

**MINUTES  
UPPER ALLEN TOWNSHIP  
BOARD OF COMMISSIONERS REGULAR MEETING 1 – 6:30 P.M.  
December 7, 2022**

**COMMISSIONERS**

Kenneth M. Martin, President  
Richard A. Castranio, Jr., Vice President (absent)  
Virginia M. Anderson, Assistant Secretary  
James G. Cochran, Assistant Secretary  
Jeffrey M. Walter, Assistant Secretary

**TOWNSHIP OFFICIALS**

Scott Fraser, Township Manager  
Kelly Palmer, Assistant Manager  
Andy Parsons, Chief of Police  
Jennifer Boyer, Comm Dev Director  
Barry Cupp, Sewer Dept. Manager  
J. Stephen Feinour, Solicitor  
Jason Reichard, Engineer  
Tom Shumberger, Fire Chief

**CALL TO ORDER**

President Martin called the Board of Commissioners regular meeting to order at 6:40 p.m. A moment of silence was held, and the Pledge of Allegiance was recited by all. Roll Call was taken by Mr. Fraser.

**CONSIDERATION/APPROVAL OF MEETING MINUTES**

Commissioner Cochran made a **MOTION** to approve the minutes of the November 2, 2022 Board of Commissioners Meeting, **SECONDED** by Commissioner Anderson. The motion passed unanimously.

**CONSENT AGENDA**

Commissioner Cochran made a **MOTION** to approve the following Consent Agenda items, **SECONDED** by Commissioner Walter. Vice President Castranio abstained from voting because he is employed by the developers engineer. The motion carried unanimously.

Financial security release for Winding Hills PRD, Stage 4, UAT File # 13-01-02.  
Recommended not to release

Financial security reduction for Winding Hills PRD, Stage 5(C), UAT File # 18-05-01C.

Financial security reduction for Winding Hills PRD, Stage 6(B), UAT File # 18-02-27.

Financial security release for Winding Hills PRD, Stage 7, Section 1, UAT File # 20-01-02B.

Financial security reduction for Winding Hills PRD, Stage 7, Section 2, UAT File # 21-03-01.

Commissioner Anderson made a **MOTION** to approve the following Consent Agenda item, **SECONDED** by Commissioner Cochran. The motion carried unanimously.

Financial security reduction for Oakwood Hills, Phase 1A, UAT File # 17-09-01B.

**PUBLIC SAFETY COMMITTEE**

**POLICE DEPARTMENT UPDATE**

Chief Parsons shared that Jordan Howard will be attending the Academy.

**FIRE DEPARTMENT UPDATE**

Chief Shumberger shared that fund drive letters went out last week to support the 100% volunteer department. Santa will be visiting the community and the schedule will be on their website.

**PLANNING AND ZONING COMMITTEE**

**ZONING HEARING BOARD HEARINGS FOR DECEMBER 8, 2022: 1200 E LISBURN ROAD SPECIAL EXCEPTION FOR AN ACCESSORY APARTMENT**

Ms. Boyer shared that this application is moving to the January meeting. President Martin asked if the apartment was for medical reasons for in-laws and then when no longer needed, if they would be renting it out. Ms. Boyer said that would be discussed.

**HISTORIC ARCHITECTURE REVIEW BOARD MEETING ON DECEMBER 20, 2022:  
DISCUSS A RECOMMENDATION TO CREATE A ZONING OVERLAY DISTRICT  
FOR HISTORIC PROPERTIES**

We will have a meeting at 7pm. This is just a notice of Mr. Botchie's intent to give this proposed motion to HARB to then bring to the Board.

**CONSIDERATION/ACTION FOR A CERTIFICATE OF APPROPRIATENESS FOR  
311 GETTYSBURG PIKE**

Mr. John Esser (owner) has made an application for a Certificate of Appropriateness to demolish the existing home and its accessory structures at 311 Gettysburg Pike. The property is located within the Shepherdstown Municipal Historic District and the Township's Neighborhood Commercial (C-1) Zoning District.

**STAFF REVIEW COMMENTS**

Little is known about this property. It appears the home was constructed in the early 1900s, with some additions added throughout the years. According to TKS Architect's review, the original frame structure would have been constructed in the 1920s-1930s, with several expansions thereafter. The home also appears to have either vinyl or aluminum siding (aluminum per TKS Architect's review). The windows appear to be mismatched and of different shapes and sizes. It has been noted that the home's previous owner had vacated the home more than ten years ago,

and the home is in disrepair. The current property owner has provided pictures showing the current condition of the home.

In the application, there are references to the structure being two units (311 and 313 Gettysburg Pike). The earliest record the Township has is from 2006, when the previous property owner connected to the sanitary sewer system as a single-family dwelling. The Township has no records or permits confirming this structure was a legally established two-unit dwelling.

### **HARB RECOMMENDATION**

The Historical Architectural Review Board (HARB) members reviewed this application at their November 15, 2022 meeting. They recommended the Board of Commissioners approve the request to demolish the home and any accessory structures on the property at 311 Gettysburg Pike, with the condition that any new construction from the current or future owner(s) retain community character compatible with historic precedent and be designed to incorporate appropriate elements of the massing shape, size, materials, proportion, orientation, setbacks, and the like.

### **BOARD OF COMMISSIONERS MEETING**

During the November 16, 2022 Board of Commissioners' meeting, there was discussion regarding the four municipal historic districts. During the Shepherdstown District discussion, it was determined that this property would be removed from the Shepherdstown Historic District.

Until such time as the Historic District Map and Ordinance are amended, this property is still considered to be within the district and the property owner must seek a Certificate of Appropriateness to demolish the structures. However, the condition of approval recommended by HARB should be reviewed to determine if it is still an appropriate action with the changing of the Shepherdstown Historic District boundary.

### **CERTIFICATE OF APPROPRIATENESS**

Section 10 of Chapter 155 of the Township Code states the Board shall consider applications for Certificates of Appropriateness. The Board shall consider factors regarding the application as set forth in Section 155-9.C of the Township Code and the recommendation from HARB.

If the Board approves the application, it shall issue a Certificate of Appropriateness authorizing the Building/Zoning Officer to issue a permit for the work covered, as stated in Section 155-10.D of the Township Code.

If the Board disapproves the request, it shall do so in writing and copies shall be given to the person(s) applying for the permit and to the Pennsylvania Historical and Museum Commission within five (5) days after the decision is made. The disapproval shall indicate what changes in the plans and specifications would meet the conditions for protecting the distinctive historical character of the district, as stated in Section 155-10.E of the Township Code.

John Esser, of 125 Pleasant Hill Road, Lewisberry

He shared that his property on 311 Gettysburg Pike was erected between 1922 and 1936. It is a 2-unit dwelling, non-confirming within the district that was last occupied 12 years ago. It has

had a lack of maintenance and is in disrepair. There is fire damage in the attic and ceiling framing.

President Martin said the lot is currently in the historic district. If it were built on again, would it require HARB approval? Ms. Boyer said we had this conversation prior to or during our meeting about the historic district. This property still is in Shepherdstown Historic District, so before that could occur, he would have to go through HARB. HARB recommended that it be torn down. Mr. Esser is aware of the expectation that if he does come back, on the exterior side of things, he is going to have to adhere to something that is harmonious with the Shepherdstown District. If it is out of the Historic district, there would be no review from HARB, other than if you are within 1000 feet, the Board of Commissioners can request additional buffering to protect surrounding historic district. President Martin confirmed with Mr. Esser that he is aware of expectations and Mr. Esser said correct. President Martin said that he agrees with the intent of the agreement because Shepherdstown is our most historic village, and it has charm and character and should be maintained. Some of the expectations of specific HARB districts are fairly cost intensive so he wanted to make sure there are reasonable expectations of the owner if in fact he does rebuild.

Eric Fairchild, of 1224 McCormick Road

He said there is a 1961 ordinance that was a basis for the 1975 Township ordinance establishment of the districts, and there is this municipal planning code. The Pennsylvania Historic Museum Commissioner has professional staff that he thinks would be willing to present before HARB or the Board of Commissioners.

Mr. Fairchild asked with Mr. Esser's request, was it an issue whether Mr. Esser was aware that he was in an historic district. President Martin said no, because he asked him, and he said he is aware. Mr. Fairchild said the discussion about historic districts and the hiring of this Navarro & Wright to prepare this assessment report only came from real estate developers that were asking for this, from his knowledge like Mr. Esser and Mr. Gates. He said he did not believe that any citizen ask that we remove properties from districts or we dissolve historic districts – just real estate developers. He asked if Mr. Esser is a real estate developer because he believes he is.

Mr. Esser said that he is an agent and owns a brokerage, Remax Realty Associates in Camp Hill. He said he is not a real estate developer, that is not his profession, and he does not know where Mr. Fairchild got that.

Mr. Fairchild said it ended up that four properties were removed from the Shepherdstown District by vote of the Commissioners at the November 16<sup>th</sup> meeting. He asked if all this discussion is mute. Ms. Boyer said we did not dissolve or remove anything yet. Mr. Fairchild said you voted to remove. Vice President Castranio said they did not vote to dissolve, to have the Township staff study it and prepare ordinances there would have to be a public hearing before the Township could do that. President Martin said we took no action. Ms. Boyer said nothing has been changed, the property is still in the Shepherdstown Historic District which is why Mr. Esser is before you tonight for the Certificate of Appropriateness. Mr. Fairchild asked if there was no vast conspiracy to do this and expand the Chick-fil-A project and so forth.

Commissioner Anderson made a **MOTION** to grant a Certification of Appropriateness to Mr. John Esser, property owner for the request to demolish the home and accessory structures on the property at 311 Gettysburg Pike. All demolition to be in accordance with applicable building codes and ordinances and in accordance with the building design and specifications as submitted and reviewed by the Historic Architectural Review Board, **SECONDED** by Commissioner Walter. The motion carried unanimously.

**CONSIDERATION/ACTION OF SUBDIVISION/LAND DEVELOPMENT PLAN FOR CHICK-FIL-A AT MILLS AT SHEPHERDSTOWN CROSSING, UAT FILE # 22-07-05**

The proposed project is for the consolidation Units 3 and 4 at the Mills at Shepherdstown Crossing. Construction of a 4,997 square foot Chick-Fil-A restaurant with a three-lane drive-through is proposed for the site. The proposed use of a restaurant at this site is consistent with the Township’s Zoning Ordinance for this site and the Township’s Comprehensive Plan.

**TIMELINE**

The following table presents the review period timeline for the above referenced application.

<b>PLAN REVIEW PERIOD</b>	<b>CURRENT DATES</b>
Application Date	07/05/22
Review Period Beginning Date	07/25/22
Time Extension Granted until 12/31/22	10/05/22
Last Available Planning Commission Meeting	11/28/22
Last Available Board of Commissioners Meeting	<b>12/21/22</b>
Review Period End Date	<b>12/31/22</b>

**RECREATION FEE/LAND DEDICATION**

In lieu of any land dedication, the Applicant has already submitted recreation fees. Additionally, a public pedestrian trail system is being constructed around the entire Mills at Shepherdstown site. The trail will connect through Daybreak Church over to the Township’s Dog Park. No additional recreation fees are necessary.

**OTHER AGENCY REVIEWS**

The following agencies were notified on July 7, 2022, that this plan is available for review, and a revised plan submitted on August 16<sup>th</sup>, and then again on October 6<sup>th</sup>. A revised traffic study was submitted for review on August 1, 2022, with updates submitted on October 6<sup>th</sup>.

<b>AGENCY</b>	<b>SUBMISSION OF COMMENTS</b>
Community Development Department	07/18/22; 09/23/22; 10/20/22; 11/29/22
Township Engineer (C.S. Davidson, Inc.)	07/19/22; 07/20/22; 08/24/22; 10/24/22
Traffic Engineer (TRG)	08/19/22; 10/24/22; 11/29/22
Sewer Department	07/08/22; 09/27/22; 10/13/22; 11/23/22
Police Department	07/08/22 No Comments

Fire Marshal/Fire Chief	07/18/22; 10/25/22; 10/31/22
PW/MS4 Coordinator/MS4 Manager	07/11/22 No Comments
Cumberland County Planning Commission	07/26/22

**TRAFFIC CHANGES FOR MILLS AT SHEPHERDSTOWN TO NOW INLCUDE A CHICK-FIL-A RESTAUNT**

1. The proposed plan revisions on the south lot includes:
  - a. The reduction of retail from 38,000sf to 19,500sf.
  - b. An increase in fast food restaurant from 1,800sf to 5,000sf.
  
2. The original plan included traffic counts for Building/Lots 3 and 4, which proposed an 1,800 SF fast-food restaurant and a 19,200 square foot, three-story flex building of office, retail, and restaurant space. Chick-fil-A will now take over Lots 3 and 4 and propose a one-story 4,997 square foot restaurant. The reduction in retail and increase in building size of the fast-food restaurant results in a net increase in traffic as follows for the south lot from the approved 151-237 Gettysburg Pike Transportation Impact Study.
  - a. AM Peak Hour: 149 additional peak hour trips
  - b. PM Peak Hour: 38 additional peak hour trips
  - c. Saturday Peak Hour: 98 additional peak hour trips

During the Planning Commission meeting, the Applicant’s traffic engineer stated that he looked at average counts for peak hours based on the ITE manual and actual counts at a Chick-fil-A. The net increase is based on conservative measures to use the higher number from the counts and ITE model data.

