

**MINUTES  
UPPER ALLEN TOWNSHIP  
BOARD OF COMMISSIONERS  
6:30 P.M. September 6, 2023**

**COMMISSIONERS**

Kenneth M. Martin, President (absent)  
Richard A. Castranio, Jr., Vice President  
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**

Vice President Castranio called the Board of Commissioners regular meeting to order at 6:29 p.m. A moment of silence was held, and the Pledge of Allegiance was recited by all. Roll call was taken by Mr. Fraser. President Martin was absent.

**PRESIDENT'S ANNOUNCEMENTS**

There were no announcements.

**PRESIDENT'S RECOGNITION OF VISITORS**

Weston Reichard, was at the meeting to earn a Citizenship in Community Merit Badge.

Wayne Martin, of 5120 Kylock Road

Mr. Martin shared that he was in municipal work for 23 years and said he took no pleasure in what he had to say. He stated he was very disappointed in what happened on Kylock Road which is part of the Fair Oaks Community. Most of the development is in Lower Allen Township, but there are a couple roads in Upper Allen Township. He said that the 2020 planned roadway maintenance plan of the Township had Kylock Road listed as micro-surfacing. Sometime between 2020 and 2023, that plan changed to a chip seal. He said there was no notice given to the residents, we did not find out until the day before the chip seal was scattered. We did not actually get the chip seal until that Monday because of bad weather. At no time was there any notice. He said he scrubbed the website, that they read every newsletter that comes to the house, so they consider themselves pretty informed of the ongoings. In fact, the best he could find out was the only way they would have found out was if we had a PennBid account and were tracking all the bids through PennBid that had changed. He said he filed a right-to-know request asking who made the decision, when it was made. There was a time extension, so he has not received those documents to date. He said he understands that this body has dealt with chip seal in the past and have had many complaints you understand where we are coming from. This is a community with no sidewalks, so these roads

are everything to us. They are our sidewalks and basketball courts. He said he did not know if you ever tried to drill a basketball on chip seal, it does not work. He said he reviewed the contract that the Township has with the contractor, that chip seal was supposed to get a fog seal in 48 hours. It was supposed to be swept, 48 hours fog seal, that did not happen. It took over 10 days for that fog seal to be put down. When it was put down, the road was already a mess. Those chips shifted, there are big aggregates in there that are not supposed to be there. Tripping hazards. The manholes were raised. The chip seal does not reach the top of the manholes, so now you have manholes that are above the surface of the road. The inlets were not raised, so now the inlets are down below the surface of the road. Some of them due to the pounding of the road have sink holes in front of them, another tripping hazard because they just fogged sealed right over the sink hole. So, we had the failure to notify the residents, bait and switch because we all know chip seal was not the proper treatment for this type of road. There was no context sensitive design, no consideration given to our community. Then there was no contractor oversight. This contractor did what they pleased. They did not follow the contract as far as the timing goes. Improper aggregates were used. It is just not in acceptable condition. In fact, he said he hates to mention it, but there were no restroom facilities. Even though the contract says they are supposed to have restroom facilities, those contractors were urinating in our front lawns. He said he saw it himself and filed a police report. The police said they could not find them. He did not know how that was possible, he was standing there in a fluorescent green uniform. He said he is just very disappointed, and he does not expect an answer today, but you have to look. We cannot live with this road for the next five to ten years, it is just not acceptable. He said he does not know what the Township's options are, he said he could tell the Township right now that the contractor did not know what they were supposed to do. Maybe that was lack of oversight from the Township. He said he was afraid to say it, but it starts at the top. He said he wants a response to this issue, so talk to your solicitor, talk to your engineer. He said he would love to hear from the Township.

Jeremy Midgley, of 5156 Kylock Road

Mr. Midgley said to summarize what Mr. Martin shared, our understanding from the documents they have been able to review, he believes that the Township saved less than \$2,500 by electing to chip and seal the neighborhood. He said the bottom line is that every single day, our kids, our elderly community were walking around in the neighborhood. Everybody was using our streets. There were no issues. He said he understands that we have to treat our roads, however, the end result of what happened is these roads are in far worse condition than they were before. There are potholes that did not exist. There are all the things that Mr. Martin listed out. One of the members of our community sent in some pictures. He said we are hoping you all get a chance to review those because those are just a small portion of them. The person who took the pictures did not walk in front of his yard which he said he lives at the bottom of a hill in a cul-de-sac. There are chunks of road, there are grooves dug into it. He said his kids can't roller blade, they cannot ride their scooters, it is tough to ride their bikes. He said he imagines it is only going to get worse when the snowplows come into his neighborhood. He said he has talked to several folks who are engineers and who do this stuff for a living. This belongs in rural communities, not in communities with how many total houses are in our neighborhood. It is not just the Upper Allen piece, there is also the Lower Allen Community that lives in our neighborhood, and they are all impacted by this as well. In what we have been able to find, comparing ourselves to some of the other neighborhoods in this township, Winding Hills is a pretty new community with houses built in 2005 and later. Those roads, he said he believes, were scheduled to be resurfaced in 2029 and we

have a list of the streets that were just resurfaced in 2023. So, they were just done ahead of time, and they were not chip sealed. Those were microsurfaced I am assuming you all know. Those four roads were Baldwin Court, Braeburn Drive, Elstar Lane and a short connector Road and Empire Circle. He said what they are trying to understand here is why the Commissioners here decided to resurface the roads in Winding Hills and not require that these developers and engineers who work for those developers to build roads that do not need to be resurfaced shortly after they are being turned over to the Township.

He said the last time he was here was in January of 2020. He spoke to the Commissioners when a hotel property that was built behind his house was filing for a hardship so they could put a massive hotel sign up facing directly into our neighborhood so they could advertise onto the turnpike which backs up directly into our road. In that meeting, you all were kind enough to make sure that the sign never went up. He said he wanted to thank the commissioners for that, and he appreciates that. In looking on the website and some of the items that are on the agenda and coming up in the future, he said it looks like there is some consideration being given to modifying the sign regulations that exist in Upper Allen Township. Since there was nothing on the website that gave us any information about the roads being changed from microsurfacing to tar and chip, he said he was concerned that they were going to find out after the fact that those sign regulations have been changed without us knowing and we are going to end up with a massive hotel sign billboard advertising into our neighborhood. He said he would like to ask that the Township make sure the website gets updated and that we are all given proper notice so that we can come in here and understand what changes are being proposed for the sign regulation.

Scott Conley, of 5141 Kylock Road

Mr. Conley said he has a lot of the same complaints. He said that on August 8<sup>th</sup>, he knew nothing about it, they did not have a pamphlet on their door. He said the most he saw before he left for work, he was walking around the neighborhood, a gentleman spray painting markers where all the manhole covers were in our front yards. He said he came home from work and the tar and chip was down, and he was surprised at that. He said kids could not ride their bikes; they could not do anything really on the street. There were a lot of stones flying up, damaging cars, all this. We did get a notification that they were coming back to do the final seal on top. They did not notify us they were coming back the night before to sweep all the extra stones off. He said if you actually look at the road, which he said he knows several members here have, because he watched them drive by his house this evening, no one actually got out and looked at the road itself. There are large cracks that you can see the unconditioned stone underneath right there, so what is that going to do in the wintertime when the water gets in that crack? It is going to expand; it is going to tear up. Plow truck comes through, that is going to end up in our lawns. He said the other issue that we are really running into now, because we have a lot of leaves up there, all these leaves are sticking to this fresh seal. So, the appearance of our entire neighborhood now is ridiculous. It is very unappealing. The other issue, when you walk at night, as Mr. Wayne Martin said, there is large aggregate still in the middle of the road, it is a tripping hazard because there is no lighting up there. He said he was walking his dog last night and tripped over a very large piece of stone. It is not a 2b, it is not a small, it is large. There are just a lot of concerns that we do have. He said he does not feel that the road needed any maintenance at all, and it also was to him as a taxpayer, it feels like a waste of money. He said he knows a lot of others have said that. We are just here to voice our opinion and see what is going to be done. What kind of warranty may be even covered

under this as it does crack and chip under the warranty, because it was not properly done in the first place.

