal is to get through the approval process first. Mr. Phillips feels that's fair – no one has a crystal ball.

Mr. Talwin revisited the issue of fire safety and asked if this issue of the residents' safety should be raised with the BOS. Dr. Hoffman said that this is not under the Township's purview and is not related to the approval of this plan. Mr. O'Keefe said the fire department is not an agency of the Township. There is a general agreement that they will service the Township's needs but questions regarding the day-to-day aspects of fire management are better asked of the Fire Department. Dr. Hoffman referenced the letter from the Fire Chief saying that the plan is acceptable. Mr. Overton referencing the MPC, said that responsibility for the safety and welfare of the residents cannot be passed on. He said that the Fire Marshall was under the impression that the wet pond would always be full of water and available to put out fires if necessary. Dr. Hoffman said he has noted the residents' concerns around this issue.

Ragan Engineering Response Letter of September 30, 2016: Chairman Hoffman noted that this is the applicant's response to the Township Engineer's third review of this plan.

I. Conformance With The Subdivision And Land Development Ordinance (SALDO)

Chapter 22:

1. §22-410 Refer to the specific section in this review for comments related to stormwater management. *Comment noted.*
2. §22.722 Sewage. See separate review from the Township's sewage consultant. *Comment noted.*

II. Traffic, Site Access and Internal Circulation Review Chapters 22 and 25:

1. Prior comments have been addressed. *Comment noted.*

III. Stormwater Management Review – Chapter 19:

1. §19-302.A.E. All regulated activities shall have approvals from the applicable agencies prior to, or as a condition of, plan approval. These approvals need to be obtained. *The only other agency approvals that are needed are CCCD's approval of the E & S plan and PADEP's issuance of the stormwater NPDES Permit. The applicant's applications are pending approval. We already have approval of the MFEMP.*

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2. §19-303.1-3. No regulated activity within the Municipality shall commence until approvals have been issued by PADEP and CCCD. These approvals need to be obtained. ***The only other agency approvals that are needed are CCCD's approval of the E & S plan and PADEP's issuance of the stormwater NPDES Permit. The Applicant's applications are pending approval.***

3. §19-312.3.J. When deemed necessary by the Municipality, stormwater basin facilities shall be enclosed with a fence of a type, size, location and character acceptable to the Municipality. The applicant should discuss this with the Township. We are not aware of fencing being required on privately owned facilities in the past. ***Comment noted.*** Mr. Ragan commented further that the Township has indicated that a fence has not been requested.

4. §19-313.1.E and 312.1.F. Easements shall be provided for all basins and all conveyance and collection systems that are not located within street rights-of-way and shall be a minimum of 20 feet in width. Easements shall meet the applicable requirements in §19-704. A blanket easement is proposed for the stormwater facilities, according to Note 20 on Sheet 1. The Township Solicitor should review the language and determine the proper vehicle to establish this easement. ***The applicant's attorney is working with the Township Solicitor to formalize the easement and the O & M agreements. Both will be fully executed prior to recordation of the final plan.***

5. §19-402.1.A. Note on the maps shall refer to the associated computations and erosion and sediment control plan by title and date. The added note #15 on Sheet 7 will need to be updated to reflect the appropriate dates. ***This note has been revised to have blanks for the appropriate dates to be filled in when they are finalized. We are assuming that this note should refer to the final plan that is recorded.***

6. §19-402.2.A(3). The required signature block has been added and shall be signed prior to recording. ***The applicant will sign the preliminary plan prior to the BOS approval.***

7. § 19-402.2.A.(4).(a). The required signature block shall be signed and sealed, prior to plan recording. ***The applicant's engineer will sign and seal the preliminary plan prior to the BOS approval.***

8. §19-402.2.B.(14). Based upon the new mapping that was provided the various drainage areas and features within same have been clarified. It appears that the time of concentration does not include the area associated with the hay storage area in the predevelopment condition. In addition, the cover selected for the proposed hay storage area (meadow) does not appear to be realistic as the hay is likely covered with a tarp. We also note that the time of concentration for area 2 draining to the basin that was utilized is conservative at a time of 5 minutes. While it is likely that there would not be a measurable change in flow (as a result of modifications to the cover condition being offset by an expected longer of concentration) revised calculations are needed to verify same. ***The limit of the hay/straw storage area has been revised to be completely contained within SW Drainage Area #1. Allowing for compaction of the soil and the covering of the long term hay/straw storage, the land cover conditions were considered to be 75% impervious and 25% pervious. The SW wet pond and infiltration berm controlling the runoff from Drainage Area #1 was modified and re-analyzed to demonstrate compliance with the peak rate and volume control requirements. This revised design is presented on the plans and the revised analysis addressed in the new stormwater report.*** Mr. Ragan added regarding hay storage, that the term on the plan is being corrected to "hay/straw" storage because they actually use much more straw than hay. The significance is that straw is much less likely to spontaneously combust than hay.