President Martin shared that we are here to look at that track of land on the corner of Market Street and Gettysburg Pike and that we should look at pros and cons, advantages and disadvantages. He said there may be some misinformation floating around so he wants to get a common understanding about what is being proposed. After the presentation by the developer, there will be opportunity for those who signed up to speak, then audience participation. He said he wants everyone who signed up to have a voice. He suggested we do not repeat the same message, say “I agree with the last speaker.” We are going to time the speakers at three minutes each so everyone has a chance to speak.

Vice President Castranio let the public know that he will be abstaining from voting on this as he is employed by the developer of Mills at Shepherdstown’s engineering firm. President Martin said that Vice President Castranio could feel free to have input or discussion.

Jamie Strong, attorney with the law firm of McNeese, Wallace and Nurick of Harrisburg. He said he was here on behalf of Linlo Properties and that the plan that is before you is a revision of a plan that was previously approved for the Mills at Shepherdstown Crossing. The revision is to accommodate a Chick-fil-A restaurant. He introduced the project team of Lowel Gates with Linlo Properties; John Murphy, Civil Engineer, with Alpha Consulting Engineers; Mark Allen, Traffic Engineer with Alpha Consulting Engineers, and Brett Edmiston with Chick-fil-A.

John Murphy, of Alpha Consulting Engineers

Mr. Murphy said he will do a brief update on the previous plan, show what the changes are and then discuss the memorandum from staff and then talk about some of the comments they received at the planning committee.

He showed the plan that was already approved and presently under construction. It consists of 54 apartments and first floor commercial, two proposed restaurants and a mixed-use building. The access is across from Country and Town Church. They are also proposing a right-in-right-out further to the South. There is already a connection construction to the Daybreak facilities, both vehicular and a pedestrian pathway. There is also an extensive trail system.

What he proposed for consideration is an approximately 5,000 square foot Chick-fil-A which is intended to replace the 1800 square foot proposed restaurant and the 19,000 square foot mixed use building that was previously approved.

He shared information about off-site road improvements. They are proposing southern ends a right-in, right-out. Main access is still in the center of the project. Coming into the site south bound, they are proposing a 150 ft left turn lane. A 200 ft right turn lane that will allow traffic out on Market Street. He pointed out where they will be adding one of the lanes to a right-straight which improves the overall viability of the intersection. They are adding a whole new lane between the two lights parallel to the site down to the ramp. Where there is one lane heading east bound now, there will be two on Market Street. Across the front of the 7-11, they will lengthen the existing 150 ft left turn by another 110 ft to accommodate additional traffic that will need to take the left onto Market Street and head on out to the interchange. There is an existing right turn lane coming on Market, taking a right at Gettysburg, it is currently 185 feet, it will lengthen it by an additional 145 ft. There is a proposed right turn only at another location currently under review. At the next light at the ramps, there is currently a short that gets stacked up 125-foot left turn lane for north bound and we are proposing to lengthen that by an additional 325 feet, getting on north bound. The developer will be paying for these improvements that will improve existing conditions and accommodate and mitigate the proposed traffic. We anticipate the traffic will flow a little better than it does now. There is some optimization going on with the signals to have them communicate better and efficiently.

Mr. Fraser said we have a signal modernization project scheduled in 2023 that will help coordinate all lighting on Market Street. Whatever improvements that happen here would be coordinated with other lights so there is synchronization as you travel. Mr. Murphy said the project was reviewed by the Township traffic engineer and the civil engineer. The plan is clean. There is only one remaining zoning comment, and they are in the process of modifying the lighting plan previously approved that is a little bit different now since they took two buildings out and replacing with one. There are some minor tweaks to the lighting plan that will be submitted to staff prior to any recordation and make sure that is consistent with ordinances. The planning commission did recommend approval at the previous meeting, there was discussion at that point and people had some additional comments. Township staff asked them to address those comments and we submitted a letter addressing those comments. There were also questions about the traffic study. When the previous plan was approved, a traffic study was

approved by both PennDOT and the Township and their corresponding professional. Because we are proposing a Chick-fil-A and modifying it, we took the old traffic study, and we made modifications to make sure we are consistent with all ordinances.

President Martin asked Mr. Murphy if he was telling the Board that after the Chick-fil-A project was part of the project, you updated the traffic study to include that. Mr. Allen confirmed that was correct and said that they revised the traffic study to be reflective of the modification to the plan.

Mr. Murphy said the Planning Commissioner recommended approval. Mr. Murphy asked President Martin if he would like him to go over the additional comments, outside the ordinance review, generated at the Planning Commission Meeting.

President Martin asked, in terms of how the traffic is supposed to flow, coming from Shepherdstown on Gettysburg Pike, toward the Township building, that upper driveway is right turn in, right turn out only? Mr. Murphy said that was correct. President Martin asked if the main driveway into the restaurant, from that point down to the intersection, will be essentially three lanes, left hand turn, one straight through on Gettysburg Pike and one right hand turn toward 15 South Bound Ramp. Mr. Murphy said that was correct. From that intersection point to the North Bound Ramp of 15, there will be two lanes, one straight and one left.

Mr. Murphy said that on York Street, the township actually engaged a traffic engineer in 2017 to do a very extensive study on that intersection. However, York Street is a state road, and we have to follow PennDOT standards. He said that Mr. Allen concurs with the previous study. In 2017, It did not meet PennDOT criteria for additional traffic control such as stop signs. Mr. Allen looked at it with today's numbers, projects proposed traffic and at this point it still does not meet those standards. Certainly Mr. Gates would like to improve that with additional stop signs, but it is not legal at this time.

Cochran said he thinks the Township also had some contact in 2018. Trying to do something to improve that intersection and PennDOT controls York Street so we are stuck.

Commissioner Anderson said that Chick-fil-A is going to be a three lane in, and she thinks that makes a difference.

Mark Allen, Licensed Professional Engineer in Pennsylvania with Alpha Engineering. He prepared a traffic study for the subject sight. Mr. Allen said going through the initial preparations, there is a specific section in the Township's ordinance requiring them to comply with documents and guidance's from PennDOT, specifically in the ordinances pub 201 and 282. Additionally, to that is Institute of Transportation Engineers (ITE), there are guidelines in there. Study boundaries must be discussed with the Township and that was done starting in 2019. We continued studying that and modifying those boundaries into early 2020. As a result of that, we ended up studying the existing intersections at the Gettysburg Pike/South Market Street intersection, and the two intersections of US 15 and South Market Street. Within PennDOT and ITE, there is a number used called vehicle trips and the base number is 100 trips entering and 100 exiting. Once you start getting to that volume, that is when it actually starts triggering



improvements. That is why those recommendations were made for the specific study intersections and why they were concurred with both Township staff and with PennDOT. We were asked to look at the intersection by McDonald's but by the time we projected our trip analysis out, there was not enough traffic to go there. The initial study was actually submitted to the township first as part of the ordinance because we are required to submit a full study to the Township as part of the initial land development, and that was in July of 2020. We still followed up with PennDOT with additional discussions and how the traffic was to be distributed throughout the area. How it was assigned, which driveway it went to. At the end of the day, there were eight revisions to the study based upon concerns from the Township and PennDOT. Whenever the configuration of the south lot changed, we incorporated a study, so there has never been an instance where the development has changed and the site has not been analyzed for traffic. After two years of analysis, the study itself currently is at 1400 pages of discussions, analysis, comment letters, demonstrating that we have gone through an extensive amount of review for how it is analyzed.

Mr. Allen said Township ordinance sets a standard for impacts to adjacent roadways. It does not say there is going to be this much traffic on this day, we look at a typical day and the ordinance requires us to make recommendations to maintain a level of service rating D, that is straight from the ordinance. Out of all the scenarios that we did, only one came up with a level of service D rating and that is the AM/PM peak hour of the future 2027-year scenario. It was estimated that the main intersection at Gettysburg Pike and Rt 114, would operate at D without the development, just from the traffic that is being generated in the area from other developments. The improvements that we have recommended will actually allow that intersection to operate at a level of service C. All other intersections both with and without the development will operate at C or better. The site driveway is estimated to operate at a level of service A rating. We have submitted those traffic studies and to date we believe we have addressed comments from the township traffic engineer. After the Planning Commission meeting, Ms. Boyer asked them to look at the 2017 evaluation that was done at the South York Street. We took the data in that study, applied the growth factors from that year and compared it with the traffic that we had measured at the adjacent intersection, and they were both similar. We then added in the development traffic that is expected to head to South York Street. So that previous study ended up with South York Street intersection operating at a level of service A and with the addition, it still is an A. We could not get it to bump to a point that would have us looking at level of service degradation. We looked at the three signal warrants. There is a peak hour warrant and a four warrant and an eight-hour warrant. Those were not met in 2017 and they do not appear to be met in 2027 with this development. It looks like it would take another 400 vehicles from somewhere else to make that hit one of those warrants. That includes the all-way stop warrant.

Once you put an all-way stop control in, you stop that traffic that is on Gettysburg Pike. You introduce delay into that major movement. What the 2017 study came up with is that if you put the stop signs in, you are going to drop that level of service A to a level of service C. The 2017 study looked at speeds. The road is posted at 25 mph. 85% of the people out there will operate at 33 miles an hour or less. They found the site distance meets the minimum criteria. We looked to see if it warrants a stop sign and it just does not meet those levels. We looked at crash history. You need five reportable crashes in one year to actually start think about doing something. It does not warrant it, but you take a harder look at it. There was one year there were three and a couple with only one. A reportable crash means someone needs to tow the car away.

It is not just a fender bender or driving off the road. We did go through and look at all those items again and we could not come up with it to meet the warrants.

Vice President Castranio said that Gettysburg is a Township Road, and asked if it would matter if we put stop signs on the legs that are Township's. Mr. Allen said he did not know that it would be a question for the solicitor. Because that is on a state road, and there is an intersection, the state usually says that they have the right to look at what is occurring over the first 100-150 feet of any adjacent roadway.

Commissioner Cochran asked to confirm, with their model, if the Township were to make it a three way stop, it degrades the traffic flow because we create stacking. Mr. Allen said that was correct.

**Mr. Allen responded to concerns in a public comment letter of November 21, 2022.**

Chick-fil-A will have more traffic than a McDonald's and a Starbucks. Each entity has flow volumes at different times. We look at adjacent streets to find worse case of normal scenario. There are multiple choices for drivers to take.

Could additional intersections be studied? Yes, but it is not normal.

Would Chick-fil-A be better suited for another heavier traveled area? Mr. Allen said that site has been planned out very well for commercial as it is right off Rt 15.

That area is already too busy. Mr. Allen said that he gets perceptions, but as an analyst, we have certain guidelines to follow. The area has the capacity.

Could access be provided on other roadways? South Market and Rt 15 ramps are limited to access highways. That right of way and access is controlled by PennDOT. PennDOT stated that there will be no access to the East Bound South Market Street or to the US 15 ramps. It would limit PennDOT's ability to do what they want to do with their intersection.

Could Chick-fil-A delay their development until after the Mills at Shepherdstown and the 7-11 developments and their associated improvements are completed. From a traffic analysis standpoint, that could happen, but then you reset everything. This traffic analysis was done with the intention of coming and bringing all the traffic that could be generated by two developments and the other development on the other corner to everyone's attention from day one. If you start over again, the baseline becomes all the new traffic that is out there. You are not going to see the same delta that is requiring the mitigation out there right now. We mitigate the change in traffic, the impacts of the traffic. We make recommendations for that which the Township and PennDOT would then offer their concurrence for.

How did the traffic study account for new traffic in the area including Tattersall, Terraces at Shepherdstown and Modwash Carwash? They go through a growth development assessment where you assess what is the future growth of traffic on the background of the street. PennDOT publishes a yearly document for growth in the counties. People say traffic is getting heavier and

heavier. If you go back and you look through the years, the percentage of growth rate in Cumberland has been dropping. It was .74 percent; it is now to .54 percent for this year.

Will there be traffic delays? If you put up a stop sign, yes. We are mitigating, improving or reducing the delay.

The traffic study is based upon model data. What can be done if it brings in more traffic than the study suggests. The amount of traffic we have anticipated during am peak hour is more than what we would find if we measured it. In the pm, the is a bit less than what people typically see at a Chick-fil-A. We measured the Carlisle Pike location and the one across the river. He got in the range that we should expect of a fast-food restaurant of this size. There are documents that say otherwise. On a vacation, he did more evaluations on the east coast and did some more data evaluations. For pm peak hour, we added in an additional 150 vehicles, just to make sure, that we can say yes, the intersection for the site driveway will still operate at a level of service A, and at the intersection of Gettysburg Pike and South Market will continue to operate at a level of service C with the improvements proposed. The mitigation proposed in the original study will be enough to mitigate the impacts from revising the plan.