Mr. Reichard asked that he be provided with a copy of the minutes so he can effectively address each one of the comments as desired by the Board. He said that it was his decision to make the adjustment from a microsurfacing to a chip seal. The original assessment for roadways was completed back in 2014. He does not believe there was an update in that development since that time frame. The condition of the roadways was further deteriorated than he was comfortable applying a microsurfacing. He said that microsurfacing has a 10% cement additive. It is a very rigid material and is highly susceptible to cracking. There was a high percentage of cracking within the pavement surface on both Kylock Road and Ravenwood Road. Based on that field assessment, he decided that was not the proper application in that particular development. He also had a contractor who applies this material on an annual basis, AMS, come out and visit the site with him because of his concerns and they also agreed that it would not be an affective application of that material for those particular roadways. The comment was made about the Winding Hill Development, those roadways are roughly ten years old plus or minus a couple years depending on the phasing. There were basically zero cracks, maybe two or three you could spot on all the roadways that we did. Everything was crack sealed in advance along with the roadways for Kylock and Ravenwood. That was a prior contract that we sealed those roads up in anticipation for the ultimate application of the chip seal. Winding Hill was a microsurface. Mr. Reichard said the condition of those roadways were such that the microsurfacing was a better application based on the level of cracking that was in sight. We were trying to catch those roads within the ten-year window to prevent that additional cracking from occurring. It is a matter of dollars. He did not think the roads were in a condition that warranted milling and overlay. The cost is about 300% higher than a chip seal. Our goal is to preserve these roadways to prevent them from falling into a condition that requires total reconstruction. When we come back and revisit these roadways in the future, we may decide that we would like to do a more substantial treatment at that time. We are trying to manage 88 miles of road and it is a consideration that is taken into any decision that we make in terms of the treatment that is being selected.

Commissioner Cochran asked Mr. Reichard, that the job that was done on the road, we have some issues, and you are not satisfied, correct? Mr. Reichard said he agreed, he is not completely satisfied with the product that we received. Mr. Reichard said that he understands that the day they began the work, there were 15-17 mile an hour winds. The asphalt applicator was having difficulty providing a uniform placement of the emulsion product and he understands that they attempted to go back over some of their treatments to patch areas that were missed. That was brought to his attention and once it was, he stopped it immediately because that causes some of the chip seal product that is previously placed to delaminate because of the tackiness with the trucks. We did our best to try to stop that. You may be familiar; we did come back and re-address or re-apply material at a later date to dress up areas that were not suitable. There was an issue with the manholes. He is aware that there are at least three or four that we will have to come back and adjust. There was a contract timing issue. We had a milestone set for August 23, 2023, for all of the roadway improvement work to be completed before school started. He had two contracts that were overlapping. The second contract was insistent on coming onto the Township to avoid liquidated damages. They chose to move forward before we had those manhole adjustments completed. They understood that there was a risk there that they would be required to come back

and do it after the fact and they would be held accountable for it. Those issues will be addressed.

Vice President Castranio said he knows this does not answer all of the questions, but we will keep this moving. He suggested that the Township set up a public works liaison. One of them can meet in the field with Jason and we will talk through all your concerns after he has reviewed everything.

### **CONSENT AGENDA**

#### **Financial Security Reduction for Autumn Chase PDR, Phase 1, UAT #15-12-18**

Commissioner Walter made a **MOTION** to reduce the financial security for Phase 1 of Autumn Chase PRD, UAT File #15-12-18 from \$547,657.00 to \$1213,541.00. Township staff shall release the current financial security to the developer after the developer provides an amendment to the current bond or posts with the Township new financial security in the reduced amount in a satisfactory form as provided for in the Subdivision and Land Development Ordinance., **SECONDED** by Commissioner Anderson. The motion passed 4-0.

### **PUBLIC SAFETY COMMITTEE**

#### **POLICE DEPARTMENT**

Chief Parsons said that the new patrol vehicles that were incorporated in the 2023 budget will be arriving in 4-6 weeks. He shared that he received reimbursement for Jordan Howard's training, 75% of his tuition and 45% of his hourly wage while at the Academy.

He shared that he and Lieutenant Barnes, Detective Sergeant Mellot, Manager Fraser and Assistant Manager Palmer attended a round table discussion held by Representative Kutz at Messiah University addressing human trafficking.

#### **FIRE DEPARTMENT**

Chief Shumberger said the truck is on schedule and should be in service early December. The Fire Department is hosting a golf tournament on Friday, October 6, 2023, at Rich Valley Golf Course.

### **PLANNING AND ZONING COMMITTEE**

#### **Consideration/Action for Final Sub/LD Plan for Phase IV, Autumn Chase PRD, UAT File #23-05-01**

The proposed project is for the development of Phase 4 within the Autumn Chase PRD. The Phase 4 plan proposes the construction of 28 single-family attached dwelling units (townhomes) and will extend South Autumn Chase Drive another 656 linear feet. South Autumn Chase Drive is proposed to be offered for dedication once complete.

The Applicant is requesting the following waivers, which were also approved for the final plans of Phases I-III, and V.

1. Waiver of Section 220-9.C(2)(o) requiring contours to be at one-foot vertical intervals or as authorized by the Township Engineer.
2. Waiver of Section 220-10.B(2)(b) requiring cross section details of rights-of-way, cartways, sidewalks, and utility mains

Joel McNaughton with Hertzler Road Associates

Mr. McNaughton shared that they are running five years ahead of the phasing schedule. He anticipates phase 6 or 7 to come in the beginning part of 2024. It will probably be more duplex units.

Commissioner Cochran asked if everything north of Hertzler was sold out. Mr. McNaughton said there was a little bit left. Mr. Cochran asked if Mr. McNaughton was fine with the request for screening between Allenview and the back of his area. Mr. McNaughton said he was.

Commissioner Anderson made a **MOTION** to approve the waiver request for Section 220-9.C(2)(o) requiring contours to be at one-foot vertical intervals or as authorized by the Township Engineer. Most contours will be at two-foot intervals, **SECONDED** by Commissioner Walter. The motion carried 4-0.

Commissioner Anderson made a **MOTION** to approve the waiver for Section 220-10.B(2)(b) requiring cross section details of rights-of-way, cartways, sidewalks, and utility mains. The applicant will be required to provide cross section details for the Hertzler Road improvement., **SECONDED** by Commissioner Walter. The motion carried 4-0.

Commissioner Anderson made a **MOTION** to approve the final phase 4 plan for Autumn Chase PRD, Upper Allen Township File #23-05-01, with the following conditions:

### **STORMWATER/GENERAL**

1. Section 220-10.B(2)(c) of the Codified Ordinances requires pipe sizes and the location of valves to be shown for the proposed water distribution system. The water utility must also be shown on the street and utility profiles. We acknowledge that a design for the water distribution system will be provided, and plan revisions will occur upon conditional plan approval by the Township.
2. The two viewports on Plan Sheet 7 of 16 do not utilize the same scale; the *left* viewport uses 1"=50' and the *right* viewport uses 1"=60'. The Designer must revise the plan sheet to include an additional scale, or update either viewport so that a singular graphic and written scale is applicable.
3. The proposed Temporary Cul-De-Sac is labeled with "40' dia. pave" despite having a diameter of 80 feet and a *radius* of 40 feet. The Designer must revise the label accordingly.

### **ADMINISTRATIVE**

4. The Applicant must submit a copy of the Erosion and Sediment Pollution Control Plan to the Township in accordance with the requirements of Section 220-27.A (1) of the Codified Ordinances of Upper Allen Township.
5. The Applicant shall obtain approval of the planning module for new land development or approval of an exemption from the planning requirements from the Township and PA DEP in accordance with the requirements of Section 220-20.A of the Codified Ordinances of Upper Allen Township and pay all applicable application and tapping fees in accordance with the requirements of Section 200-15.D(8) of the Codified Ordinances of Upper Allen Township.
6. The Applicant must provide evidence that the storm drainage and stormwater management facilities have been reviewed and approved by the Township Engineer, in accordance with Section 220-31 and Chapter 214 of the Codified Ordinances of Upper Allen Township.
7. The Applicant must enter into a Reservation of Capacity (ROC) Agreement with the Township and pay the appropriate ROC fees, or, pay tapping fees for the number of approved EDUs.
8. The Applicant must enter into a Sewer Extension Agreement with the Township and furnish the required \$1,000.00 escrow for plan and legal review costs, provide plats and legal descriptions for sanitary sewers to be located outside of the public rights-of-way, furnish the required escrow amount for inspection and related costs, and provide appropriate installation financial security for the sanitary sewers.
9. The Applicant must provide a copy of agreements with other utilities, highways, or railways when crossing and occupying their easements with new sanitary sewer facilities.
10. The Applicant shall enter into a Stormwater Best Management Practices Maintenance Operation and Maintenance Agreement with the Township and pay all applicable fees, in accordance with Section 214-20.E of the Codified Ordinances of Upper Allen Township.
11. The plan shall note separately the modifications and waivers granted by the Board of Commissioners including the date in which such action was granted, in accordance with Section 220-10.B(3) of the Codified Ordinances of Upper Allen Township.
12. The Applicant must sign the plan and have the signatures notarized according to Section 220-9.C(2)(dd) and 220-10.B(1)(a) of the Codified Ordinances of Upper Allen Township.
13. The Applicant must have the plan signed and sealed by a licensed surveyor and licensed engineer certifying to the accuracy of the survey and plan in accordance with Section 220-10.B(1)(b) of the Codified Ordinances of Upper Allen Township.
14. All plans, profiles or drawings required under the provisions of this chapter shall include a certification by a Pennsylvania-registered professional engineer attesting that all elements

of the plan are in conformity with the Township Code and applicable state regulations, as required by Section 220-15.N(3) of the Codified Ordinances of Upper Allen Township.

