

**MIDDLETOWN TOWNSHIP PLANNING COMMISSION  
REGULAR MEETING  
MIDDLETOWN MUNICIPAL BUILDING  
WEDNESDAY, April 1, 2015**

**PRESENT:**

Sandy Farry  
Charles Parkerson  
George Hyjurick  
Robert Burnett  
Pat Mallon, Jr.  
Pat Duffy, Zoning Officer  
Larry Young, Township Engineer

**ABSENT**

Fred Thomas

**1. CALL TO ORDER, PLEDGE OF ALLEGIANCE AND ROLL CALL.**

- a. Ms. Farry called the meeting to order at 7:04 PM. The Pledge of Allegiance was recited. Mr. Hyjurick took roll call with five members present (listed above). Mr. Duffy and Mr. Young were also present.

**2. APPROVAL OF PRIOR MINUTES**

- a. Mr. Hyjurick motioned to approve the minutes of the March 2, 2015 regular meeting. Mr. Mallon seconded. The vote was taken and the minutes were approved by vote of 5-0 as submitted.

**3. REVIEW OF 1501 EAST LINCOLN HIGHWAY PRELIMINARY LAND DEVELOPMENT, WATERSTONE RETAIL DEVELOPMENT, TMP # 22-047-011-002, SLD #15-02**

In attendance for the applicant were Tom Hecker, attorney, Doug Richardson, Waterstone Retail Co., Mark Roth, McMahan & Associates and John Hornick, Boehler Engineering.

Mr. Hecker provided an overview of the project that will consist of developing an approximate 0.9 acre pad site on the existing 12.7 acre site that includes Bob's Discount Furniture and Floor & Décor. The proposed pad site will be a Starbucks with drive thru service and an AT&T phone store. The Starbucks use will require special exceptions from the Zoning Hearing Board for drive thru service and a starting business hour of 5:00 AM. All deliveries will be after the morning rush hour.

Mr. Hornick stated the applicant will comply to all items in the Township Engineer review letter, except for requesting two (2) waivers for having parking stalls closer than 15 feet to the building and curb radii less than 5 feet. Mr. Hornick stated the applicant will comply with all items in the Fire Marshal, lighting consultant and traffic engineer review letters.

Mr. Burnett wanted the plans to show all the fire hydrants and questioned the location of the proposed handicap spaces being on the other side of the pad from Starbucks.

The Board members discussed moving the drive aisle entrance to the south side of the proposed pad to promote safer traffic circulation into the Starbucks drive thru lane. The

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applicant agreed to explore that possibility.

Ms. Farry requested bollards to protect the handicap spaces and the applicant agreed to install decorative bollards.

Mr. Parkerson made a motion to recommend preliminary land development approval and the granting of the two waivers subject to the applicant satisfying the review comments of the Township Engineer, Township Traffic Engineer, Township lighting consultant and Fire Marshal. The motion was seconded by Mr. Mallon. A vote was taken and approved by unanimous consent, 5-0.

**4. REVIEW OF 1776 EAST LINCOLN HIGHWAY CONDITIONAL USE, CARMAX AUTO SUPERSTORES, INC., TMP # 22-047-198-002, SLD #15-03**

In attendance for the applicant were Tom Hecker, attorney, Steve Hudak, CarMax Auto Superstores and Jake Hurst, Centerpoint Integrated Solutions.

Mr. Hecker gave an overview of the project that consists of constructing a CarMax used car sales and service facility on the 12.4 acre K-Mart site. The K-Mart building will be demolished.

Mr. Hurst explained that the new building will be within the K-Mart building footprint so there will be no loss of parking spaces. CarMax will have three separate parking lot areas. One will be for their car sales inventory, one for vehicle staging and one for customers. The entire existing parking lot will be milled and paved and re-striped. The driveway accesses through the parking lot will remain as is due to the cross easement agreements between the adjacent shopping centers. There will be a maximum of 54 employees.

Mr. Hecker stated the applicant is applying for a Conditional Use for motor vehicle sales as required in a C Commercial Zoning District. Per Mr. Hecker, the applicant can address the 11 standards and criteria required for a Conditional Use except for the 20' perimeter buffer requirement. The existing Sam's Club building is directly adjacent to the K-Mart building, therefore there is an existing non-conformity regarding the perimeter buffer on that side.

The applicant will verify the traffic study requirement and send additional lighting plans to the Township lighting consultant.

Mr. Parkerson made a motion to recommend Conditional Use approval subject to the applicant satisfying the review comments of the Township Engineer, Township Traffic Engineer, Township lighting consultant and Fire Marshal. The motion was seconded by Mr. Burnett. A vote was taken and approved by unanimous consent, 5-0.

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## **5. INFORMAL REVIEW OF SMOLSKY / HELLER SUBDIVISION DOCUMENTS**

Mr. Ron Krajewski at 9 Cobalt Ridge Drive North explained that an approximate quarter acre parcel to the rear of his property (TMP #22-055-186-003) was in his ownership per the approved Smolsky subdivision but was sold by someone else to his neighbor, Mr. Edward Jakubowicz at 11 Cobalt Ridge Drive North. Mr. Krajewski maintained it was his property and filed a motion in court to invalidate the sale. A Court ruled against Mr. Krajewski.

Mr. Krajewski put together a list of documents that he claims supports his case that the sale of that lot was illegal since it conflicted with the conditions of the Smolsky subdivision approval back in 1960, which showed the lot to be part of his lot and prohibited any further subdivision of the lots. Mr. Krajewski's position is that the Township must enforce its subdivision approvals and regulations. Mr. Krajewski is looking for the Township to file a motion to challenge the sale of the property to Mr. Jakubowicz.

The members could not understand how if Mr. Krajewski owned the lot, how someone else could have sold it to another party. The members recommended that Mr. Krajewski hire an attorney and put together the chain of title for the property in question. Mr. Krajewski said that the right to appeal has expired so the only recourse is to have the Township file a motion to enforce the previous subdivision approval.

Ms. Farry stated to Mr. Krajewski that the Planning Commission is an advisory board that offers recommendations. The Planning Commission members agreed that this is a legal matter and any further Township action should be a discussion between Mr. Krajewski's attorney and the Township Solicitor.

## **6. ZONING ISSUES**

Mr. Duffy stated that a micro cell tower (30 feet high) installation needs a zoning variance for the Woodbourne Square shopping center.

## **7. OTHER BUSINESS**

The next meeting will be held on May 6, 2015 to review a building and parking expansion for Empire Abrasives Company and a Chipotle restaurant re-development.

## **8. ADJOURNMENT**

Mr. Burnett made a motion to adjourn the meeting, seconded by Mr. Mallon. The vote was taken and the motion to adjourn was unanimously approved. The time of the adjournment was 8:40 P.M.

Respectfully submitted,  
Pat Duffy, Zoning Officer

cc: Planning Commission

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Township Manager