The left turn lane into the site only accommodates seven vehicles. He thinks that is a misunderstanding. We went through an example of how you could take a mile of roadway and if you stack in vehicles there, at one point of time and park them, it is approximately 220 vehicles. Really, what capacity is based on is flow rate and other vehicles and that is why the study is so detailed. The lane capacity is 1900 vehicles per lane, per hour, but then that gets modified and that is why we have a traffic study. The traffic study goes through, and it shows that it operates at a level of service A.

Why were traffic counts only taken on two days? That is the procedure, we look at a typical day. Either a Tuesday, Wednesday or Thursday. A point in time, but based upon all the metrics that are in the highway capacity analysis, it provides the measure that we need to provide the requirements of the ordinance to determine a level of services

What assumptions were made? We follow the requirements and standard procedures.

Ms. Boyer said that TRG, Transportation engineer reviewed the plans and they concurred with everything that was listed on the report. Commissioner Cochran asked if we were not relying on the developers engineer for our sense of security with this. Ms. Boyer said no, she made sure to contact our engineer just to verify everything.

Brent Edmiston said that Chick-fil-A will make an investment. As we look long term, we want to have other restaurants in the market to take pressure off existing restaurants. We will be an owner; we will own the land. We will have local owners. It will be franchised, but Chick-fil-A will hold the property. It will be a three-lane drive through for ordering that transitions down to two lanes of meal delivery. That is different than other restaurants in the market. Since 2017, Chick-fil-A has given out \$1.3 million in scholarships to team members in Pennsylvania.

Mr. Murphy said that concludes their presentation and they are happy to answer any questions. At the conclusion, our request would be that the commissioners approve the plan with conditions, there are no waivers requested, all the review comments have been addressed and there is an updated lighting plan that will be submitted.

Commissioner Cochran said that inside the property, coming up the main driveway, at the end there is a left hand turn into the main driveway, but there is a shorter left-hand turn that brings you in and looks like it would create some internal traffic conflict. Why is that second entrance there? Mr. Murphy said it would mainly be for people trying to use the parking lot.

Ms. Boyer shared that zoning dictates the type of uses that are permitted at certain properties and we have a zoning map, zoning ordinance that states what uses are allowed in each district. With this area being zoned commercial and in particular the restaurants are going as a highway commercial, restaurants are a permitted use. The inclusion of the restaurant space for both Burger King and Chick-fil-A, they are both restaurants, permitted uses in this district so there were no issues as to meeting the zoning requirements related to such a use. We did look over the latest plan submission that Mr. Murphy noted in the beginning about outstanding conditions, the only thing we are waiting on still is just the final lighting plan for review. We do have that as a condition that if approved would be required prior to the plan being recorded so we would look at it then. We would review lighting again during the building permit process and that is not uncommon when dealing with architectural final designs of buildings. Commissioner Cochran asked if any waivers were requested regarding signs. Ms. Boyer said the Township has spoken to both Chick-fil-A and Burger King and they have put proposals of what they wanted to see for signage, it was during land development review so prior to any approval, this is what we are thinking. The Township said if the use is approved, you have to conform to our sign ordinance and here is what is allowed. They gave us packages of what they wanted to see, and we told them what worked, what didn't, how it fit into the entire site. Other considerations that the developer will need to think about because there is just more than these two uses. We call this the Mills at Shepherdstown Crossing. If the developer wants to put that in as a development center plan, there are requirements for that. It has to be looked at cohesively. We have not received anything formal. Commissioner Cochran said we are also in the process of updating our sign ordinance, so he just wanted to make sure those two things work together somehow. Mr. Boyer said that is correct and that they are also aware that we are going through that update process. While that is too early to say what would be permitted with a new ordinance, they are at least aware of what they can do now, these other things you may be able to do in the future. Think about what is important now and what you would want to see if there were less restrictions in place.

Commissioner Anderson said she felt it was important that people understand what we are dealing with, and we are dealing with the zoning ordinance and what is allowed in different zones. We have met that, so that you understand that part.

President Martin said that was good clarification. It is the Board's responsibility to make sure that a proposed use meets the requirements of zoning and the ordinances, but whether it is a Chick-fil-A or a Burger King or a Wendy's, that is up to the developer. The Board does not have anything to say about it.

President Martin reminded everyone that from Market Street to the Village of Shepherdstown, it is 25 mph. From Fisher Road to Lisburn, it is 35 mph. He suggested that we have a community responsibility whether or not we are satisfied with the intent or like the development or whatever, we have a civic responsibility that we cannot push off on a developer of us not following the posted speed limit.

#### Community Participation

Ed Kosheba, of 2124 Arbor Court

Mr. Kosheba said that the key to it is that these modifications be built into the roadway and asked who will pay? President Martin Ken said that is part of the approval process and will be paid for by developer. Mr. Kosheba asked what happens if the modifications are not made, what requirements is the township going to impose on the developer to make sure that all of these traffic, construction things are done before granting occupancy. President Martin said that the developers will put those modification or improvements into the standards of the Township and PennDOT and will not get occupancy permit to open the restaurant or any other function on that site until those modifications are installed, improved and paid for by them.

President Martin shared that the President of Arbor Field Homeowners Association wrote a letter and wanted it recorded. The letter asked that the Board either deny approval of requested change in the development plan or impose definitive and enforceable conditions to ensure that the roadway modifications recommended in the traffic study are completed before any part of the “Mills” may be occupied. He also shared that he also got numerous other letters prior to the meeting but they did not ask for it to be inserted into the record. Several of those were expressing support for the project.

Bill Stanton, of 1781 Winterhaven

Mr. Stanton said that as they exit the development and make a right hand turn to go down, but then that lefthand turn, across two more lanes of traffic with the other third lane coming up to go towards York Street, how are they going to see that? Mr. Allen said that is a fairly normal thing, there is a turn lane coming in, going out, left, you will cross a center turn lane and you pull right into the lane. It is a very standard thing. He said you are crossing two lanes. You are crossing the northbound lane; you are crossing the turn and you are pulling into the lane you are going to use. That is why we do site distance calculations to make sure you can see in both directions the appropriate distance. There are not three lanes coming up the hill, there are two. Mr. Allen said that capacity is based upon flow rate and interactions with other vehicles. The capacity of that lane starts at 1900 vehicles per lane, per hour. President Martin said that to answer Mr. Stanton’s question, if you are going southbound and you want to turn into Chick-fil-A, and I am waiting to make a left-hand turn, there could be six cars behind me before it interferes with the intersection. Commissioner Walter said if he is understanding Mr. Stanton’s concern, right now we do not have a right turn lane to go onto South Market Street, we only have a straight and a left-hand turn. He thinks Mr. Stanton is thinking that those three lanes that end up at the light, start here past the exit and entrance to this site, which Commissioner Walter does not think the three lanes start until past the curb of that entrance. He is thinking you have to cross three lanes going down the hill. Is that correct Mr. Stanton? You are thinking you are going to cross three lanes of down hill traffic. Mr. Stanton said he is also looking at coming out of the development and you make a left-hand turn, we have traffic coming down the hill, then we have the traffic coming up the hill,

which is either going to wait to make a left hand turn into the development or they are going to go straight. But at the same time, we also have these people trying to get out and make a left-hand turn.

Mr. Stanton asked what A and B volumes were. Mr. Allen said that levels of service are based upon delay at an intersection, it is not based upon a particular volume but the interaction of volumes along each leg of traffic. You could have heavy volumes on one leg and have small volumes on a side street, but because of the way the volumes interact, there is a whole manual called the Highway Capacity Manual that goes through all of the theories of the calculations, and we have a software that calculates it. In level of service, there is no relation of how many cars, he said it is delay. Level of service A is an intersection estimated delay of less than 10 seconds, B goes to the next level, C to the next. He thinks B is 10 to 15 or 25 for a signalized intersection.

Todd Jones, Senior Pastor at Country and Town Baptist Church, at 220 Gettysburg Pike  
Of 586 Spring Lane, Boiling Springs.

He shared that the general feeling talking to our congregants and the director of our daycare center, is excitement. They tend to be good neighbors with local churches. We are in support of this. The biggest traffic for the church is on Sunday mornings at 11:50 when their services and Daybreak may be letting out. The one concern they may have is it still legal for them to turn left out of their main intersection onto Gettysburg Pike, heading onto 114. President Martin said that it would be. This development will not affect your highway access.

Tim Glessner, of 2198 Spring Run Drive

He said that modeling is a valuable tool, but at the end of the day, it is still an educated guess. He asked what happens if this is built and it turns out that the traffic was not as predicted, is the developer required to come back? Is there some way to hold them financially responsible. Do they need to post a bond or something like that? He said as a taxpayer, he does not want to foot the bill for lights. President Martin said this is like other development, you take the condition as it is and then estimate what additional traffic will be put in, if you meet that criterion and the approved prediction of the time, I doubt we can go back to them and say, oh, things have changed and now you have to do that. He believes it is no different than any other improvement in the township.

Commissioner Anderson said that we have to take in consideration that we are also dealing with 114 that is a state road. What goes on the state road, we have to go through PennDOT. President Martin said that in the future, for example, if someone buys a church and puts up an eight-story apartment building, then that becomes their burden of proof to make sure or any other area. You anticipate what might happen, but that is the next development that has to prove they meet the conditions. Commissioner Cochran said he does not believe all the improvements you are making to 114 are required, he thinks they are beyond, you are doing some stuff that is above and beyond what is normally required. He thinks they have shown some good faith in a situation where legally, they are not required to touch. Mr. Glessner said that we all assume the risk then and President Martin said yes.

Erik Weenink, of 309 E Meadow Drive

He shared that he is not speaking on behalf of an organization but thinks he voices concerns of many in the development. He said he understands that the concerns about the traffic study are to be voiced at the planning commission meeting, which he has done. He said the responses to those questions were circular and not truly answered. In addition, he would like to postulate that the planning committee did not do due diligence properly, which is why we are discussing details on the traffic here. He believes the application has been approved too hastily without investigating specific concerns raised at the October 31 committee meeting, talked about in a roundabout way by Mr. Allen, but not really giving specifics that he was looking for. Too many of the assumptions are based on averages, wrong time frames that take advantage of smoothing out spikes that truly impact the residents, scientifically referred to as the law of averages. Anyone in this room would agree that Chick-fil-A generates well above average traffic at most times of the day except for Sunday. A recent report indicated that Chick-fil-A as discussed by the representative that they actually expanded the kitchen to accommodate three drive through lanes. He said he does not think that is in the modeling. The modeling is based on an average fast-food restaurant with one drive through lane. They also did not increase the size of the restaurant. The modeling is based on a 3,000 square foot restaurant. They increased the kitchen, they will have more traffic, but it will not change how they study the graphs. Which by the way have an extremely high standard of deviation and a very low confidence for the values that they picked to use in their modeling. To the best of his understanding, none of this has been included in the updated traffic studies and they do not fit the averages. He asked why the planning commission did not challenge that in the first place because we would hope that the planning commission beside pressure testing for legalities and meeting zoning requirements and the laws also represent the interests of the residents and there were many residents at the last planning committee meeting that expressed concerns and the planning committee did not even discuss the concerns. They immediately moved to approve. Very disappointing. He said there is in his view, a big miss from the Township, whether it is staff, the traffic engineer and/or the planning commission, that the South York/Gettysburg intersection has not been included in the scope. When he asked about it, he was told it is not in the scope. It was looked at as Mr. Allen said this evening, but it was looked at in isolation. The problem is we are not connecting dots. There is a dot for South York intersection. There is a dot on Gettysburg Road at 25 miles per hour. There is a dot to the ModWash Carwash. None of that seems to be connected. Part of the traffic will flow past Daybreak which is private property. When we submitted a right-to-know request for communications we are told that is private property and therefore there is no communication that we can share. However, it also has the Township dog park which is public property and more importantly, this empties out onto Gettysburg Pike. If we connect the dots from Old Hollow Road to driveway #4, we pass the South York/Gettysburg intersection. Which clearly should have been included and considered in a traffic study. That was not done. We already established that on Saturday, 20% of the entering traffic north bound is coming on driveway #4. It is hard to find in figure 4. There are a lot of figure 4's by the way, not just one. Another resident ceded her time to Mr. Weenink. Mr. Weenink said to Mr. Allen that he was lucky he did not have a timer, obviously. Mr. Weenink said the traffic is all entering at driveway #4, driveway #4 to the best of his daughter's pacing is less than 45 yards from the intersection with South York and Gettysburg. In "Numbers that Every Traffic Engineer Should Know", it suggests that any intersection and driveway less than 150 feet apart should be considered in traffic studies. Another reason to consider this intersection. Commissioner Cochran asked where he got that information from. Mr. Weenink said that it is from a website called "Traffic Numbers that Every

Traffic Engineer Should Know” and it gives you the basics which includes the 1900s.... Commissioner Cochran asked if it was an IT member. Mr. Weenink said no, it is a guideline, it is rule of thumb and it is helpful in understanding the basics. In the same way that Arbor View development has 27 single homes, which typically would generate one traffic trip per peak hour, the Terraces have 37 townhomes that would typically generate .7 trips on peak hour. If you do the math, that is 50 cars on incremental traffic that was not included in the traffic study. The other problem with the traffic study was it was done on a quiet Thursday, February 20<sup>th</sup> when there was no traffic from the Terraces, there was no traffic from Arbor View. It was only measured once in the morning time frame, once in the afternoon and once on a Saturday. That is not statistically significant or representative, and it is very dangerous that all of the subsequent model calculations and by the way, this is now more than two and a half years old. We are approaching the three year PennDOT time limit. All of the model calculations are based on this one data point. There is no solid foundation to know that whoever happened to pass on that day was included and whoever happened to be sick and did not happen to pass but normally does was not included in the count. For all of the above reasons, he suggested that the planning commission did not sufficiently represent the best interests of its residents and barely eked on by on pressure testing against legal parameters and approving this application without hardly any questioning or discussion at the October response letter. He therefore implored the Board of Commissioners to reject the planning commission recommendation and request another traffic study that is up to date, but more importantly includes the right scope and code compliant time frame. Without the intent of getting personal, he would like to express his concern of a serious conflict of interest with the Township with the many projects by Alpha Engineering. One of the Commissioners who has excused himself from voting but did ask a question is the second in command at the engineering firm. Although he excuses himself from votes that are directly related, his working relationship with the other commissioners will undoubtedly be impacted, beside the fact that he has inside information to relate back to his engineers. Excusing himself is not enough. The Township should be more ethical than electing a Vice President to represent residents of the Township plus also being Vice President for a company that works with land developers on many projects within said Township.