15. The Applicant must submit a signed and sealed construction cost estimate for all public improvements, including sanitary sewer work, in accordance with Section 220-13 of the Codified Ordinances of Upper Allen Township.
16. The Applicant must provide financial security in a form acceptable to the Township and in an amount to be estimated by the applicant and approved by the Township Engineer to insure construction of the improvements and/or concrete monuments shown on the plan, and the applicant must enter into an agreement with the Township providing for construction and installation of all improvements shown on the plan according to Section 220-13 of the Codified Ordinances of Upper Allen Township. The financial security shall contain the provision that the Township shall be informed in writing thirty (30) days before the expiration date of any letter of credit or bond provided as a condition of approval.
17. The Applicant must also furnish financial security to the Township in an amount equal to 10% of the total financial security provided to cover the cost of construction inspection, administrative, and other related costs according to Section 220-52.B of the Codified Ordinances of Upper Allen Township.
18. The Applicant shall obtain final water main design approval from Veolia Water Company and furnish to the Township an updated design plan.
19. The Applicant shall also comply with all fees, taxes, utility rentals, building, police or fire codes, ordinances, resolutions and regulations as may be in effect from time to time concerning the proposed development.
20. The Applicant shall pay such fees as are charged from time to time by Upper Allen Township for other further reviews or permits as may be required concerning the proposed development.
21. The Applicant must satisfy all conditions on the approval of the plan and the plan must be recorded within 180 days from the date of approval by the Board of Commissioners or the plan will be considered disapproved. Since the final land development plan is approved with outstanding conditions, the signature block for the Upper Allen Township Board of Commissioners shall state the date in which the conditional approval is granted. A second line shall be added to state, "The conditions of approval were satisfied this \_\_\_\_ day of \_\_\_\_\_, 20\_\_."
22. Upon approval of the final plan and prior to obtaining township and county signatures for final plan recording, the Applicant shall provide a CD, a flash drive, or an electronic file submission that includes a .dwg AutoCAD file that includes one drawing of all the lots on the plan, in accordance with Section 220-3.6.A.(14) of the Codified Ordinances. The data shall include all tract and parcel boundaries, lot lines of all lots on the plan, building footprints, street rights-of-way (public and private), curbs, sidewalks, storm sewer



infrastructure, sanitary sewer infrastructure, edge of pavement, hydrants, all utility or other easements (public and private), and any other data as required by the township and the county. The file shall be with a spatial projection of PA State Plan projections, PA South Zone (3702), MAD83 horizontal datum, NAVD88 vertical datum. Units shall be in US survey foot. A digital copy of the final plan in PDF shall also be submitted. The county Planning Department will not sign final plans until this file has been provided to them.

23. Upon approval of the final plan and prior to obtaining township and county signatures for final plan recording, the Applicant shall provide copies of any declaration of planned communities/condominium documents (including amendments) to both the township and the county.

24. The Applicant shall comply with all other applicable conditions as set forth in the PRD Tentative Plan Finding of Fact dated May 8, 2012.

Since there are conditions on the approval of this plan, the plan will be rejected unless the owner/applicant agrees, in writing, within thirty (30) days, to comply with and abide by the specific conditions of approval.

**SECONDED** by Commissioner Walter. The motion carried 4-0.

**Consideration/Action for Final Sub Plan for Dale Fogelsanger,  
810 Grantham Road, UAT File #23-06-29.**

The proposed project is to subdivide the existing property at 810 Grantham Road into two lots. Proposed Lot 1A will be a new vacant lot. Lot 1B will be the lot for the existing single-family semi-detached dwelling.

Ms. Boyer said that this plan was reviewed by the Planning Commission and recommended for approval. The applicant is not asking for any modifications or waivers with the plan. Ms. Boyer said that there was a note on the plan about the lot for future development and had to note that it was in a special sewer district and that the plan had to reflect the most recent flood map updates. Those updates were made. Scott Akens from Akens Engineering also noted that he has provided Ms. Boyer with a letter stating all monuments have been placed on site, satisfying administrative comment #3.

Vice President Castranio said he did not see any sidewalks on the plan, and he asked if they were required. Ms. Boyer said sidewalks are not required for subdivisions of three lots or less, provided that there are no sidewalks or trails proposed or further planned along the adjacent properties. Vice President Castranio asked if it meets that, and Ms. Boyer said yes.

Commissioner Cochran asked if the existing duplex would be on lot B now with a total area of 2900 square feet and Mr. Aken said yes. Mr. Aken said the duplex is now owned separately. The eastern half of the duplex is owned by a separate person, the western half of the duplex and the vacant land is owned by Mr. Fogelsanger.

Commissioner Anderson said the Planning Commission unanimously voted to recommend conditional approval of the applicants plan at its meeting on July 31, 2023.

Commissioner Anderson made a **MOTION** to approve the final subdivision plan for Dale Fogelsanger at 810 Grantham Road, Upper Allen Township File #23-06-29, with the following conditions:

### **GENERAL**

1. General Note # 6 must be updated to reflect the most recent FIRM and Flood study. FEMA has issued a final determination letter that the revised flood study and flood maps were completed on March 7, 2023 and will become effective as of September 7, 2023. The plans should identify whether any changes in the flood hazard boundary areas would affect this property.
2. A note shall be added to the plan stating that the lots are situated in the Grantham interceptor Special Sewer District within the Township (Ordinance 741, Chapter 200, Article XI). Any development of the lots will require submission of fees established for the Special Sewer District, in addition to the current tapping fee costs per EDU, prior to receipt of any permits for connection to the public sanitary sewer system.

### **ADMINISTRATIVE**

3. A signed and sealed letter from a registered engineer or surveyor shall be provided, indicating any property pins and/or monuments have been set prior to recording of the plan, and have been installed in accordance with the requirements of Section 220-5.11. of the Codified Ordinances. If the property pins/monument are not set prior to recording of the plan, then financial security and all required inspection fees shall be provided for in accordance with Sections 220-4.2. and 220-7.3.B of the Codified Ordinances of Upper Allen Township.
4. The Applicant must contribute to the Township Recreation Land Acquisition and Improvement Fund in the amount of \$2,300.00. This contribution to the Fund shall be paid at the time of approval of the subdivision or land development plan in accordance with the requirements of Section 220-5.15.D.(4) of the Codified Ordinances.
5. The Applicant must sign the plan and have the signatures notarized according to Section 220-3.5.C(2)(dd) and 220-3.6.B(1)(a) of the Codified Ordinances.
6. The Applicant must have the plan signed and sealed by a licensed surveyor and licensed engineer certifying to the accuracy of the survey and plan in accordance with Section 220-3.6.B(1)(b) of the Codified Ordinances.
7. The Applicant shall also comply with all fees, taxes, utility rentals, building, police or fire codes, ordinances, resolutions, and regulations as may be in effect from time to time concerning the proposed development.

8. The Applicant must satisfy all conditions on the approval of the plan and the plan must be recorded within 180 days from the date of written conditional approval by the Board of Commissioners or the plan will be considered disapproved. Since the final land development plan is approved with outstanding conditions, the signature block for the Upper Allen Township Board of Commissioners shall state the date on which the conditional approval is granted. A second line shall be added to state, "The conditions of approval were satisfied this \_\_\_\_ day of \_\_\_\_\_, 20\_\_."
9. Upon approval of the final plan and prior to obtaining township and county signatures for final plan recording, the Applicant shall provide a CD, a flash drive, or an electronic file submission that includes a .dwg AutoCAD file that includes one drawing of all the lots on the plan, in accordance with Section 220-3.6.A.(14) of the Codified Ordinances of Upper Allen Township. The data shall include all tract and parcel boundaries, lot lines of all lots on the plan, building footprints, street rights-of-way (public and private), curbs, sidewalks, storm sewer infrastructure, sanitary sewer infrastructure, edge of pavement, hydrants, all utility or other easements (public and private), declaration of planned communities/condominium documents (including amendments), and any other data as required by the township and the county. The file shall be with a spatial projection of PA State Plan projections, PA South Zone (3702), MAD83 horizontal datum, NAVD88 vertical datum. Units shall be in US survey foot. A digital copy of the final plan in PDF shall also be submitted. The county Planning Department will not sign final plans until this file has been provided to them.

Since there are conditions on the approval of this plan, the plan will be rejected unless the owner/applicant agrees, in writing, within thirty (30) days, to comply with and abide by the specific conditions of approval.

**SECONDED** by Commissioner Walter. The motion carried 4-0.

**Consideration/Action for Prelim/Final LD Plan for 2509 Mill Road, UAT File #22-05-02.**

This discussion continues from January 18, 2023. The latest plan reduces the footprint of the townhomes. Townhomes A1-A8 were reduced in size from 32' x 26' to 30' x 26'. Townhomes B1-B6 were reduced in size from 36' x 24' to 36 x22'. The number of off-street parking spaces being provided on-site has increased from 32 to 46 spaces. The plan included a revised access drive so that fire trucks and emergency vehicles can adequately maneuver on site and around parked vehicles. The plan also includes improvements to a neighbor's property per an agreement with 2513 Mill Road. The Applicant has also submitted a traffic study, as requested.