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Additional discussion: Reference was made to Sheet 7 of the plan regarding the difference between short term storage and long term storage. There is concern regarding long term storage tarps, used to keep moisture out, making bale storage impervious. Short term storage is used for more rapid turnover and a tarp is not required. Also bale storage on the south side of the bldg. has been eliminated because it resulted in an increase in runoff and stormwater storage was increased as a result. Mr. Ragan explained the reasons for two types of storage, again referencing Pg. 7 of the Plan.

9. §19-402.2.F.(1)-(4) & 19.703. Operations & Maintenance Plan and Agreement needs to be executed. ***An O & M agreement will be executed prior to final plan approval and recordation.*** Mr. Ragan explained further that it covers the operation and maintenance of the stormwater management facility and provides an easement for the Township to access for inspection of the facilities.

10. §19402.2.G. The plan needs approval from the Chester County Conservation District and/or PADEP for an NPDES permit. ***The applicant has applied for a NPDES permit.***

11. Based upon the new information provided regarding the cross section of the conveyance system entering the waste lagoon, it appears that several storm pipes will be submerged during normal conditions. For this case, a tailwater condition will need to be modeled to ensure the pipes can function as intended. ***The dirty water stormsewer system has been re-evaluated using appropriate tailwater conditions present in the receiving waste lagoon.***

12. While the additional information was provided for the routing, we would like to see a sheet added that starts the routing for the wet basin at elevation 389, as this will confirm that the volume of the wet pond (volume below 389) is not being considered as part of the basin routing. ***As a result of the adjustments to the Drainage Area #1 BMP design, the weir elevation is now at 388.5. The attached page #27 from the SW report documents that the stormwater routing started at that elevation and no credit was taken for any BMP volume below that point.*** Mr. Ragan explained further that as part of the redesign of the SW basin the starting and routing elevation where we have freeboard volume that's available to attenuate the peak flow coming off the site, was 389 and is now 388.5, and we've included a sheet from the calculation where it says that it's assuming that the pond is full – that's where the routing calculations start.

13. The following is a list of waivers required per the presented plan set:

- §19-312.1.A(2) – Basins shall be 50 ft. from any property line. The Wet Pond is located less than 50 ft. from the property line to the north (other lands of Gourmet in adjoining township).
- §19-313.3.B – All pipes shall be reinforced concrete Class III or better, meeting PennDOT's 100 year life criteria. HDPE Pipe is being proposed.
- §19-313.3.E. The minimum cover of stormwater pipe shall be 24 inches.
- §19-313.4.N. Inlets in paved areas shall be equipped with bicycle safe grates.
- §19-313.4.S. Adjustment rings shall only be made of a single pre-cast concrete structure, a maximum of 6 inches in height.

These waivers have been noted on Sheet #1 of the plan set. It is anticipated that the Board will grant the waivers when they approve the preliminary plan.

14. On the outlet structure, we suggest that the 12" orifice be revised to match the 15" x 24" orifice that is located within the interior wall of the outlet structure. This will ensure that the routing will function as intended, as the 12" orifice may restrict flow and cause the water levels in the basin to rise faster than calculated and exit thru the principal spillway.

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As a result of the re-design to accommodate the increased runoff from the hay/straw storage, the outlet weir is now 18" x 24". The outlet structure detail has been revised to reflect this increase and has been redesigned with an 18" x 24" submerged orifice.

Mr. Ragan explained further that the outlet structure is comprised of a weir that is the primary control of how much water is released from the site. It is good practice when you have a wet pond not to release water off the surface. The outlet structure has a weir and an orifice in the side of the box that lets water come in at a point 2-3 ft. below the surface of the water so it's drawing water from underneath the surface, up and over the weir to go out. Pete asked us to make sure that the orifice has the same size as the weir opening to ensure that we had enough capacity through the orifice.

15. The Wet Pond Level Spreader information on Sheet 9 contains some overlapping text that should be corrected for legibility. *The overlapping text has been corrected.*

IV. General Comments:

1. We recommend input from the local fire department be obtained.

Gabe Valentino met with the Fire Chief, John Chambers, on September 27, 2016 to discuss the plan. As stated in the (date) letter, the Chief did not have any concerns with the proposed plan.

2. The applicant should contact the Township Building Code Official to review and discuss various zoning and building code aspects that are applicable to this project such as a zoning permit, an electrical service permit and permits for regaining walls.

Comment noted. The applicant will contact the Twp. Code Official at the building stage to coordinate the zoning and building aspects of the building construction. This requirement has been memorialized in Note #26 on Sheet #1.