President Martin said that he believes the York Street/Gettysburg Pike intersection was studied, he said heard a little bit differently from what he heard. We as a Board take the input from the developers engineer who is credentialed and professional, our own Township engineer looked at that and so if you have an issue with those qualifications, criteria, this Board is not the appropriate forum for that. It is something you could discuss with a competitive company.

Tina Prins of 1526 St. James Circle

Ms. Prins asked for clarification that the Upper Allen Township had communication with PennDOT regarding South York Street? She said she thinks she heard 2017 and 2018 commented upon. Ms. Boyer said the Township had a traffic study done by a traffic engineer in 2017 to look at the intersection to see if it would meet PennDOT warrants and have some recommendation to go to PennDOT and say this is the improvement that we think is warranted, can we make these improvements. That traffic study came back and said none of the criteria, 5 or 6 different warrants were met. That was done by Traffic Planning and Design (TPD.) Upper Allen had requested that. Ms. Prins asked if there ever any communication with PennDOT regarding South York Street. Ms. Boyer said she does not have them with her. Ms. Prins said she thinks she has



heard multiple times that Upper Allen Township said that PennDOT has denied a three-way. So PennDOT has denied Upper Allen Township.... President Martin said correct. Commissioner Cochran said we don't meet the warrants currently and we submitted a complete study in 2017, we had communications with them in 2018 and once again in 2020. We looked at why they denied us in 2018 and 2020 did not make enough difference to get an approval. Ms. Boyer said that when the school district redid the elementary school for Shepherdstown and Upper Allen, they had to go to PennDOT because of traffic going on to South York Street and PennDOT at that time said that they would not meet any thresholds and they did not even have to do a traffic study. PennDOT even then was saying there is not going to be a significant impact with traffic to warrant any changes. Ms. Prins asked if there was a direct communication between Upper Allen Township and PennDOT with regards to South York Street. Commissioner Cochran said yes. So on November 22, she said she submitted a right to know request form and she requested communications between Upper Allen Township and PennDOT pertaining to South York Street. Time frame January 1, 2010 to December 21, 2021. I submitted another right to know, communication between Upper Allen and PennDOT pertaining to Upper Allen and PennDOT pertaining to South York Street, time frame the entire year to date of 2022. The letter she got back from the right to know officer says, this request is denied as no such records exist. So, is this letter correct or is what you are telling me, there have been communications between Upper Allen Township and PennDOT. She said she is just looking for transparency, because I am hearing that you say you have had communication and on paper it is written there is no such records. Commissioner Cochran said that in 2017, his understanding is that we submitted a full traffic study on York Street. Ms. Boyer said that the Township hired TPD to do the full traffic study and they came back and said not warranted. Ms. Boyer said we did not do the correspondence, TPD did. Ms. Prins said, but you hired them. Commissioner Cochran said yes. Ms. Boyer said she does not have that paperwork in her files. Commissioner Cochran said that in 2018, you went back to TPD with some updates and TPD said at that point the updates did not meet the requirements, correct, Ms. Boyer? Ms. Boyer said that the information she has on 2018 was with the school district. It was not the Township's correspondence with PennDOT. So based on what you wrote, it did not meet what we had. Ms. Prins said they considered it gray. If you look at Google Earth, most Chick-fil-A's are not in residential areas, especially within 100 or so feet of an historic district. She said she knows a Daybreak exit was added and asked if that was contingent upon the approval of the plans with the Township planners. Commissioner Cochran said no. Ms. Prins asked what happens when ... Commissioner Cochran said that was an issue between the church and the developer and his understanding is that the developer reached out to the church and offered to create another exit for them because they have issues down there and in return, they got access to a small piece of land to do some water retention issue. Ms. Prins said that the Township leases a plot of land for the dog park, so now you have this road with Chick-fil-A traffic with dogs and residents trying to cross. She asked if the Board did not see the conflict or safety concerns. Commissioner Cochran said that is a road that already exists, it is Old Hollow Drive. Ms. Prins said there is no Chick-fil-A there right now, developing 80 cars an hour traffic through the dog park. Commissioner Cochran said that is assuming they come through up there to get to Chick-fil-A which he is not sure they can make that assumption. Ms. Prins said the whole traffic study is nothing but assumptions.

Eric Fairchild, of 1224 McCormick Road

Mr. Fairchild said that he thinks he is allowed to face the audience if he wants to, without being interrupted. He said he heard the original Shepherdstown presentation, the Mills at Shepherdstown, replicating an antique mill structure. Doug Tilley did it, there was sensitivity to the height of the buildings and like where the Union Hotel is. He was impressed with that proposal, it was quality development. There is quality development and there is pretty crappy development in his mind. This project and all of Mills at Shepherdstown is infringing on an historic district and the Union Hotel which is on the National Register. It was put there by a famous historian, William C. Davis. He said he hoped the Chick-fil-A people might research him for his civil war work. He does not believe we should be infringing on an historic district. He said he tried to make that point earlier. For the life of him, looking at this and maybe if everyone was honest, he does not know why it is on this side of the road and not where the 7-11 is. That seems much more plausible had it been put there. It seems ironic to him that there is going to be another Chick-fil-A two or three miles down the road, he does not understand those economics. He said he has wondered all along what Mr. Gates exit strategy is on this. Has the land already been transferred to Chick-fil-A corporation? Yes, no, anybody? Mr. Gates said no. Mr. Fairchild asked if there is an agreement of sale, what is the price that it is to be sold for. Commissioner Cochran said it is a private deal. Mr. Fairchild said it will be public at some point. Commissioner Cochran said that some day it will be, but right now, he has no obligation to disclose that. Mr. Fairchild asked if Chick-fil-A wished to say what this land is worth, what type of tax revenue will be generated for the Township or the school district. Mr. Fairchild said "shaking his head no", you are very open and transparent, your greed is palpable. Lowell asked Mr. Fairchild for a copy of Mr. Fairchild's tax return. Mr. Fairchild said no, he was not doing that. Mr. Fairchild said he would rather drive to the Carlisle Pike than bring the Carlisle Pike here, that is what you are attempting to do. Here again, everyone glossed over the numbers. What are the road improvements going to cost, there has to be a budget. He would like to hear that number. President Martin said he does not know that number. Mr. Fairchild asked if no one had that number. He said you also have the issue of who owns the roads, when do they become dedicated to the Township, the maintenance of the roads. President Martin said that the roads will always be owned by the Township and the State so the fact that there are improvements being made to the road does not change ownership. Mr. Fairchild asked what the budget to build the roads are, the developer is going to build these roads, did he not hear that? Mr. Fairchild said no one can give a simple answer and that is one of the problems. He never heard how many cars a day. President Martin said he has heard an amount, but he does not know if it is accurate. Mr. Fairchild asked why President Martin could not make a guess, millions, what are we talking about? President Martin said yes, millions.

Mr. Fairchild addressed Mr. Gates and said he did not seem to understand here, we the taxpayers are subsidizing this development. When you increase the elevation to the Mills at Shepherdstown, they had to buy a new fire truck and increase the ladder size. Commissioner Cochran said that is not true, we replace our fire trucks on a regular basis. The new truck had nothing to do with the Mills at Shepherdstown it was time to replace. Mr. Fairchild said he remembered it needing an incremental increase in the ladder height to address the Mills of Shepherdstown. He said you gave a height; he got a variance on the height to do it. Chief Tom Shumberger said the NFPA requires us to replace our fire apparatus every 20 years. Our current truck is a 2004. Mr. Fairchild said that is not the question. Mr. Shumberger said it is a 95-foot truck, the apartments are going to be 65 feet, we have plenty to make it to the roof with our

current truck. Mr. Fairchild said that Mr. Shumberger was not giving him an answer. Mr. Shumberger said their current truck is 95-foot E1, the truck we are getting is going to be a 100 ft truck. It is five more foot that has nothing to do with any of the buildings. Mr. Fairchild said that is what he heard when it went through, he heard 1.5 million dollars for a fire truck. President Martin said that this is one of the advantages of a meeting like this in terms of transportation, cars, the whole meeting tonight has been open, people have answered questions, they have presented information in order so that we all have a common understanding. People may not like the answer or agree with it, but he thinks you asked a question and Chief Shumberger attempted to answer it and he did the appropriate thing.

Mr. Fairchild said the development necessitated a water tower. The Township made a contribution to the water tower. President Martin said that is true. Mr. Fairchild said Mr. Gates also contributed to it. Commissioner Cochran said that Mr. Fairchild knows that the Township made the contribution because of the schools. Mr. Fairchild said that it is all for the children, he knows that. Commissioner Cochran said that renovations to the elementary schools mandated that all the elementary schools have sprinkler systems in them which they did not have before. When they were put in, it was determined that the water pressure provided by the water company was not sufficient to fire the sprinklers so when an alarm went off, the sprinklers would start and then stop, there was not enough pressure there. The school district and the Township approached the water company and said, what can you do for us here, this is an issue, we need more water pressure. Legally, they are only required to provide a pressure that he thinks is around 55 pounds, but it is a residential power, so the fact that the school district needed a stronger power than that, was of no interest to them, but if you are willing to help pay for it, maybe we will look at it. So, the Township worked with the school district, and he believes that Mr. Gates, Mr. Williams put some money towards it and we are building a new tower. That was not specifically done for the Mills at Shepherdstown, that was done for the school district and the safety of our kids. Yes, it was for our kids Mr. Fairchild, you are right.

Frank Grumbine of 304 West Front Street, Lewisberry

Mr. Grumbine said that he is not a resident, but he is the Central Region Preservation Planner for the Pennsylvania Historical Museum Commission. He offered his assistance to the Township in any issues that it may have for historic preservation planning, for the issues with the historic districts.

Eric Clancy, of 53 Emlyn Lane

Mr. Clancy said this is a perfect spot for intensive development immediately adjacent to the highway. The Chick-fil-A site has been designed as discussed with three driveway access points, there is the right out, there is the access point that serves the parking area and then the access point down below that deals with the drive through. The fact that the access drive for the parking lot does not conflict with the drive through which is not atypical of Chick-fil-A's. He thinks that is an important benefit of this layout and design. The key issue with this design is keeping traffic cueing off of Gettysburg Pike so we do not want, beyond the design parameter here, we want all of that traffic to be cued up on the site. There are almost 400 feet from a turn access where it would turn left into the drive through. Beyond that, there is another 200 feet on the site that cues up before you get to the drive-up canopies. The critical issue there is you can stack 30 cars before you get to the drive through canopies and another 45 cars under the canopies and that is a very helpful design. This issue here is that this design accommodates very heavy

traffic flow and they have addressed that really nicely in this particular layout. The is an allowable use in the current zoning. The critical failure of a plan like this would come from a stacking that would occur out on Gettysburg Pike and he thinks there has been a lot of work done and has been taken care of. The issue of the off-site improvements, Penndot has a very strenuous highway occupancy permit requirement that has to be met, those improvements will have to be made, inspected by the Township and PennDOT and in place for this thing to go. He thinks it creates vital commercial taxbase for the community and leverages a site that is right for development with a quality use. It is an advanced approach to the traffic flow.