Ms. Boyer said there are still 14 townhomes, but the footprint has changed, and the layout of the access drive has changed. She noted that the second modification request regarding the installation of trees around the dumpster enclosure can be removed. This request was made when the dumpster enclosure was at 60 linear feet. It is now at 40 linear feet, so they exceed the planting requirement. However, the Applicant is still requesting a new modification regarding the type of fence enclosure around the dumpster.

Charlie Suhr from Stevens and Lee

Mr. Suhr said he represents Mikail Malinov, who is the owner of the property. There were concerns about parking, we have worked to increase the parking and we are now well above the required parking spaces. The developer will be putting language in the leases indicating who can park and information about excess cars to keep it under control. The access drive and the ability for fire trucks to do a proper turnaround was addressed. They did a traffic study that indicated that there were no roadway improvements necessary. There are six general items to be addressed. We do have the four modifications to go through and then we would be ready to go for plan approval. Finally, there is the issue of the road cut that came through. Apparently, the road was repaved right in front of the site and there is a limitation of time period for a street cut. We request that it be accepted. We are hoping to get going on the project at the end of this year. We are ok with the conditions for the project.

Commissioner Walter asked Chief Shumberger if he was comfortable with the turnaround. Chief Shumberger said yes, they met all the requirements of what it spells out in IFC. Commissioner Walter asked about rear access to the townhouses. Chief Shumberger said it is what it is and there is not much they can do about that. Commissioner Walter said the slope on the southern side, that is the bad slope is, is it not? Chief Shumberger said correct. He said that he and the Fire Marshal went over and looked at it and they met everything that they need to be able to do it.

Commissioner Cochran asked about the turning radius coming in off Mill Road, you are still asking for a waiver on that? Mr. Wise, with RJ Fisher Associates, replied that they are asking for the 15-foot radius on the access drive entrance off Mill Road instead of a 30-foot radius. He said that probably most of the access drives and driveways along Mill Road do not even have a 15-foot radius. Commissioner Cochran said that they are not coming before us today, they were there for some period of time, and he does not think that is a justification. Mr. Wise said the reason 30 feet will not work is that pushes further into a water easement and an existing electrical pole. The pole would need to be relocated. It would most likely go over the water line itself. It would cut off Ms. Weakland's driveway as well. He said we are able to accommodate a 5-foot radius on her driveway modification and allow us to have a 15-foot radius which is adequate for the vehicles that we are going to take in there including the fire trucks. Commissioner Cochran asked if the ladder truck can make a 15-foot radius turn and stay in their own lanes. Mr. Wise said probably not staying in their own lanes, but in the event of an emergency, they would have their lights on. Commissioner Cochran asked about garbage trucks. Mr. Wise said he would think garbage trucks would work on that radius.

Mr. Suhr said that overall, the justification of that was to try to be as far away from the existing driveway to the south, which would move it up, with the limitation of the property for the actual water line easement that we have right there. Try to accommodate the two, balancing that out and then to provide safe access. He said he believes that the 15-foot radius works there. If it is within the constraints of the property, as well as the neighbor's property which we are not touching, we do not want to impact the other driveway to the south either. Commissioner Cochran asked if that was going to remain a private road. Mr. Suhr said yes.

Vice President Castranio asked Ms. Boyer if the Planning Commission acted on that modification.

Ms. Boyer said this modification was requested after the fact. She said we discovered it and realized with our ordinance that all access drives require a 30-foot radius unless otherwise approved. We reviewed the radius with the engineer, noting that the 15-foot radius has been permitted on other local roads. It has not proven to be an issue in other areas, but our ordinance does say 30 feet so we went to the applicant and said that unless you can make it 30 feet, you would have to seek a modification of the ordinance, so that request came after. Commissioner Cochran asked Mr. Reichard if he had a concern and Mr. Reichard said no. Commissioner Cochran asked if the post office would deliver mail where they have the boxes denoted. Ms. Wise said they will need to coordinate with the post office.

Melanie Horvath, of 605 Wingert Drive

Ms. Horvath said that this felt like a David and Goliath story. She said we are just the homeowners, and we have engineers and lawyers, and we are filled to the gill with professional people to make sure this happens tonight. Ms. Horvath said that in their comments, she heard there was a certain amount of time to provide so that the traffic returns to normal before you do the traffic study, and she asked what is that time limit – from the time that the road was closed to the time that the road reopened and a traffic study ensues. She wanted to know the proper time to make sure that the traffic gets back to the normal pattern. She said they mentioned there was adequate time and she wants to know what that is. She reiterated that she wants to know what is adequate time between the time a road is closed for 4 ½ to 5 months to the time a traffic study is done. Mr. Suhr said he did not know the exact time. He said it was coordinated with the township engineer and the township traffic engineer as well on that. Vice President Castranio said our traffic engineer did review the traffic report. Ms. Boyer said we told the applicant that they could not do the traffic study while Mill Road was closed and that was some of the time delay. Ms. Boyer said we do not allow them to do anything when the road is closed and then we also asked that the traffic study be done during school time so there was a short window of time when the road opened to when school was letting out, both K-12 and the University. We also ask studies not be done not during inclement weather, holidays, and other caveats. Ms. Horvath said that Mr. Suhr did say that he wanted to make sure it was adequate time, so if he does not have the time frame, the Township, after what you surely described, there still must be best practices for when you do a traffic study after a road has been closed for five months. She said that if she called the department of transportation and asked them, she was sure they would probably provide her with an answer. Ms. Horvath shared a calendar from her laptop with the commissioners. The calendar showed when the road was closed, re-opened, and Messiah University's schedule for when people were in school and not. Ms. Horvath said that if she understands the traffic study correctly, cars were counted on May 4<sup>th</sup>. The road was closed from January, February, March, April and the question is, it was opened the first week of May. But, on the first week of May, the big orange sign that said "road closed" was still there and that is when they counted traffic on that road. She questions the legitimacy of that traffic study.

Ms. Horvath asked if bridge number 247 and its replacement in Monaghan Township was taken into consideration with the traffic study. She said the relevance of that project is that she does not know how many people they counted on that day, but according to Monaghan Township, a thousand vehicles cross that bridge over the creek a day. She said that right now, that bridge has a weight limit on it because of its deficiencies so right now we are not seeing trucks come up Mill Road because of the weight limit. One of the reasons driving this bridge replacement is so that

they can reconnect to the community and take the weight restriction off. So what that means is not only will the traffic will increase, but truck traffic will increase because that bridge will be able to handle unspecified weight. She asked if the traffic study included that. She asked if they planned ahead. Mr. Suhr said the traffic study included specific intersections, which were approved by the Township's Traffic Engineer. Vice President Castranio said they used background growth factors and then future growth factors which are accepted by PennDOT. Ms. Horvath asked if they took into account bridge number 247 and the fact that now it has weight limits and the purpose of that bridge replacement is to take that weight limit off of the bridge, which is what the project FAQ says on the Monaghan Township webpage. She wants to know if the traffic study took into account not only additional cars but trucks. Vice President Castranio said he was not aware that it did. Ms. Horvath said that is two years off, so that would happen right about the time this development would take off.

Ms. Horvath showed her screen again to the Commissioners. It was the bridge improvement plan that was on Monaghan Township website. She said that as you all know, Monaghan and Upper Allen are working together on this. Commissioner Cochran said that was not accurate. Ms. Horvath said that there is a partnership according to Monaghan Township's website. She said that whatever the partnership is because it crosses, it is real close to Upper Allen. She said they may be getting funding and doing the work, but for some reason Upper Allen is listed. Commissioner Cochran said we do not have anything to do with that bridge replacement, it connects the two municipalities, but we do not have any control over it or anything to do with the project. Ms. Horvath said that is fine; she thinks the bridge replacement is great, but while you do not have any control over the bridge, there is not a pole thing there that stops people from crossing the municipality line. She said, as they can see, there is a bridge replacement where they are going to allow unrestricted weight from trucks and right up here is Mill Road, so that is not a hop, skip and a jump, that is not even a quarter of a mile. Again, she said she questioned the validity of the traffic study. She said for these reasons, and for once, we still are concerned about the light pollution, we are concerned about overcrowding moving from four people who live in a house to maybe 60-65 people. She said that Chief Shumberger said that at first, the fire plan was ok, but then that was not acceptable to the Board so now the second safety concern has been addressed.

Ms. Horvath said she is still concerned about the sewer pump station and who will ensure it is operating properly, because she does not want to wake up and have it smell like the area by Hershey Park going across 322. Finally, she said this feels like a David and Goliath, we are simply homeowners, we are simply pursuing our American dream and at what point is there balance between allowing us to have the sanctity of our house vs allowing someone to just come in, not a past part of the community and build right up to our pool and eliminate the privacy. She believes this Board directed them to talk to the neighbors about what the neighbors would like to see and that they have not heard from them. She said they are the property that is most affected. She said it is their pool that backs up to that townhouse and no one approached us. She said she is not going to take this lying down. She said if they need lawyers and engineers, then she guesses she would need to hire lawyers and engineers at some point.