3. As the plan moves forward, the applicant should be aware that financial security will be required to be posted for the stormwater related aspects of the project, including inlets, piping, basins, E & S controls, etc.

The applicant will provide the appropriate financial security in the form of a performance guarantee prior to final plan approval and recordation.

Mr. Ragan advised that the applicant has started the process of putting together a cost opinion that will be formalized as part of a performance guarantee.

4. This Plan should reflect all the underlying items from the related minor subdivision plan.

The previously recorded subdivision plan has been referenced in Plan Note #4 on Sheet #1. The building setback line has been revised to be consistent with the subdivision plan.

End of letter. The applicant is requesting the Planning Commission's recommendation on the plan.

The Chairman asked for additional comments from the public and the members of the Commission.

Tony Lauria asked where the Indian Run Stream is shown on the plan and expressed concern about a 45 ft. structure.

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Mr. Van Lith referenced Sheet 1 and 7 where the location map shows the old shape of the property before lot lines were removed. He asked that it be updated to represent the current property.

Seeing no further discussion, Chairman Hoffman called for a motion.

Mr. Gontarz moved, seconded by Dr. Harris, that the Planning Commission recommend that the Board of Supervisors conditionally approve the Gourmet's Delight Preliminary Land Development Plan Phase 1, 2 & 3 Composting Facility dated April 25, 2016, last revised September 30, 2016 with the following conditions and waivers:

- §19-312.1.A(2) – Basins shall be 50 ft. from any property line. The Wet Pond is located less than 50 ft. from the property line to the north (other lands of Gourmet in adjoining township).
- §19-313.3.E – The minimum cover of stormwater pipe shall be 24 inches
- §19-313.3.B. All pipes shall be reinforced concrete Class III or better, meeting PennDOT's 100-year life criteria. HDPE pipe is being proposed;
- §19-313.4.N. Inlets in paved areas shall be equipped with bicycle safe grates.
- §19-313.4.S. Adjustment rings shall only be made of a single pre-cast concrete structure, a maximum of 6 inches in height.

Additionally:

- SALDO Section 722.11.D requires a plan note which prohibits disturbance of primary and replacement sewage system areas. A note should be added to Sheet 1 of the plan to address this requirement.
- Compliance with all outstanding comments set forth in the Township consulting engineers' review letters, including but not limited to LTL Consultants letter dated September 26, 2016; AECOM letter dated September 30, 2016;
- Issuance by the Chester County Conservation District/PADEP of the stormwater NPDES permit and CCCD approval of the E & S Plan;
- The Township Solicitor and Township Engineer shall review and approve all Stormwater Management Agreements applicable to the project to be signed by the Township and the Applicant;
- The applicant, prior to the release of an eventual final plan for recording, shall provide in recordable form Stormwater Management Facilities Maintenance Agreement and Stormwater Easement Agreements to the satisfaction of the Township Solicitor and Township Engineers;
- The applicant shall provide financial security for the stormwater-related aspects of the project including inlets, piping basins, E & S controls, etc;
- The applicant shall fund all appropriate escrow accounts in accordance with the Township Policies prior to the start of this project;
- The applicant shall agree to pay all outstanding and expected legal and consulting review expenses prior to the start of this project.

Motion Passed 5-0.

Dr. Hoffman asked the members of the Planning Commission for their opinion on whether the PC should request the Board for approval to review ordinances from other townships regarding hay bale fires. Mr. Phillips' opinion is that they should go with what the Fire Marshall says. Zach Elwyn asked if the ACRE law would preempt any ordinance they might propose and Solicitor O'Keefe said

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there is reason for concern and the Board should direct the Solicitor to explore that option. Dr. Hoffman feels it is worth taking a look at fire safety in general.

Dr. Hoffman also commented on traffic safety in general and asked if there is any indication that the County or other townships have any interest in making township roads safer. He remembers discussions of a regional effort but doesn't believe it went very far. Mr. Auerbach said the Board will look into it. Mr. Phillips commented that he's more intimidated by farming equipment, such as a combine, than a tractor trailer and noted that permits are not required for farming vehicles. Mr. Talwin commented that vehicles on Garden Station are not farm vehicles. They are licensed commercial vehicles, including school buses on a curve that narrows to 17 ft. Mr. Overton thanked Mr. Talwin for a job well done in preparing the documentation regarding the resident's concerns and for asking the tough questions.

Public Comment: There was no additional public comment.

Adjourn: Chairman Hoffman adjourned the meeting at 8:55 p.m.

Respectfully submitted,



John Gontarz
Planning Commission Secretary

PC Mtg. 10.06.16.v.2.er