Rick Evans, of 1713 Morning Star Court

Mr. Evans said that the 2017 traffic study was not updated. The modifications that were referred to were modifications post project. The baseline data for this traffic study is 2017. He said we were told that as part of this project that by 2027, the intersection will be inadequate, a D rating. Yet, with this significant of a project development, we are using data that is five years old to project what is going to happen with this project. He does not know why we are not requiring an updated traffic study. Is there an explanation for that? Part of the traffic study is traffic accidents; nobody wants to talk about it. There will be more traffic accidents here, our community is at risk here. There are over 1000 homes that drive through that road every day that have children. Why for the price of a traffic study would we use five-year-old data. President Martin said that the 2027 condition, he heard that too and he believes it was also alleged that the modifications that are proposed would help alleviate that. Mr. Evans said President Martin was completely missing his point. Mr. Evan's point was that in five years, the degradation of this intersection is significant from today, yet we are ignoring five years of traffic data, why? Mr. Allen responded that there may be some confusion about the studies. It was one study that has been continually revised. The data collection for the 2017 study, that was for South York Street only. Which we applied the growth factors, the development rate traffic which is all standard procedure so there is nothing that is being done differently or underhanded. For the actual development itself, that was part of the original scope, those traffic counts were conducted, pre-Covid in 2020. The standard for traffic study counts is 3 years and that is because the growth rate right now is 0.54, it is not going to be in impact to the intersection that is going to be measurable. That is based upon his experience, but it has been reviewed multiple times by multiple PennDOT reviewers and the Townships engineer. We have done what we can to keep addressing this. President Martin asked to be clear, the 2017 study reference tonight was for Gettysburg Pike and York Street. Mr. Allen said that was correct, that is the baseline. President Martin asked if Mr. Allen has done traffic count studies, calculations more recently to try to apply it to this site. Mr. Allen said that we did not recount South York Street, we have counted the three intersections that were mentioned as part of the scope.

Mr. Evans said that there is not a current traffic study that has been done. Mr. Allen said that is not correct, there is a current traffic study, documents were submitted to the Township. Mr. Evans said they were 2017. Mr. Allen said that is the data collection, they occur throughout time. We can go back and look at data, we can take new data, we can apply growth, we can apply development, it is all part of the process and the standard procedures of a traffic study.

Susan Weenink, of 309 E Meadow Drive

Ms. Weenink said at planning commission she was told that the role of the planning commission was to make sure that a suggested development met the requirements and that it was the Township Commissioners that would vote at the behest of what the residents wanted. She said she is confused because she thinks she just pulled up on their phones, that Channel 27 has all of the Commissioners breaking ground today on the Chick-fil-A, was that correct?

Commissioner Anderson said that was a lie. That picture was when we broke ground for the whole project. Ms. Weenink said the article is referencing it as Chick-fil-A. President Martin said that no Commissioners were at that site today. Commissioner Anderson said no, it was raining. She said that date happened in August. President Martin said this is what happens, the value of a meeting like this is an opportunity to clear this up and he hopes that you tell your families and neighbors that nothing happened on that site today and none of the Commissioners were up there. Ms. Weenink said there is a room full of people here, we waited two hours to be able to talk and she stated at the beginning that you think this is the largest turnout since someone's tenure here. She asked what that meant to President Martin. She asked if it told him that as much as we love Chick-fil-A and what they stand for, we have told you this is not the right location for a Chick-fil-A. Commissioner Anderson said it meets our zoning and ordinance. Ms. Weenink said she understands it meets the zoning and ordinance, but what she is wondering, do residents have any input in what happens in our community? She said she understands we have done the traffic studies and it meets the ordinance, she understands that, but you have this room full of people telling you we like chick-fil-A, but not here. Does that mean nothing to you as Commissioners that we elected to represent us. Commissioner Anderson said this group speaks for the 23,000 residents plus and she has talked to many of them. Ms. Weenink is not going to assume that she speaks for everybody, but at what point do you weigh what residents say? She said that after the last planning committee meeting, we sat for 1.5 hours and raised concerns to you and in 30 seconds the planning commission said are we voting to move this to the Board of Commissioners, yes. It was almost like screw you, what you guys think, we are just going to move this on and now I feel like this is happening again tonight. You have people saying we have concerns about this and yet I feel like you guys are saying, sorry, its five of us, we decided, and it is a done deal and we are going to decide for this whole room of people that also live in these communities and care about what happens in our neighborhoods. Commissioner Cochran said let's go back to the Planning Commission meeting because he was there too. The head of the Planning Commission kept asking is there anything new? We need a legal reason to turn down a plan. Traffic is not a legal reason. If they meet all other requirements and we turn it down without a legal foot to stand on, we get sued. What good does that do the Township? People said they turned it down in Camp Hill. That location needed waivers; they did not meet the zoning codes. The developer was asked to make changes in return for the waiver, the developer said no, and Camp Hill turned them down because they could. They did not meet the codes. This developer meets all our codes and there is no legal reason that we can stand on to turn down this plan. Ms. Weenink asked if there was nothing we can do then, it is a done deal. Commissioner Cochran said it meets all the codes. Ms. Weenink then asked Chick-fil-A if you care so much about the community that you say you do, maybe it is time for you to pull out and just go to the Lower Allen and respect this community, that we like you guys, but we do not want you right here in our back yards.

President Martin said he thinks this process over years has heard the residents because we were concerned about too many building in the site, we have gotten it down to two apartments and two restaurants. There were traffic concerns and we have gone back and looked at that. The developer is spending lots of money to make improvements to the roadway, so it may end up, if your goal is only to say, I won't be satisfied until there is no Chick-fil-A on that site, well then, probably in your mind, it is for not. He said he would like to think that through our discussion and exchange of information and the back and forth between the Township's professional staff and the developer's staff, he has in fact taken into consideration some of those concerns so that we do have more stacking on the site. There are more lanes to serve food, we have additional turn lanes.

Ms. Weenink said she thinks the point is being missed that a lot of us do not want three lane traffic on all four roads and we do not want stacking lanes and we do not want all this traffic that it brings in. There is more to this than just that. This is becoming Carlisle Pike. This is step one to Carlisle Pike. President Martin said he did not think so. Ms. Weenink said that she would wager him in 20 years. Commissioner Cochran said there is simply not that much land to develop in the Township. President Martin said that if it is not Chick-fil-A, it will be something. Ms. Weenink said that is ok, but Chick-fil-A brings in so many cars. She said that we like Chick-fil-A, but not there and we are not against the developing. President Martin said that to Commissioner Cochran's point, there is no way that we can legally stop that and say, we will take Wendy's, but we will not take Chick-fil-A, because they meet conditions. President Martin said this community is a first-class Township. We have the best police department that is accredited anywhere in Cumberland County, we have a great all volunteer fire department, we have good EMS services, our highways are pretty decent, and no community has a park system like we have. He said he is proud of this Township, and we have developed as a bedroom community and it is heavy residential. People that are residents need professional and commercial services like healthcare, food, clothing and Paul B. Why are we sending people to other places and not keeping the revenue and tax base in our Township. Ms. Weenink said it is because we do not want the traffic.

Rick Jacobs, Pastor at Daybreak Church of 58 Creek Road, Dillsburg

He used to live in Upper Allen. He said that it is a pleasure for our church family to serve in this community. We have a tremendous working relationship with the Township to serve the community with the Dog Park. He added that it is at no financial gain, we lease that land for free to the Township. We had the same partnership with Linlo. We have gotten together and began to discuss this part that we both share in common and that is that he lives in this Township and has a huge desire to serve the people of this Township and community. The walking paths and trails that will not only surround the Linlo Development but also our church and connect to the neighborhood on the South side of our church and then enable walking access and community to the dog park and all of these businesses has just been a huge part of what he has seen this Board and the developer be a part of as well. He said he knows we are heated on a traffic issue, and he understands, but when we question the motives of people who are in the room when we do not even know who they are or understand their motives it gets a little complex, my experience in the last five years has been completely different with both of the parties involved. At a time like this, being able to come together as a community and say how can meet the best interests and needs of the community and also just a thankfulness to be able to see another part of this project.

The walking trails and everything associated with it that is going to be a gift and blessing to the community.

Jon Nesser, of 2141 Arbor Court

He asked if we could be provided a much more detailed road map of the road as the drawings are difficult to read and it is hard to get a sense of how long that extra lane is going to be, where exactly the turns are going to be. He asked if we get into a situation where that area becomes problematic, is there an opportunity to put a traffic light in? President Martin said that with traffic lights, you have to meet certain warrants. He also said a map would be a good idea and likes his suggestion. Mr. Gates said they could certainly try to provide for the community.

Terri Evans, of 1713 Morning Star Court

Ms. Evans said Mr. Stanton was concerned about the turning. Part of what she was seeing for that question for him is unfortunately, people do not obey the speed limit there. A big concern is that with the people turning in left from coming towards Shepherdstown and then people trying to come out onto Old Gettysburg Pike, there is going to be a blind spot there. She thinks it is something that needs to be looked at. President Martin said that the previous speaker's suggestion if we can all look at it at a closer level, maybe that will help us understand that better. She asked if the entrance or exit down toward Daybreak Church and the Dog Park, is that entrance going to remain, is that the same as it is now, or is there going to be a change to that. President Martin said that his understanding is that there will be no change to that. He said that is not really an entrance designed for this development, it is a connector. Ms. Evans said that it will produce traffic and being that it is an historic district, this is definitely going to infringe onto a residential historical area. It sounds like the decision is made. She has a concern that there are no sidewalks along Gettysburg Pike. She knows that kids will try to get to Chick-fil-A via the historical hotel on the corner of S. York Street and Old Gettysburg Pike. She does not know why they put the crosswalks in the little portions of sidewalk there at Market Street because there are no sidewalks that go anywhere. Commissioner Cochran said that when the Township put in the signalization, we had to put in pedestrian paths and the curb cuts. President Martin said there will be a sidewalk from that intersection along Gettysburg Pike up to the restaurants. She asked what about from that point up to where York Street is. President Martin said he does not know that, but what he would advise the kids to do would be to either cross down there at the new apartments across from Arborfield and then come up through the back, or if you go in at Daybreak Church, you could go walk to Chick-fil-a back on the path system behind it. Commissioner Cochran said we have a problem in the village because it is a village, and a lot of the homes sit very close to the street. We do not have enough right of way to put a sidewalk in without taking someone's front yard. She asked about along where Country & Town Church is to put a sidewalk along there. She said you are going to have kids coming from the Middle School. Commissioner Cochran said we may not get a blessing from Country & Town Baptist again if we mandate a sidewalk, but it may be something we have to think about. He said we are thinking about making it a more walking community. We have a real issue with Rt 15 trying to get underneath of it. The Township has asked PennDOT about a pedestrian way underneath there so we would not be split down the middle and so far, they have not agreed. We asked for a bicycle lane on Market Street when they repaved, and they denied us that. He said if we are going to have more commercial in the Township, it is going to either be up here on Gettysburg and Market or further down Market going towards the Borough. Those are the places we have to

put some commercial in and provide some convenience to our residents. We are looking to make those areas more walkable if we can. President Martin said her suggestion was on York Street maybe in front of the hotel, the whole way down the West side of Gettysburg Pike, at least so they could then cross. Ms. Evans said that often they do cut through the Church parking lot and up through. It is a safety thing. Commissioner Cochran said that the actual entrance at Daybreak Church is really Old Hollow Road, and it is a Township road, even though the Church uses it as an entrance. We could put a sidewalk in there, it is our road and that might help get you down to this, but we still have to get you across Gettysburg Pike. Because of the changes in elevation there, it is dangerous.

Jon Stough, of 103 Ellsmere Lane

Mr. Stough shared that he sat on that side of the desk as a municipal manager for 15 years and this is a thankless job. He was the Borough Manager of Mechanicsburg, and he knows his Borough Council and his perspective as he thinks the Board of Commissioners is, you have to do what is in the best interest of at least 51% of the public. While there are a lot of people, this may be a new experience for them, coming to a municipal meeting. He said to trust him when he says, sometimes the decisions you want to make, you cannot make. He used to wake up with nightmares about the municipalities planning code. He appreciates that some of the plans he had to approve met the conditions of the ordinance, there are state guidelines that you have to abide by. He can tell from listening tonight and doing his own research, you have done a very thorough job, so thank you for your service to the community. Commissioner Cochran said that the Township is on the bottom of the pecking order. The Commonwealth makes laws that everyone has to obey. It designates a little bit down to counties. Even a little bit down to municipalities. As we do zoning, we have to go back to the county to make sure that our zoning matches up with zoning in municipalities around us because you cannot have an industrial zone in Lower Allen Township sitting up against an estate zone in Upper Allen Township. There is a County Board that gets involved too. We cannot spot zone. We are regulated. As you said, there are some things we would like to do and emotionally we can buy into, but legally we would be in trouble if we did.

Mr. Stough shared that they redid all ten traffic signals in Mechanicsburg when he was there and actually used a local firm to help us find some federal earmarks and it was a lengthy process. After all the traffic studies and after redoing all ten intersections, all but one of the intersections still only had a D passing scores, so he knows what Mr. Allen speaks of regarding traffic studies. The amount of traffic that we have in this community, it sounds like a thorough job was done.