Vice President Castranio asked Mr. Cupp if he reviewed the sewer pumping station, and is it private? Mr. Cupp said it will be a private station. In response to Ms. Horvath's concerns, he shared that there was a similar problem in the Township where we approached the developer, and

they had their engineer come up with a chemical feed system that injects chemicals to neutralize the odors. He said it has been working fairly well. He said that if this becomes a problem with this station, he could see them taking the same approach.

Ms. Horvath asked if the Township owned its own sewer and Mr. Cupp said that we own the sanitary sewer mains in the road, but this is a private system that will pump into our system. Ms. Horvath said that she was formerly part of the wastewater industry. She said that requires someone who is certified to handle that booster station. They need to be certified by the state to do wastewater operations. She said that if that person is not there, what often happens in the private case is the privates will assume control of that station and make sure that it is compliant and running correctly. She said her concern is the Township leaving it in the hands of someone that may not be certified and who is just finding a way to put 14 properties on a one-and-a-half-acre piece of ground. She said we are going to be smelling like Hershey and once it starts, it is so difficult to control those odors. She said even with the solution Mr. Cupp discussed, there is still an odor, but it is an odor of a different kind. She asked where the balance was.

Commissioner Cochran said that in all fairness, you are comparing apples and oranges. He said that the thing she is talking about in Hershey is their sewer treatment plant, it is for the whole community, it is a large facility. Ms. Horvath said she understood that. Commissioner Cochran said this is a small pump station. Ms. Horvath said a small pump station owned privately is worse in terms of operating efficiency and compliance.

Jeremy Ellis, of 513 W. Lisburn Road

Mr. Ellis said it would be his preference if 14 townhomes were not adjacent to him, but said he understood that as long as it meets the rules and regulations, it is what it is. He had a question about trees on the property. Mr. Ellis said there are trees all along the property line and there are notes on the plan that trees will be removed unless otherwise noted and only a few are noted. He was concerned about the north property line. We know two trees to be capped, with presumably the rest removed. He wants to know if the rest of the trees on that property would also stay. Mr. Wise said the trees he is referring to will be staying. He said they have modified the plans so that we are not actually disturbing any area within the 25-foot water easement that runs along the northern boundary. That was a requirement of the water company. They have an existing water line that is currently operating, and they would not permit any disturbance or any removal of those trees. He also said the other trees that are within the property will require removal, they are the property owner's trees. As long as the trunk is on his property, he has a right to remove them and the proposed disturbance in grading that will be required for the project will take them. However, we have an extensive landscape plan that plants buffer trees and plantings around almost the entire property.

Commissioner Cochran asked what the screening requirement was. Ms. Boyer said there are multiple requirements here per Township ordinances, including a general buffer yard Type 1 around the property, a street tree requirement, a dumpster enclosure buffer requirement, and a stormwater basin buffer yard Type 3 requirement. Commissioner Cochran said he understands there is a water easement, but he questioned if they are meeting the buffer requirements on the northern side of the property. Ms. Boyer said they are. She said the buffering requirements state you must provide for so many trees or shrubs, but it allows for flexibility in the planting so that

you do not have to necessarily plant per so many feet. The plantings can be placed throughout the buffer yard. She said when you get into utility easement areas, they have become very restrictive in what they allow to be planted. A lot of them have gone down to just ornamental grasses. Commissioner Cochran asked her to confirm that there was no screen on the last five townhomes. Ms. Boyer said that was correct. Commissioner Walter said, you were saying there are trees there already. Mr. Ellis said it is marked two or three trees to the left, but it is actually an entire row of pine trees there today. He said they are tall, they are old, they supply great screening. His question is will they be disrupted but also, what is PA law if a townhome is built beside a tree and it falls over on a townhome, is that on me. He said he would want an understanding with the owners or architects to address that now if it would be a problem. Commissioner Walter said those pine trees are already in the water easement. Mr. Wise said that is correct. It was confirmed that those trees are staying, they are on Mr. Ellis' property. Mr. Ellis said he was not sure where the line was. Vice President Castranio said that the previous plan had a swale going through there. Mr. Wise said that was correct. He showed where they were proposing buffer trees. Commissioner Walter said the Township cannot answer what happens if one of the trees from his property falls on one of the townhouses.

John Harms, of 604 Wingert Drive

Mr. Harms talked about the accuracy of the data, for reliable interpretation and authoritative conclusions, specifically the traffic study. He said he concedes the pressures to make timely progress. He said that as a dad, he walks his kids out to the end of Wingert Drive daily for the bus and there is a lot of traffic on that road, particularly it is seasonal. As previously sited here, the traffic study commenced May 4<sup>th</sup>. He understands the pressures to try to do that quickly, after the resuming of the road access; however, the final day of classes at Messiah University was April 28<sup>th</sup> and Commencement was May 6<sup>th</sup>. Typical traffic to that large employer was not typical starting the commencing of the traffic study on May 4<sup>th</sup>. Messiah does not have a residential population over the summer except for some small events. It does not have any classes except online during the summer period. He questions whether the conclusions from that traffic study could be made based on accuracy of the data for that time period.

Annette Simington of 601 Wingert Drive

Ms. Simington said she lives in the cul-de-sac and her property would border where she thinks the collection of the swales is located. She said she thinks on the original plan, there were four swales that were going to join at one particular point and then congregate where the brown area is on one of the drawings, she asked if that was correct. Vice President Castranio said that is the stormwater basin. Ms. Simington asked what that is because that is the lowest part of that property and that is where her property is also. She asked what happens to the water because she sees a blue line on the drawing, and she does not know where it goes. She wanted to know if the water flows off their property and if it will come onto her property.

Mr. Reichard said the brown area is a stormwater basin and it has a bio-retention filter media at the base. It is designed to hold some percentage of water below grade. At larger storms it will overflow into a standard concrete inlet box that you might see along the road that is in the basin. The blue line is a stormwater pipe that discharges to a rock apron and will direct water to the southeast onto the adjacent property. He said that based on his review, he does not believe Ms. Simington will see any water on her property from that point. Ms. Simington said that where she



is in the cul-de-sac, the way the slant is on Wingert Drive, the snow all comes her way, the wind comes her way, the leaves come her way and as a result, she cannot keep a driveway because of the salt on the road. Her driveway gets damaged, so we get a lot of water that way because of the slant of Wingert Drive. She said that is her concern there that the area where the water is going to be deposited, is that covered over or is that rock that is going to be exposed and going to lay there. She said her question was because of the disruption and the slope of that property, are we going to start to develop things like that because of four swales. She said she does not know why there has to be four swales. Mr. Reichard said he does not believe so. They have what he refers to as perimeter swales. The swales run along all the property lines from the northern side and southern side. They are set up to intercept, collect and convey all the stormwater that falls on their property, maintain it on their property and so it reaches that stormwater facility, and it is property managed before it leads ultimately to the far east. Ms. Simington said she understood that Mr. Reichard said that blue is a pipe underground and that water would go to the adjacent property. She asked if it was going into the field owned by Messiah or her yard. Mr. Wise shared that the drainage patterns are that the subject property takes run-off from every property around it onto this property, he showed a low point where everybody's drainage, including the Wingert Drive development comes down. He showed a diversion swale that collects the run-off from the Wingert Drive properties and diverts it down to this low point that is there now. The grading and the collection of water in the stormwater basin that is collected by grading along the back of the units, a swale that comes, an underground sub-surface collection trench, and a swale that comes into the basin and of course the parking lot comes into the basin, is controlled in the basin, is released at less volume and less rate than it does now and is discharge in a low point which then leads onto the Messiah property as it does now.

Eric Fairchild, of 1224 McCormick Road

Mr. Fairchild provided a written copy of his comments to each commissioner and the recording secretary.

He said he remembered Ken Martin saying last time this plan came through that it's like trying to fit 5 lbs. into a 3 lb. sack. He said he agreed with that assessment. There were suggestions, he thought, to reduce the number of units to 11 townhomes. He said he couldn't find those suggestions in the January 18, 2023, minutes.

He said he thinks this plan is grossly unfair to the neighbors who will lose privacy, quality of life and property value. He said we need to put ourselves in their shoes. This isn't what they signed up for. Imagine all the trees being cut down next door to your property to make way for something like this. Why even have a steep slope overlay if the Township won't utilize it?

He said that what caught his eye looking at the latest revision was the overhead electric service and the placement of dumpsters at the rear of the property. This implies cheap construction vs. something that might add value to the neighborhood. He said he wondered what time the trash trucks will be rolling through to empty those dumpsters.

He said this plan highlights deficiencies in the present zoning. Maybe we should thank the developer for that. Now we know how much can be crammed into the sack. The Board should tell the applicant that this plan doesn't meet its intent for the R-2 District.

He said that when he thinks of Medium Density Residential, he thinks of ¼ acre lots like most of us are accustomed to. He said that to him, it's fine to have townhomes in the mix as long as we maintain the traditional density of a neighborhood. Upper Allen is supposed to be a bedroom community, not a bedroom city. Using a ¼ acre rule, there should be no more than 8 townhomes on this parcel.

He asked how the present zoning could be amended to prevent this from happening again. Wouldn't it be as simple as changing the "required" lot size back to a ¼ acre or 10,000 sq.ft.? He said he would like a comment back about how we can prevent this from happening again because he thinks it is an injustice to the residents.

Vice President Castranio said Mr. Fairchild could suggest changes to the zoning ordinance and then we could start down that road and have hearings. He asked Ms. Boyer when we did all of that. Ms. Boyer said we have amendments all the time, but a comprehensive zoning ordinance amendment was approved December 20, 2017. She also said that amendments can be proposed at any time. Vice President Castranio said we could discuss that at another time, right now the plan is in front of us here. He told Mr. Fairchild that if he wanted to talk about changing the zoning ordinance, we can.

Mr. Fairchild said that isn't as simple if you are trying to get a density. The problem to him with this development is not that they are not trying to do something in their economic interest and all of that, but that is excessive, and the density is too strong. He wants to know how that can be addressed. He said he thinks that is a fair question for experts in the room and the solicitor and everybody else to be aware of it. Vice President Castranio said we are aware of it. Mr. Fairchild said that Vice President Castranio did not have a ready-made answer. Vice President Castranio said he just said we would have to amend the zoning ordinance. Mr. Fairchild said that we know you would have to amend the ordinance to go through the whole process, but I think the word changes could be kind of minimal.

Commissioner Cochran said it is interesting because on the national democrat platform, they want to do away with R-1 and increase density in every area. Commissioner Cochran said he finds it hard to believe that you (Mr. Fairchild), as a democrat candidate are actually pushing to have less density. Commissioner Cochran said your party says we should not even have R-1s anymore. If the Township would do what you are asking us to do, we are basically pricing lower-income people out of the market. Land is a finite quantity; they are not making any more. If we cannot allow more people to be inhabited there, then they have nowhere to go. That has always been one of the concerns with Upper Allen is that our land is so expensive. Commissioner Cochran said he does not like the plan, he agrees with President Martin, he thinks it is too much, but he does not think the answer is changing the zoning ordinances to get back to a point where every lot has to be a ¼ of an acre. He said that does not make sense to him. He has a whole party that he is not a member of that is saying that we should not be going that way at all. So, he does not understand Mr. Fairchild's logic.

Mr. Fairchild said that Commissioner Cochran was making it political and to him it has nothing to do with politics. Commissioner Cochran said it does because there is a whole party that says that

by doing what you are suggesting we should do, we are discriminating against people who cannot afford a ¼ acre. Mr. Fairchild said he really does not care what they say about it, we are talking about Grantham and Mt. Allen, the traditional neighborhoods. Commissioner Cochran said you are talking R-2 and they are talking R-1s. R-1 is the typical family dream to have a house of your own, these are R-2s where they expect more of a house.

Vice President Castranio said that he wanted to get back to the plan and this can be discussed at a later time if you even want to keep it on planning and zoning. Mr. Fairchild said maybe we are on the same page, he said he can see having townhouses, he said he thinks there is a preference for people getting away from wanting the big yards and all that, but just zeroing in on how you can control the density, like this neighborhood, he posted property mapper on Facebook. He said that what is placed there kind of looks like it belongs or is part of the traditional growth pattern. Obviously if it is a larger piece of land, then it is a different circumstance. Vice President Castranio said he too recalled that, near the end of the discussion in January, the owner did say he did not need as many units, and that he would get with his engineer and discuss it. They have reduced the size of the homes, and we still have the same amount of units; it does meet our ordinances. Mr. Fairchild said, right, so, there is a problem with your ordinances.

Melanie Horvath, 605 Wingert Drive

Ms. Horvath said that a lot has been talked about regarding the trees and she appreciates Mr. Fairchild's comment, but that she does not quite understand the political angle that was being discussed. On 605 Wingert Drive, we have a significant slope there and the way the plans are and were, we are still going to have townhomes backed up right to our property overlooking our swimming pool. She asked what is being done to protect our privacy that we have worked so hard to maintain. She said she is a little disappointed because it seems to her that when the Board asked folks to make an action, that they basically don't do it and thumb their nose at the Board, because she does remember the Board saying the developers really need to talk to the neighbors. Ms. Horvath said she is a neighbor, and she has not been talked to. She said who knows, maybe in her wildest dreams, we could come to some kind of agreement or negotiation, but they do not even bother talking with us. Rather, they destroy the value of our property so they can make the all mighty buck.

John Harms, 604 Winger Drive

Mr. Harms said he has a question for the Upper Allen Township Planning Commission for human flourishing. He said that previously cited by other voices here, a significant number of townhomes being placed on this 1.75 acres. In the last couple of years, we have seen the addition of eight units at the corner, and six units across from Wingert Drive. This is close to triple the number of houses in that immediate area. He said the other issue he has was actually raised by one of the Board members in the Zoning Hearing Board and that is how close we are skirting to accomplish this 14, to the limitations Upper Allen has placed for impervious area. The plans say that the impervious area is at 44.7%, that is 3/10<sup>th</sup> of a percent. A 1.75-acre lot, that is 76,000 square feet, that means that they have impervious surface right up to the edge, only 228 square feet. He would argue that the area behind your desk (Board of Commissioner's area) is probably larger than the 10x28 feet area that they have left open. It was cited during that Zoning Hearing Board, the slight addition of wanting to put in a small standing to hold a lawn mower or small edifice might push them up to having to ask for yet another variance. The truly pervious surface is in a wrestling match as you

look at that. Between multiple issues, we have got one pervious surface there is for swales, it is for occupying buffer trees, a retention pond, a checkerboard of little pieces of grass in and amongst parking spaces. As was already mentioned here, there are tensions in our community and across our nation for housing and he understands those pressures have been voiced here by Commissioner Cochran. This means, as we talk about an argument to say this type of development is excellent for young families who may be starting out, who may not have a lot of money, this is a perfect position for that. He asks where the kids are going to throw a football or walk the dog if the impervious surface is occupied by water flowing in swales, a retention pond that he hopes as a biologist is going to be treated if it is holding standing water. He does not know what the Township's rules on that are, but he does not want to have a whole bed of mosquitoes. He said he sees a lot of tensions here between multiple issues to satisfy the Township's hard and fast rules as far as impervious surfaces and buffers and trees and all of those, but he sees a larger issue here in the spirit of those rules with human flourishing in a space where he does not see young families. He said he realized we have allowed for that because they can give a donation that goes to the township parks. But a Township park is not where a young child is going to run out when they get home from school. As a family with young kids next door, he said he was sure glad his kids have a place in a front yard they can play. He sees a lot of tensions here while trying to skirt 14 units right up against the impervious surface requirements of 50% and 228 square feet in a whole lot of buffer for that.

Jeremy Ellis, of 513 W. Lisburn Road

Mr. Ellis asked about the calculation for the impervious surface. He said he noticed between the last plan and this plan that the total percentage did not change, 44.7, but we said the units are smaller. Vice President Castranio said the parking lot got larger. Ms. Boyer said it was that and the access drive.

Eric Fairchild, of 1224 McCormick Road

Mr. Fairchild said he would quote Nancy Reagan, "Just say no."

Commissioner Cochran said he shares a lot of the thoughts that have been placed before us, he said he does not like this plan, but it does meet the requirements. He said the one issue he is concerned about that he was not aware of before this meeting, and that was the timing of the traffic study. He does not think it was an accurate traffic study if it was done once Messiah University was out and he would like to see a traffic done with Messiah University traffic.

Commissioner Walter said he agrees, he does not like the plan either. He thinks we are trying to put too much in a small area. He said his concern is public safety. He is still concerned about the 15-foot radius, he is concerned if there is a fire, that the egresses are not good enough. He said we have had some major fires in the not-too-distant past. Fortunately, they were in areas where we could bring in apparatus from all different directions. Yes, he understands that the turnaround works according to engineering, but he foresees some issues. Not only that, but the percentage of grade that was approved by the Zoning Hearing Board, that access to the back side of these townhouses is going to be a problem.

Commissioner Anderson shared the brown area on the maps, that is where some of the water will be draining, which has been mentioned. The one thing she wants people to understand, and she is

sure they are, because they know what the rules are for the new stormwater place has to be taken care of. She thinks they have tried.

Mr. Suhr asked if the plan could be tabled. They will address some of the questions. Commissioner Cochran said he would like to see a relevant traffic study when Messiah University is in session. He said to get that done, bring it back as long as that shows fine numbers, he said he would not be opposed to the plan because he does not think there is anything else he can oppose the plan on. He thinks that whether we like it or not, if you come under by one square foot of the impervious limit, you still meet the requirements. Mr. Suhr said that underneath the MPC, if the traffic study would say there is a deficient intersection off site, it is just information that we have. Clearly if there is a deficiency at our driveway, you would address it. He just wanted to make sure everyone is clear what the limitations are of that. Commissioner Cochran said we have LOS C's on here and would they go to a "D" or an "F", that is his concern. Mr. Suhr said it is just going to provide information as opposed to the developer's obligation to complete off-site improvements, but he certainly understands the concerns and thinks you can take that in with our traffic engineer.