Christine Musser, of Silver Spring Township

Ms. Musser is an historic preservationist. She wanted to speak to the fact that when you are next to an historic property, make the aesthetics blend, somehow. She said maybe Mr. Murphy and along with Mr. Gates they can do something to accommodate what needs to be done to help the walk. President Martin said that we have quite a bit of walking already in the site connecting to Daybreak. Ms. Musser said she was referring to along the highway. President Martin said the apartments at the Mills at Shepherdstown, they are very retro industrial and that is why it is called the Mills at Shepherdstown. He said it helps continue that historic feel, so your feel is well taken.



Tim Prins, of 15 26 St. James Circle

He asked the Township Engineer, Mr. Reichard if he said he did not look at the plans? Commissioner Cochran said that we have a separate traffic engineer. It is TRG. Mr. Prins asked with the study and the modifications that have been done, the left turn coming on to Gettysburg Pike going southbound, they say that would be improved in the 2027 to a C, is that correct? Where the intersection goes where you are coming off of Market Street, you are turning left on Gettysburg Pike, to go up to the entrance. Mr. Allen said that for clarification purposes, we were just discussing intersection levels of service and with mitigation, it will be a level of service C. Mr. Prins asked to confirm that with the mitigation it is a level of service C. Mr. Allen said that is correct. Mr. Prins asked if he also heard that if it was a level C, you would have had to make adjustments in the plan? It is saying that if it is a C, he has to make improvements to get the development done, but yet we are talking about other areas that become a C if we put a stop sign in at York Road and Gettysburg Pike. We have two different intersections and it looks like it is contradicting answers. Mr. Allen said it does get confusing. PennDOT requirements at the intersections, it works as a level of service A, just like grading, but it is not a grade, ABCDF, so to require a mitigation you have to 1) drop a level of service, you have to go from an A to a B, but on top of that you have to meet what is known as a ten second deviation. If the intersection now is at nine seconds, it is an A, but it drops to 11 seconds as a B, that still would not require mitigation. You have to do a level of service drop plus ten seconds. So for South York Street, we are estimating based upon what we were given and what we have done, it is currently an A, if you put a stop sign there, it would drop to a C. You have dropped two levels of service. If we go back to Market Street and Gettysburg Pike, that does not require improvements based on a level of service drop. The reason why these were recommended for improvements, all three of the intersections along South Market Street was for queuing extensions. So the development, even though there is a lot of traffic, there is enough capacity out there from a level of service standpoint. We also looked at the cueing to make sure we have plenty of storage lengths out there. The Township and he believes it was Commissioner Cochran that brought it up, right from the beginning, that left turn lane onto North Bound 15 backs up, so we are extending that to 450 feet. His observations on the sight were the North Bound approach to South Market Street, that backs up the hill, so we are recommending the right turn lane, all to try to alleviate some of these cues. Mr. Prin said that his concern was that at Market Street turning on Gettysburg Road was going to be a C in 2027, which would have required them to make improvements. It just seems like it is not an area that is being addressed properly that is going to create problems in five years. He thinks we will regret this in a few months. Commissioner Cochran said he does not think it is an issue. When this proposal was first brought forward, PennDOT thought a good idea would be a traffic circle at Gettysburg and Market and these folks spent a lot of time and money designing a traffic circle to fit in there. Once they had all the plans done, they took it to PennDOT and they said, that North bound left hand turn onto 15, sometimes in the morning, it stacks clear back to the circle, it could congest a circle. Once a traffic circle is congested, it is done, it is almost impossible to open up. PennDOT said to go back to a regular traffic light. These folks spent all that time and money to design a traffic circle for PennDOT to change their mind. He would think that anything that is going in there now, PennDOT would be behind 100% with all the stuff that has gone on in the past. Mr. Prins address Commissioner Anderson saying that if she does not think this group of people represent the Township, he said he thinks she needs to reconsider that and maybe it is time for her to step down. Because that is an insult to the people who arrived at this meeting

tonight. Commissioner Anderson said that she got 200 emails from people who were supportive. Mr. Prins said that to insult the people here is disrespectful and these gentlemen (referring to the developers) have at least remained professional. But that is an insult to us. Commissioner Anderson said that she was insulted.

President Martin said that sometimes these issues get emotional, but he likes to think that there has been some understanding, not agreement necessarily. But at least you know what boundaries we are operating in and what we have considered. He thinks the developer has done in some instances over and above what was required. We hear your concerns that there is going to be change and it might not be good or maybe we will learn to live with it. He thinks that the developer is going to distribute an understandable map where these lanes are and how traffic is going to flow. We are going to look at sidewalks.

Erik Weenink of 309 E. Meadow Drive

He said that part of his presentation included a question. He thinks a traffic study should be redone with up-to-date measurements and a broader scope. He stated that he challenges the scope and some of the assumptions. He understands that the Board of Commissioners are satisfied with what the planning commission already approved on October 31, 2022, so therefore, you are bound to proceed with approval? President Martin said no, he does not now if we have been satisfied, he has not heard things to the contrary and if in fact we take a vote, that will speak to that. President Martin does not think we are bound by that. He thinks the question is whether or not we feel we have enough of information and the studies were credible. Mr. Weenink asked if President Martin feels the studies despite the many arguments and points he brought up, you feel that despite all of that, the studies and information that has been provided to you is sufficiently credible to make an informed decision? President Martin said that he cannot speak for the Board, if you are asking me individually, the answer is yes.

Terri Evans of 1713 Morning Star court

She asked if on the off ramp coming off 15 south, and going right toward the township building, are they putting a right-hand turning lane? Commissioner Cochran said no, that is PennDOT, and they are not. President Martin said that functionally, it serves as a two-lane ramp, but we are not allowed to stripe it or make it official. President Martin said he is not here to defend PennDOT. Ms. Evans asked that there is going to be right hand turn lane going onto Market Street from Old Gettysburg Pike, correct? Commissioner Cochran said that is correct. She asserted that she believes another traffic study should be done.

Commissioner Cochran said he sympathizes on traffic and that anytime you have a growing community change happens. He has been on the board for 20 years and tries to make changes that are in the best interest of most of the people. Where do we have the authority to go beyond what is required? He said he does not like government to do more than they are allowed, I do not like government to be a bully. He does think we need some retail in this area. All these plans met requirements and to the best of his knowledge there are no waivers. You can only do what you can legally do.

Commissioner Walter said that he has worked or lived here since 1976. This has always been designated as our commercial district, he said he realizes Chick-fil-A brings a lot of traffic, but in

looking at what they are doing to the turning lanes, I know about the 4 to 5 pm backups. He said he has seen a lot of change, some good, some bad, but we have always felt that for our tax base, we have to increase commercialization. My neighbors, as many of you who talked against it, others are not against it. The people here represent part of the Township, but when he looks at 23,000 people, it is not everybody. Everything has been done correctly, we have worked on this plan for a long time. He shared that has been excited about it from the beginning. He thinks the apartments will act as a buffer. They meet all the provisions; our hands are somewhat tied.

Commissioner Anderson shared that she moved here in 1976 and has seen the changes. She said she feels that everyone has to understand that traffic changes, communities grow, and we still have some farmland.

President Martin said he is proud to be a resident of Upper Allen Township. He said when they moved here, they wanted a place where there were good schools a church that they could identify with, where there was a doctor, dentist, drugstore, hardware store and restaurants. He said we do not have a real congested township, but we have a lot of quality services. He applauds everyone in wanting to maintain that quality and how we still continue to grow.

Commissioner Anderson said that we are very much aware of our zoning ordinance and what is allowed within that ordinance.

Commissioner Anderson made a **MOTION** to approve the revised preliminary final subdivision and land development plan for Chick-fil-A Upper Allen File #22705 with the 19 listed administrative conditions. Since there are conditions on the approval of this plan, the plan will be rejected unless the owner and applicant agree in writing within 30 days to comply with and abide by specific conditions of the approval, **SECONDED** by Commissioner Walter. The Motion carried unanimously.

Erik Weenink asked for the conditions. Ms. Boyer will email them to him.

Ms. Boyer said there will be a meeting on December 19, 2022.

President Martin declared a recess.

## **PUBLIC IMPROVEMENTS COMMITTEE**

### **SANITARY SEWER SYSTEM**

#### **CONSIDERATION/ADOPTION OF RESOLUTION TO APPROVE APPLICATION FOR 2022 PA DCED COVID -19 PA H2O GRANT FOR LISBURN TRUNK SEWER PROJECT**

DCED's Commonwealth Financing Authority has Federal COVID money available for water supply and sanitary sewer system projects. Staff have internally discussed multiple projects and eligibility and met with DCED representatives to strategize application viability through this

program. The Lisburn Trunk Sanitary Sewer Project was selected for application as it is a shovel ready project with DEP and PennDOT permitting already in place.

A resolution is required to be submitted with the application, which has a due date of 12/21/22. The Township is requesting \$1,037,919 from DCED's CFA. The township would match \$518,181 (33% of project cost). The project would be started and completed in 2024. Project start to end date is expected to be 150 days to completion. If awarded, grant approval is expected to come in July 2023.

The improvements planned in the application would include the replacement of approximately 2,847 linear feet of 8" and 10" sewer with new 12" PVC sewer pipe in order to provide capacity for future development. In past discussions, Rider Musser is to share in the cost of replacement to accommodate future phases of Oakwood Hills Development.

Township staff and GHD would work together on preparing this grant. GHD assisting with the technical engineering components and township staff working on other writing components and preparation.

Ms. Palmer said that Rider Musser, the developer of Oakwood Hills, was to share in the cost at 20.7% to accommodate future phases of the Oakwood Hills Development. They were to share in the replacement cost. Ms. Palmer said she does not think a resolution was ever here. We would be asking them to share 20.7% of this project that would bring their share to \$107,000 and the Township's share to \$410,918. The Township would be working with GHD our wastewater engineer on the applications. Vice President Castranio said that originally, Rider Musser was to put in 20.7% of the entire project, so he does not know if he wants to waste the staff's time on this. They have not shown anything in two years that they want to move forward with this. Commissioner Cochran said that this is a deal for Rider Musser. Vice President Castranio said they should be paying 20.7% of the larger number, why should they not? Ms. Palmer said the Township reached out to Rider Musser and they are waiting to hear back from them. Ms. Palmer said that in discussion with Mr. Cupp, this project is going to need to be done one way or another so we decided while this money is out they, it should be pursued. Mr. Cupp said that as soon as Oakwood Hills is ready to do the future phases, they are not going to be able to do that unless either this trunk sewer is upgraded and/or replaced, they will not be able to develop it unless they finally agree to sign on to make their contribution. Vice President asked if the only reason we need this upgrade is for Rider Musser. Commissioner Cochran said for that or any other future development out there, but most likely Rider Musser. President Martin said that regardless, even if we hold off and do not go for the grant at your suggestion, we are still responsible for 80% of it, correct? Ms. Palmer said yes. President Martin said the point is, we can reduce our 80%.

Vice President Castranio said we are never going to see money from Rider Musser and that they have not given any inkling in the last two years of even responding to emails. Commissioner Cochran said he agrees, but it is free money to improve sewers that need to be improved. Vice President Castranio said they do not need to be improved; they only need to be improved if we have future development.

Ms. Palmer said that if we get the grant, the funds have to be spent by 2026. Anything we do not expend by then goes back to the US Treasury. Mr. Fraser said that we can explore as an option, barring Rider Musser from being able to connect to the sewer system until they contribute their share. Vice President Castranio said that if there was a way to do that legally, then he would agree to this. Mr. Fraser said the whole point was to form a district on this one and Rider Musser was to contribute, so he thinks it is something the Township can explore. Mr. Fraser said that there will be a lot of competition for the grant.

Mr. Cupp said that Lower Allen Township Authority is also applying for two very substantial projects. One is for the Cedar Run interceptor for \$500,000 and the other one is for their UV system replacement which is \$2.5 million. Commissioner Cochran asked if they do those projects, will they expect our Township to do a certain percentage of the match? Mr. Cupp said we are obligated by the sewer agreement.

Commissioner Cochran made a **MOTION** to adopt Resolution #1075 and give authorization to the proper Township Staff to sign the DCED Grant Application, **SECONDED** by Commissioner Walter. The motion carried unanimously.

### **ADMINISTRATION COMMITTEE**

#### **APPROVAL TO MOVE FORWARD WITH NEW ERP SYSTEM AND PAYROLL OPERATIONS**

**Goal 1: To improve overall organizational planning, performance, and reporting by modernizing the Township's ERP system by 2024.**

*Maintaining and ensuring long-term structural financial sustainability requires the Township to be disciplined in the management and use of our financial resources. Modernizing the business processes and platform that supports this goal will generate value for the residents of Upper Allen Township.*

**Issue:**

Staff has identified the township's ERP infrastructure as an area of improvement in overall organizational management. Myriad financial and operational challenges arise in an organization of this size and complexity. The township's current systems are heavily reliant on paper processes and not on more technologically advanced solutions for both its uniform and non-uniform staff.