Commissioner Walter said it was brought up tonight and at the January meeting, it would be really good for him to see that there was an effort made to talk to the surrounding homeowners, especially immediately adjacent to the property. He said he does not know if you can come to a consensus, but at least it would be good to see some effort made.

Mr. Surh requested that the plan be tabled and that they would need an extension. Ms. Boyer asked him to follow up in writing. Commissioner Anderson suggested that he have a long enough extension.

Mr. Surh said there are four modifications and asked if the Board wanted to take action on those or defer everything out. Vice President Castranio said to defer everything.

Commissioner Cochran made a **MOTION** to table the action, **SECONDED** by Commissioner Anderson. The motion carried 4-0.

Vice President Castranio said that we must have it on the next agenda because if they do not grant us an extension, then it is deemed approval. Mr. Feinour agreed with that. Vice President Castranio said it does not need to be on the agenda if we get the extension letter.

### **Authorize a Public Hearing Date to Discuss a Zoning Text Amendment for Daycares**

Discussion for an amendment was discussed with this Board in June of 2023. Ms. Boyer noted the ordinance was reviewed by both the Planning Commission and the County Planning Commission, and we have addressed their comments. Ms. Boyer said they reorganized the way the ordinance was written so it is laid out a little differently than what the Board saw in June. Most of the regulations are the same, but the language has been cleaned up to eliminate some of the confusion between accessory daycares and primary use daycares. Cumberland County thought that became confusing, so we consolidated everything into one section.

Ms. Boyer spoke about the Planning Commission's conversation regarding the ordinance. We

talked about the required parking spaces. There are not a lot of standards. Staff looked at other first-class Townships throughout multiple counties in our area to see what they were doing. The average parking requirement ended up being one per employee on the largest shift and then so many spaces per student/child. The number of spaces ranged from 2 to 10, with an average of . 6.64 spaces per student/child. She said that with our ordinance being once space for every employee on the largest shift and then spaces for every six children, we fell in the middle range.

Ms. Boyer said there was also discussion about the outdoor play areas and reducing the setback, with the neighboring property owners' permission. There was some discussion about keeping the play area in the front yard so that when families drove by, the children could say that is where they want to go for daycare. However, most regulations prohibit the use of an outdoor play area in the front yard for noise and safety concerns. Most outdoor play areas are only permitted in the rear or side yards.

Ms. Boyer had a draft ordinance prepared and asked if there were any additional changes or items the Board would like to discuss. She is asking for consideration to schedule a public hearing to receive testimony and her recommendation is October 4, 2023, at 6:00 p.m. Commissioner Cochran asked why we would need to have daycare as permitted in the agricultural district. Ms. Boyer said there are different types and levels of daycare facilities. Some could be in homes.

Commissioner Walter made a **MOTION** to authorize the appropriate Township staff to advertise the ordinance and a public hearing to be held on October 4, 2023, at 6:00 p.m. to discuss the zoning text amendment request. The Board shall hear testimony during the public hearing. Following the closing of the public hearing, the Board can consider acting to either approve or disapprove the proposed ordinance at the regular BOC meeting on October 4, 2023, at 6:30 p.m. **SECONDED** by Commissioner Anderson. The motion passed 4-0.

### **Zoning Hearing Board September 14, 2023**

There are no cases.

### **HARB Meeting on September 19, 2023**

Ms. Boyer said we have one case for 443 McCormick Road. The applicant is looking to replace their roof. They have cedar shakes and are looking to replace in-kind with cedar shakes. What they are doing requires a building permit, so it also requires HARB review because they are in the Yellow Breeches Historic District. After HARB makes a recommendation, it will come back to this Board for a Certificate of Appropriateness.

### **Request Waiver of Permit Fees Related to Tower at Messiah University**

Mr. Fraser said this is a request from Cumberland County Department of Public Safety to waive the Township's permit fees in relation to the P25 tower that will be installed at Messiah University. The assessed permit fee was \$12,782. Vice President Castranio said they are asking us to either reduce it or waive it. Commissioner Castranio asked what other Townships have done. Brian

Hamilton informed Mr. Fraser that other municipalities did waive fees. Mr. Fraser said they have already paid, they are proceeding with action, at this point, we would just be returning the check. Vice President Castranio asked what the fee covered. They had to pay separately for the electrical building permit review, our third-party reviewer, their fee was over \$4,000. Commissioner Castranio asked what expenses the Township had that this is supposed to cover. Ms. Boyer said this is a building and zoning permit, so the majority of the fee is building permit coverage and then \$40 is for zoning and a \$4.50 state fee which is required for all building permits. The Township has done a review on the building itself minus the electrical work and then we do have several inspections that we need to do on the property. We have already done a setback and footing inspection. There are only two more inspections to be done. This is not heavily regulated under the building code like there would be with a single-family home. Most of the Township work is already completed. We did go ahead with the inspections because they did pay. We did not deposit the check because of this request coming in. Commissioner Cochran stated that he would like to see the Township's expenses covered. Mr. Fraser said generally the permit is based on the value of the construction, this is a simpler project because it is just a high-cost single item. The Township can determine the hourly costs and then put an overhead percentage on top of it. Mr. Fraser said it would probably be in the \$3,000 range. Mr. Fraser will get a formula to the Commissioners, and we can cover our own expenses.

### **PUBLIC IMPROVEMENTS**

There were no items for discussion.

### **SANITARY SEWER SYSTEM**

There are requests for both the General and Electrical contracts in connection with the Grantham WWTP Dewatering System Upgrades. The time extensions are primarily driven by a delay in the procurement and delivery of equipment to the project site. The change order requests consist of an extension of the final completion date of 182 days and an extension of the substantial completion date of 182 days. GHD supports the time extensions as there will be no direct cost or other adverse impacts to the Township.

Mr. Cupp gave an update on the Grantham Wastewater Treatment Plant improvements. The general contractor, PSI, started some masonry demolition work on the sludge dewatering building. Both the general and electrical contractors have been submitting shop drawings for review and approval.

Joel Kostelac, of GHD

Mr. Kostelac said the change order request for a time extension, there is no cost associated with it. There were delays in the dewatering press delivery. The work is underway. We are working out into March.

Commissioner Cochran asked what Mr. Kostelac's confidence was that this would be as long as was needed for the delay. Mr. Kostelac said the dates are conservative. They are hopeful the delivery will be in November.

Commissioner Cochran made a **MOTION** to approve Change Order NO. 1 for both the General contract (Pumping Solutions Inc.) and Electrical Contract (WYElectric, LLC), providing an extension of the final completion date of 182 days from September 15, 2023 to April 24, 2024, and an extension of the substantial completion date of 182 days from August 1, 2023 to March 24, 2024., **SECONDED** by Commissioner Walter. The motion carried 4-0.

### **ADMINISTRATION COMMITTEE**

There were no items for discussion.

### **PARK AND RECREATION COMMITTEE**

Fall Fest is on September 29<sup>th</sup>.

### **MISCELLANEOUS**

#### **Solicitor Update**

There were no items for discussion.

#### **Tax Collection Committee (TCC) Update**

There were no items for discussion.

#### **Capital Region COG Update**

There were no items for discussion.

#### **Municipal Advisory Board (MAB) Update**

There were no items for discussion.

#### **Pennsylvania State Association of Township Commissioners (PSATC) Update**

Commissioner Anderson said that there is a guest convention in September or October.

### **PUBLIC COMMENT**

Eric Fairchild, of 1224 McCormick Road

Mr. Fairchild said he did not see any bills for approval on the agenda. Mr. Fraser said those are on the agenda for the second meeting of the month.

Commissioner Walter made a **MOTION** to adjourn the meeting at 8:42 p.m., **SECONDED** by Commissioner Anderson. The motion passed 4-0. There was no executive session.



## Questions Regarding Kylock Road and Answer Provided by Mr. Jason Reichard, Township Engineer.

Wayne Martin, of 5120 Kylock Road

- Mr. Martin shared that he was in municipal work for 23 years and said he took no pleasure in what he had to say. He stated he was very disappointed in what happened on Kylock Road which is part of the Fair Oaks Community. Most of the development is in Lower Allen Township, but there are a couple roads in Upper Allen Township.
- He said that the 2020 planned roadway maintenance plan of the Township had Kylock Road listed as a microsurfacing. Sometime between 2020 and 2023, that plan changed to a chip seal. There was no notice given to the residents, and he did not find out until the day before, the chip seal was scattered. We did not actually get the chip seal until that Monday because of bad weather. At no time was there any notice.