Currently, our business processes which support financial operations: payroll, A/R, A/P, budgeting, financial analysis, control and reporting, project planning and management are paper- and labor- intensive and inconsistent across the organization. A significant amount of time preparing for related processing is spent organizing paper documents, manually updating Excel documents, and manipulating/unforming data prior to entering information into Caselle. These processes create risks associated with human error, timelines of payroll, A/P issuance, and employee dissatisfaction with cumbersome processes.

### **Background ERP System:**

Over the last 10 years, UAT has used the off the shelf accounting software system “Caselle”. Caselle is serviced through a 3<sup>rd</sup> party software vendor Dallas Data Systems (DDS). In FY 2021, the Township paid \$60,044 to DDS, in FY 2022, the Township is projecting to pay \$62,000 to DDS. DDS has not yet provided rates for 2023; however, we were told there will be a likely 4% escalator, bringing the cost to around \$64,000.

The Township Manager, Assistant Manager, and Accounting Manager evaluated and met with several government ERP system vendors and have carefully weighed options. Staff recommends moving forward with BS&A.

This project has been ongoing through the Township’s Administrative Committee over the last several months. Legal review of the SaaS agreement has been completed by Benjamin Dunlap Esq. and the agreement is now in a position to be finalized and executed.

### **Recommendation:**

As part of 2023’s Capital Budget, line item #30-400-700 includes \$210,000 budgeted for the new ERP system with BS&A. Staff is seeking authorization for the appropriate township personnel to sign the agreement. Upon signature, the Township will be placed in line and receive an implementation/go live date. Expected wait time is 12-14 months.

### **Goal 2: To outsource the township’s payroll operations to a 3<sup>rd</sup> party vendor by the first Q2 payroll in 2023.**

#### **Background Payroll System:**

Payroll processing is currently a 68-step paper heavy and time-consuming process that the HR Manager is responsible for executing in house. See *Goal 1*.

Payroll processing is a wide-ranging responsibility that affects all township employees, as represented by the fact that salaries account for a considerable portion of 2022’s budgeted General Fund, Sewer Operating Fund, and Stormwater Operating Fund.

#### **Solution:**

Connecting with a 3<sup>rd</sup> party professional vendor ([PayTime](#)) will provide the opportunity to modernize payroll processing, vendor support and access to expertise to address complex payroll issues. Additional benefits include:

- Timely and accurate compliance with regulatory payroll requirements for the Internal Revenue Service and Federal 941 reporting
- Processing of year-end tax reports
- Real-time access for employees so they can manage tax and/or direct deposit changes
- Real-time access for employees to their pay stubs, W-2 and 1095 tax forms

- Improved inter-departmental sharing of payroll information and inter-governmental reporting of information to the Commonwealth of Pennsylvania and Cumberland County Tax Bureau
  - State Withholding
  - FICA
  - Local EIT/LST
  - U-Comp
  - Others: 457b, Police Union Dues, Police Pension Contribution, AFLAC, domestic relations
- Real-time processing of employment and/or income verification

**Recommendation:** Move forward with outsourcing internally executed payroll functions to PayTime and realize the cost savings by removing these modules from the newly proposed ERP system.

Commissioner Cochran asked what happens if you have to terminate, is the data ours if we terminate. Mr. Feinour said it belongs to the township.

Commissioner Cochran made a MOTION to authorize the appropriate Township personnel to sign the SaaS agreement with BS&A, SECONDED by Commissioner Walter. The motion carried unanimously.

**AUTHORIZATION TO ADVERTISE THREE BID OPTIONS FOR THE RESIDENTIAL STRUCTURE LOCATED IN GENERATIONS PARK FORMERLY KNOWN AS 1215 MCCORMICK ROAD (1) REMOVAL AND RELOCATION OF THE HOUSE (2) SALE OF THE HOUSE WITH THE LAND (LOT 5) ACROSS THE STREET (3) DEMOLITION TO INCLUDE THE HOUSE, CARRIAGE HOUSE, SMALL LIVING QUARTERS AND POOL**

Ms. Palmer said we put this property out for bid for removal and relocation previously this year. We received one bid, but it was outside the parameters we had advertised so we discussed redoing the bidding process. We are now seeking two bids and one alternate. Bid one is for the removal relocation of the residential structure from Township property. The structure would need to be removed and relocated. Bid two is for the purchase of the residential structure together with the purchase of Lot 5, which is the 2.27 acres across the street. The minimum reserve for the purchase is set at \$250,000. The Township will retain easement for stormwater drainage at the location of its choice. Bid three is for demolition. This advertisement will be open for two months. It will be advertised on the website, social media and The Sentinel.

President Martin said this is an example where we took time to try to access what should be done with the structure and the first time there was some previous interest in relocating it to a nearby property or someplace within the Township and then in the last bidding process, one of the interested parties asked if there was a way to get it to Lot 5. He said he believes these three options capture or give opportunities for people to participate in relocating the structure if they are interested in that way.

Matt Taylor, of 900 McCormick Road

He wanted to confirm that leaving the house where it is, is not an option. President Martin said that is correct and that if you purchase Lot 5, you must relocate the house there.

Eric Fairchild, of 1224 McCormick Road

He said that he got frustrated before when he did not feel he was getting an answer. He thought the developer would boast about how much they are putting into the roads. He said he took it out on the Fire Chief and he apologized. He said he did think he heard the Township needed to buy the ladder truck because of that. President Martin thanked Mr. Fairchild for acknowledging that.

Mr. Fairchild said President Martin graciously listens to people and responded to his email. The Board has a concern about giving up the acreage. Mr. Fairchild said he really thought what is the difference between two and three acres, it is much better in terms of the whole scheme of things. President Martin said the difference is the location. He said what persuaded this Board to make that option was, we heard citizens, we heard neighbors that maybe to have a Township use of that lot was inconsistent with the neighborhood. Mr. Fairchild said that was quite a movement from the Board and he recognizes that, and he appreciates it. He said that neighbors had concerns about people trying to access the creek and crossing the road, so it obviously does contain it to that side of the road. He said he thought the Township would get more money including an acre and the money spent moving it could go into restoring the house. President Martin said we already put a minimum value on the land and until you put the value of that house on it, this is going to be a big transaction. Mr. Fairchild said that all the taxpayers should want the Township to get as much as possible. President Martin said that Mr. Fairchild's original idea when he came to this board and said that he might want to move it across and incorporate it with my house, that is still a viable option under #1. Mr. Fairchild asked if #1 is really worth the while to offer it as an option. President Martin said yes because there was one person who spoke publicly here that did not submit a bid for that but indicated that as a possibility recognizing that there was some distance and power lines they would have to deal with.

Mr. Fairchild asked if the Township really wants to go through with that. He asked if Mr. Tilley could give them a number. President Martin said no. Mr. Fairchild said he really held value in what Henry Fry said about just stacking up all the options. Mr. Fairchild asked if President Martin really thought getting a firm number for demolition is an option? President Martin said it was so they can keep moving forward.

Mr. Fairchild said he could solve all of this within the Fairchild family. He said he called his cousin who works for Lobar and that is where he got the \$80,000 estimate. He contacted his other relative who is a park designer. He knows there is a standard for park acreage, 10 acres per 1,000 residents. This is a 50-year-old standard which encourages each municipality to set its own standards based on what makes sense for the community. Mr. Fairchild said he has set the standard to as high as 16 to 1000. The 10-acre standard was set in the 1960s before soccer and when one in 27 girls played sports. It is considered low nowadays. President Martin asked what he was reading from, and Commissioner Anderson said he was reading from what his cousin sent him. Mr. Fairchild said it was his cousin who designed Simpson Park for the Township. Mr.



Fairchild said that a 23,000 resident population would be 233 acres of parkland and he thinks the Township has 159 acres. Ms. Palmer said that the Township has over that. She said she recently did a presentation at the Park and Rec Committee and went into acreage. She said she does not recall the exact number, but it is over 159, it is closer to the 230 with the addition of the new park. She thinks it is 212/213. Mr. Fairchild said that he had old information. Later in the meeting, Ms. Palmer confirmed that the Township has 239 acres.

Mr. Fairchild said that on moving the house across the road, the Historic Society talked to Preservation Pennsylvania and trying to maintain, return that house to historical on the exterior would be very beneficial, he thinks to the park. He said it is in the Derck & Edson design to have a heritage garden, so make the house complimentary. He asked if there is any way to have some teeth in how the house is restored after it is bought and moved across the street, could it come under HARB's jurisdiction since you are looking at historic districts anyway and you are looking at possibly individual properties. President Martin said he does not know how the bid would finally be written, or published, but he was always under the impression that the criteria would be that if the house is relocated at Lot 5, it would retain the historic character, but he does not think that if it comes into private ownership and a person pays money to restore it, he is not sure how detailed or how prescriptive that could be or should be. Mr. Fairchild said that was what was recommended by the historical people to try to put some kind of conditions on it to try to achieve that goal of having it. Mr. Fairchild said that had it been under HARB's protection or jurisdiction all these years, maybe the horrible additions would not have been built.

Commissioner Cochran said he would think if anyone spent the money to buy that property and that lot, that they would want to restore the property. Mr. Fairchild asked if they needed language in the bid to get that. President Martin said that comes up with the agreement of sale and the final negotiation. Mr. Fairchild said some people had the fear that some house flipper is going to get it and do all kind of strange things and add another 3,000 square feet to it off the back.

Mr. Fairchild asked if the house is not where it is now, will there be a parking lot over there? Ms. Palmer said it is some kind of garden on the plan, but that is still so conceptual at this point. Mr. Fraser said that parking is above the barn, it does not make sense to bring them down the hill. President Martin said our official entrance is on Lisburn Road, so why would we then park cars along McCormick Road? Mr. Fairchild said that the concern was raised. Commissioner Cochran said just to clarify, we will be about two million dollars into the project and what we got from that was the purchase of the land, the driveway in, a mile of paved walking trails and we have no idea how long it is going to take to build this out. Mr. Fairchild said he did a spreadsheet to conceptualize the Derck & Edson plan and it was all in reverse order because the restrooms, the trail was at the bottom, and they are really at the top.

Mr. Fairchild shared information about the Thornwald Mansion in Carlisle. President Martin has said the Board does not want a private owner within our park boundary.

Mr. Fairchild asked how much time would be given for someone to move the house. Ms. Palmer said it would be one year.

Commissioner Cochran made a **MOTION** to advertise for sealed bids for the sale or demolition of the property at 1215 McCormick Road, **SECONDED** by Commissioner Walter. The motion carried unanimously.

### **APPROVAL OF RESOLUTION #1075 IMPLEMENTING ACT 57 FOR THE TAX COLLECTORS**

Governor Wolf recently signed Act 57 into law, which amends the Local Tax Collection Act. Act 57 requires all municipalities, school districts and counties that levy a real estate tax to adopt a resolution or ordinance directing their tax collector to implement the Act's provisions for the tax years beginning on or after January 1, 2023. Upper Allen Township has from October 10, 2022 (the effective date of the Act) until January 9, 2023 to adopt a resolution or ordinance implementing the Act.

The Act requires that tax collectors accept a real estate tax payment **at the face amount** if the following occurs:

- (a) the property was purchased in the current tax year, and
- (b) the property owner attests by affidavit that they did not receive a tax bill, and
- (c) the property owner provides a copy of the deed or title verifying the date of purchase.

The taxpayer may make this claim at any time within the first twelve months. The Act is also applicable to the owners of manufactured and mobile homes.

It would appear that the amendment applies to interim bills as well, even though the Act makes no distinction between bills. There is also a potential impact on school real estate tax bills, which are issued on July 1 and are due by December 31. Since there is a 12-month period to make a claim to pay at face, that would affect the amount collected in the Tax Claim Office. The penalties would likely need to be waived if the property owner timely fulfills the above cited requirements.

Commissioner Cochran made a **MOTION** to adopt a resolution 1075 to implement Act 57 of 2022, **SECONDED** by Commissioner Anderson. The motion passed unanimously.

### **CONSIDERATION/APPROVAL TO PURCHASE 2023 JCB HYDRADIG HD110WT WHEELED EXCAVATOR PURCHASE**

The proposed 2023 Budget, line item #30.430.700, includes \$265,000 for the purchase of 2023 JCB Hyrdadig HD110WT Wheeled Excavator for the Public Works Department as an upgrade and replacement for an existing 1997 John Deere 310 E Backhoe and 2006 John Deere 5525 road mower. We have received pricing from Stephenson Equipment, Inc, for a piggyback purchase through the State's COSTARS program. Total price for the Hydradig and accessories (buckets, pallet forks and roadside mower) would be \$281,609.80. The 1997 John Deere 310 Backhoe and 2006 John Deere 5525 Tractor are expected to sell for between \$40,000 and \$60,000, thus bringing the net cost of the vehicle down in 2023. Authorization is being requested at this time

to ensure a Spring delivery for the Hydradig and a Summer delivery of the roadside mower accessory.

The purchase of this wheeled excavator will allow the Township to tackle the work of two machines. This Hydradig and its attachments can handle the responsibilities of the backhoe and roadside mowing tractor, both of which are in need of replacement due to age related maintenance issues. JCB Hydradigs matching these specifications are currently in other Pennsylvania municipalities.

Commissioner Cochran made a **MOTION** to approve the purchase of a 2023 JCB Hydradig HD110WT Wheeled Excavator and accessories from Stephenson Equipment, Inc. under the COSTARs agreement for a cost not to exceed \$281,609.80, **SECONDED** by Commissioner Anderson. The motion carried unanimously.

Commissioner Cochran made a **MOTION** to authorize the sale of the existing 1997 John Deere 310 E Backhoe and 2006 John Deere 5525 road mower in 2023 via legally approved divestment methods, **SECONDED** by Vice President Castranio. The motion carried unanimously.

#### **CONSIDERATION/APPROVAL TO PURCHASE A 2023 FORD MAVERICK AWD SUPERCREW**

The proposed 2023 budget, line item #30.430.700, includes \$26,500 for the purchase of a 2023 Ford Maverick AWD. The vehicle will primarily be used by the Township's Fire Marshal with other uses as a flex vehicle for administrative staff. We have received pricing from Whitmoyer Ford for piggyback purchase through the State COSTARS program. The total price is \$26,090.00. We are requesting permission now as Whitmoyer Ford has agreed to modify its Ford dealer order to help the Township receive a vehicle in a timely manner. This order has already gone out but is in the window for additional requests. Payment would not be required until the vehicle is delivered, which is expected sometime in 2023.

Commissioner Cochran made a **MOTION** to authorize the purchase of a 2023 Ford Maverick AWD Supercrew from Whitmoyer Ford under the COSTARS agreement for a cost not to exceed \$26,090.00, **SECONDED** by Vice President Castranio. The motion carried unanimously.

#### **PARK AND RECREATION COMMITTEE**

Ms. Palmer said there is a Joint Rec Meeting tomorrow night at 7pm at Elmwood Academy.

She also shared that Bernadette Burch, sent the Township a \$1,000 donation. She was very appreciative of the bench dedication ceremony done for John Burch. The donation will be used toward the dog park.

#### **MISCELLANEOUS**

Commissioner Cochran asked that copies of a map of the new development with the lanes be shared with the public. Ms. Boyer said it could be placed on the web. He also said that when

you look at the map, the trail system that is over there, it goes off the top entrance and he asked John to make sure there was some kind of pork chop or barrier in there so people do not make illegal turns. The trail system goes up there and stops and it looks like all you would have to do is somehow get across Gettysburg and you are almost at the hotel.

### **SOLICITOR UPDATE**

There was nothing to report.

### **TAX COLLECTION COMMITTEE (TCC) UPDATE**

There was nothing to report.

### **CAPITAL REGION COG UPDATE**

The annual dinner is in January.

### **MUNICIPAL ADVISORY BOARD (MAB) UPDATE**

There was nothing to report.

### **PENNSYLVANIA STATE ASSOCIATION OF TOWNSHIP COMMISSIONERS (PSATC) UPDATE**

There was nothing to report.

### **PUBLIC COMMENT**

Phil Walsh of 443 McCormick Road

He asked why the assessment by Navarro & Wright was initiated. He thought it was initiated by HARB as there was some discussion as to what the boundaries of Shepherdstown district were.

Commissioner Cochran said that it was not initiated by HARB. He said when the Mills at Shepherdstown took that property and demolished it, we had a problem in that the written description of that district included that property and our map excluded it. We had to go back to legal counsel to find out that maps overrule written. So that property was not part of the Shepherdstown Historical District. It made staff to go back and ask, how did we get these historic districts and how do we have two different definitions of what Shepherdstown is. We asked where that came from and when we talked to the state, but their information contradicted some of the things we had. This happened in the 70's and no one has done anything with it since. No one has gone back to see if the districts are what they should be. As a board, we said let's have someone look at all of them because if we have this problem in Shepherdstown, what do we have in other ones. We have had Mr. Fairchild come in several times and say it should come down to the township line. He said Mr. Fairchild said he wanted a greenway and wanted everything in there to be in the Yellow Breeches District. So, the Township went out and sent out an RFP, and we had three offer to do it. The prices varied dramatically; we took the middle.

Mr. Walsh asked if the Board took it on themselves and Mr. Cochran said yes. Mr. Cochran explained that an historic district is a designation conferred by a Board, not by a HARB. We wanted to make sure whatever HARB was working with, was accurate and up to date. He said that is when Navarro and Wright went out and did this research. Mr. Cochran thinks Mr. Walsh suggested that they did not survey any properties. Mr. Walsh though he heard that word used. Commissioner Cochran said the Township did not ask them to survey property, we asked them to look at the historic districts and give us some idea of the properties that were in there and do they make sense as an historic district. A couple jumped out as not making sense at all. The Trout Run had one home on one end and one on the other end and nothing historic in-between. He said Ashcombe Farm is in there. Then there was Rose Garden, it did not have any historic buildings left, everything else was gone.

Mr. Walsh wanted to clarify that what started this was an issue at the Shepherdstown Historic District initially. Commissioner Cochran said that was correct. Mr. Walsh asked if the Board took it upon themselves? President Martin said that was correct. Mr. Walsh said that the Board then took it upon themselves to retain a consultant, how did you make a jump from clarifying the boundaries of one historic district to retaining a consultant to conduct an assessment with recommendations to dissolve or keep all four, that is a big jump, and he does not think there is much in the way of public clamoring for this. President Martin said we had questions about one historic district, but we have four in the Township, let's look at all of them and analyze them so we have information, and we are not doing one this year and another in year two. He stated he thinks that is a Board prerogative. Mr. Walsh asked if Navarro and Wright were asked specifically to make a recommendation on dissolution vs retention. Ms. Boyer said they were asked to look at each district and determine if there was any information as to why that district was created, because we have no information. What she hears from rumors down the street were that we created this historic district because we did not want development encroaching on us. Ms. Boyer said historic district boundaries and what can be built on a property are two different things. She said whether you have an historic district or not, it does not stop development. What they used in the 70's was the creation of historic districts to stop development. Ashcombe, Ford Farm and Allen Glenn are good examples where development can still occur, even within an historic district, because development is based on what your zoning laws are and what can go in a particular piece of land. She said historic districts do not stop development or say certain things cannot be built there. They are two different entities. She said the reason they use the historic districts to stop development does not necessarily make a historic district of value. What the Township sought to find out was why were the districts actually created, because the only paperwork we have on record is that six districts were proposed and four were adopted. Mr. Walsh asked if they actually used the words "to stop development?" Ms. Boyer said that what is out there on social media was that districts were created to stop development and that is not accurate. What this consultant was set to do was to look at the districts, look at what the Township is currently interpreting as the boundaries and saying if I had to create this district today, what criteria would we use and when they created them in the 70's what is the assumption of criteria that were used to says "is this a valid district?" When looking at those, recommendations come naturally, if they are saying there is no distinct criteria as to why a particular district was created, automatically her recommendation is going to be if it does not meet criteria to be a district, then it should not be a district. That was her opinion based on the research that she did and what she found. That was to come back to the Board with a complete

project report and say this is what I have found, these are my professional recommendations and then it was up to the Boards to discuss it and take it from there.

Commissioner Anderson said that it started in 1976 when we were having the bicentennial and it was a group of people who lived in the township and wanted something historic of what was here in the Township. They were the ones who formed that list, they were not educated in historical backgrounds. She said Mr. Lafonte may have had some but most were volunteers to put this together. She did not know if they were doing it because the Board asked them to.

Mr. Walsh said that at the last meeting he was at, he thought the Board voted on something regarding Trout Run and Rose Garden. Commissioner Cochran said that we did say we did not see a reason for those to continue, although we did not take any action to do anything. We said we did see a definite need for one in Shepherdstown and that we would have further discussion about Yellow Breeches. Mr. Walsh asked if there has been no further discussion about Trout Run and Rose Garden. Commissioner Cochran said no, we did not take action, we still have to have a hearing, but we just said, "how do we move forward" and those would be two we would have a hearing on.

Mr. Walsh said there was also reference to a map, that they wanted to reissue the map, was that part of the discussion? Ms. Boyer said that with their historic districts, there is a historic district map. That map was created in the 70's and has not been officially updated since, so it is hand-drawn. Once we know what districts to move forward with and what the boundaries are going to be, we can work to create a new map. That goes along with the new ordinances. She said all that requires public meetings and notice, so what the Board was taking action on were recommendations on how to move forward. Just like Mr. Esser was here tonight, in that recommendation with Shepherdstown, his property would be out of the historic district, but there has been no formal action, so as it stands today, his property is still within the historic district. That is why he still had to seek that certificate of appropriateness. She said that just because that recommendation has been made, formal action to change the ordinance has not occurred. Mr. Walsh asked if the four districts still exist, Ms. Boyer said yes. Mr. Walsh said he is aware that the Board has the Navarro & Wright report and that there were recommendations to dissolve two or more of those districts. He said he has met with a number of people, and they want the Board to know that we are opposed to any kind of dissolution because he thinks it affords some level of protection, even though the HARB does not have any teeth per say, because they make recommendations to the Board and then the Board votes. President Martin said there was discussion about dissolving some of the districts or redefining, but all that will come through a public process with public hearings, so the folks you represent that are against that will have an opportunity to at least express that for themselves.

Mr. Walsh shared that a petition has been started to retain the Yellow Breeches Historic District. He said there are over 600 signatures. He thinks there is an overwhelming amount of support to retain the Yellow Breeches Historic District. He thinks it does afford some level of protection. He said he does not know where the 1900 date came from, he said he thinks it is ridiculous. He said there are barns there that are 100 years old, and they are clearly historic. Even properties that were built in the last 20 years, some of which are in the historic district, have accommodated the historic character of the district. Commissioner Cochran said that was something that was

done at the owner's intent, there is no requirement, they could come in and build an ultra-modern California redwood home and the historic district does not provide any protection against that whatsoever and that is his concern that he is hearing people say it is almost like a Home Owner's Association for McCormick Drive.

Mr. Walsh said that people love it and everyone on McCormick Drive is entirely in favor of this. President Martin said that we have heard Mr. Walsh, we have given you some clarification and we have stated that there will be a public process of interaction.

Mr. Walsh said that the gentleman that was here earlier working on a property on Shepherdstown, there was conversation about new construction. Mr. Walsh said it is clearly not going to be an historic structure and everybody was making it clear to the gentleman that there would be a process to go through the HARB. It was said that you appreciated his effort to maintain the character of that historic district. He again said he does not know where this 1900 thing came from, and he thinks it is irrelevant. Mr. Walsh said to Commissioner Cochran that he does appreciate what he had posted online and that it was very helpful. Mr. Walsh said that tonight, Commissioner Cochran said he does not like the government to be a bully, but Mr. Walsh said that in our historic district, that we feel like we are being bullied. Commissioner Cochran said he sees it as just the opposite. He sees it as a pseudo homeowner's association, it is something that you think we have some control over other properties that happen to lie in that district. Commissioner Cochran said he went back after Mr. Walsh said that and he went down through the tax map and worked his whole way done. He said he found seven homes that were build 1900 or earlier. Mr. Walsh asked him why he used 1900? Commissioner Cochran said he needed somewhere to break it apart. Mr. Walsh said that is not acceptable. Commissioner Cochran said that was his opinion. Mr. Walsh said it is 50 years. Commissioner Cochran asked where it says 50 years and if a 1950s home is an historic structure? Mr. Walsh said it could be. Commissioner Cochran said he came up with 12 properties that have been built since 1970 or later and he has four built between those times and three properties that have nothing on them in the way of structures as far as tax rolls are concerned. Mr. Walsh said it is their opinion that the historic district does in fact retain much of what they saw in 1975 to this day and in fact, some of the newer construction has gone through HARB even though they did not have to. Mr. Walsh said the people that actually live there, their opinion is to retain the historic district and then let's fix the problem which is not notifying prospective buyers that they are in the district and then also clarify just clear guidelines as to what the HARB's responsibility is.

Eric Fairchild of 1224 McCormick Road

He said that earlier when Commissioner Anderson said they were not experts, he shared an article referenced in the Navarro and Wright report, that Upper Allen Heritage Committee is origins by Robert C. Myers, Cumberland County History, Volume 1, Winter edition, 1984. There were five or six pages about what all those people went through. Mr. Fairchild said he thinks it was very high level how it was done. He is trying to get a sense, when does the Board want to move forward so we can group our people and be intelligent. Commissioner Cochran said that we are having the rep come to the December 21<sup>st</sup> meeting so it will most likely be on that agenda.

Mr. Fairchild said they all make assumptions in some of these reports, they made a 1920 cutoff

date in the Shepherdstown, they used a 1900 date in the Yellow Breeches, McCormick Road. McCormick's bought the Lance Farm in 1902, so everything the McCormick's built, this wealthy and famous family is considered an intrusion by the consultant and a lot of the neighbors were just offended by that. That is crazy to us.

The regular meeting ended at 11:40 p.m.

President Martin said they will be going into Executive Committee.