**Response: The 2020 roadway management plan proposed using microsurfacing on Kylock and Ravenwood Road. The initial recommendation for microsurfacing was made in 2014 with the first roadway management plan draft. Initially The Township Engineer completed a field assessment of existing conditions during 4<sup>th</sup> quarter of 2022. A final draft of the scope of work was presented to the Board of Commissioners in the February 15, 2023, Township Engineer's report. A final draft of the roadway improvement proposal with construction cost estimates was presented to the Board of Commissioners on March 15, 2023. Authorization to advertise the 2023 Roadway Improvement Project was issued during the March 2023 Board meeting.**

- He said he scrubbed the website, read every newsletter that comes to the house, so he considers themselves pretty informed of the ongoings. In fact, the best he could find out was the only way they would have found out was if they had a PennBid account and were tracking all of the bids through PennBid that had changed. He said he filed a right-to-know request asking who made the decision, when it was made. There was a time extension, so he has not received those documents to date. He said he understands that this body has dealt with chip seal in the past and have had many complaints you understand where we are coming from.

**Response: Bituminous chip seal treatments have been applied to 7.97 miles of roadway since 2014. Concerns requiring the Township Engineer's involvement were raised on 0.60 miles of roadway. The material was placed on Sholly, Woodside, Stoner & Sholly as part of the 2023 Contract. I believe concerns were raised about loose stones the first day the material was applied.**

- This is a community with no sidewalks, so these roads are everything to us. They are our sidewalks and basketball courts. He said he did not know if you ever tried to drill a basketball on chip seal, it does not work.

- He said he reviewed the contract that the Township has with the contractor, that chip seal was supposed to get a fog seal in 48 hours. It was supposed to be swept, 48 hours fog seal, that did not happen. It took over 10 days for that fog seal to be put down.

**Response: Section 02500.3.03 of the contract specifications includes a provision for sweeping loose aggregate within 48 hours of placement of the single sized aggregate chip seal. The specification also calls for the quick set fog seal to be applied within 48 hours. This specification was written to make a provision for sweeping if we experience excessive whip-off of loose aggregate. The industry standard is for sweeping to occur within seven to fourteen days after placement. My standard is for sweeping to occur within 10 days of aggregate placement to avoid damaging the seal coat treatment. The seal coat mix design allotted for 5% whip-off. Based on my field observations, premature sweeping was not necessary. The downslope area of Ravenwood did display excessive loose stone; however, at the time of my inspection, sweeping was scheduled for the following morning. The PennDOT 408 only requires sweeping “if required”.**

- When it was put down, the road was already a mess. Those chips had shifted, there are big aggregates in there that are not supposed to be there. Tripping hazards.

**Response: I performed an inspection of the roadway surface after the roads were swept and did not observe large aggregate at that time. I did identify several areas where a few ½” to ¾” stones were sparsely scattered across the road surface once the quick set fog seal was applied. The quarry’s QA/QC procedures usually prevent the inter-mixing of aggregate; however, the quarry process inherently presents the potential for this situation to occur. I contacted the Contractor to discuss the condition, and they were unable to explain how the larger aggregate could have been fed through the auger and feed gate. The condition is insignificant relative to the road surface area and corrective actions are not warranted at this time.**

- The manholes were raised. The chip seal does not reach the top of the manholes, so now you have manholes that are above the surface of the road.

**Response: The prime contract called for the replacement of the existing sanitary sewer manhole frame and covers. The manhole frame and covers were replaced and or reset to grade successfully with the exception of three locations. The Contractor did not place bituminous pavement to the required level within the excavation restoration area. The Contractor is scheduled to restore the pavement around the manhole frame and covers.**

- The inlets were not raised, so now the inlets are down below the surface of the road. Some of them due to the pounding of the road have sink holes in front of them, another tripping hazard because they just fogged sealed right over the sink hole.

**Response: The chip seal application raised the road elevation approximately 1/4 of an inch. The impact on the inlet performance and grade transitions are negligible.**

**The Township Staff conducts a preconstruction inspection of the stormwater system. The inlet in question was patched internally ahead of the construction project. My assumption is that subsurface drainage previously penetrated through the open brickwork which resulted in soil migration from the inlet perimeter. This inevitably left a subsurface void that became visible when construction equipment broke through the pavement surface layer. The public works department is scheduled to repair the inlet and restore the area adjacent to the structure.**

- So, we had the failure to notify the residents, bait and switch because we all know chip seal was not the proper treatment for this type of road. There was no context sensitive design, no consideration given to our community.
- Then there was no contractor oversight. This contractor did what they pleased. They did not follow the contract as far as the timing goes.

**C.S. Davidson provided part-time project representation throughout the duration of the project.**

- Improper aggregates were used.  
**Response: A PennDOT District 8-0 approved seal coat mix design was utilized for the preservation treatment.**
- It is just not in acceptable condition. In fact, he said he hates to mention it, but there were no restroom facilities. Even though the contract says they are supposed to have restroom facilities, those contractors were urinating in our front lawns. He said he saw it himself and filed a police report. The police said they could not find them. He did not know how that was possible, he was standing there in a fluorescent green uniform.

**Response: The contract specifications do not require furnishing sanitary facilities. The Contractor's mobilization cost is to include sanitary facilities as determined necessary by the Contractor.**

- He said he is just very disappointed, and he does not expect an answer today, but you have to look. We cannot live with this road for the next five to ten years, it is just not acceptable. He said he does not know what the Township's options are, he said he could tell the Township right now that the contractor did not know what they were supposed to do. Maybe that was lack of oversight from the Township. He said he was afraid to say it, but it starts at the top. He said he wants a response to this issue, so talk to your solicitor, talk to your engineer. He said he would love to hear from the Township.

Jeremy Midgley, of 5156 Kylock Road

- Mr. Midgley said to summarize what Mr. Martin shared, our understanding from the documents they have been able to review, he believes that the Township saved less than \$2,500 by electing to chip and seal our neighborhood.

**Response: The 2023 Roadway Improvement Project contract price for single sized**

**aggregate chip seal with quick set fog seal is \$3.40 per S.Y. The contract price for microsurfacing is \$210.00 per TON, which equates to \$3.78 per square yard. The estimated cost difference between the preservation treatments for Kylock and Ravenwood is \$3,005.80 excluding mobilization and maintenance, and protection of traffic. The cost increase to perform a reconstruction treatment such as milling and bituminous pavement overlay would be approximately \$125,000.00**

- He said the bottom line is that every single day, our kids, our elderly community were walking around in the neighborhood. Everybody was using our streets. There were no issues. He said he understands that we have to treat our roads, however, the end result of what happened is these roads are in far worse condition than they were before. There are potholes that did not exist. There are all the things that Mr. Martin listed out. One of the members of our community sent in some pictures. We are hoping you all get a chance to review those because those are just a small portion of them. The person who took the pictures did not walk in front of my yard which he said he lives at the bottom of a hill in a cul-de-sac. There are chunks of road, there are grooves dug into it. My kids can't roller blade, they cannot ride their scooters, it is tough to ride their bikes. He said he imagines it is only going to get worse when the snowplows come into his neighborhood. He said he has talked to several folks who are engineers and who do this stuff for a living. This belongs in rural communities, not in communities with how many total houses are in our neighborhood. It is not just the Upper Allen piece, there is also the Lower Allen Community that lives in our neighborhood and they are all impacted by this as well. In what we have been able to find, comparing ourselves to some of the other neighborhoods in this township, Winding Hills is a pretty new community with houses built in 2005 and later. Those roads, he said he believes, were scheduled to be resurfaced in 2029 and we have a list of the streets that were just resurfaced in 2023. So, they were just done ahead of time and they were not chip sealed. Those were microsurfaced I am assuming you all know. Those four roads were Baldwin Court, Braeburn Drive, Elstar Lane and a short connector Road and Empire Circle. What we are trying to understand here is why the Commissioners here decided to resurface the roads in Winding Hills and not require that these developers and engineers who work for those developers to build roads that do not need to be resurfaced shortly after they are being turned over to the Township.

**Response: This comment was addressed during the public comment period.**

- Lastly, and kind of unrelated, but somewhat related, the last time he was here was in January of 2020. He spoke to the Commissioners when a hotel property that was built behind his house was filing for a hardship so they could put a massive hotel sign up facing directly into our neighborhood so they could advertise onto the turnpike which backs up directly into our road. In that meeting, you all were kind enough to make sure that the sign never went up. He said he wanted to thank the commissioners for that, and he appreciates that. In looking on the website and some of the items that are on the agenda and coming up in the future, it looks like there is some consideration being given to modifying the sign regulations that exist in Upper Allen Township. Since there was nothing on the website that gave us any information about the roads being changed from microsurfacing to tar and chip, he said he was concerned that they were going to find

out after the fact that those sign regulations have been changed without us knowing and we are going to end up with a massive hotel sign billboard advertising into our neighborhood. He said he would like to ask that we make sure the website gets updated and that we are all given proper notice so that we can come in here and understand what changes are being proposed for the sign regulation.

Scott Conley, of 5141 Kylock Road

- Mr. Conley said he has a lot of the same complaints. He said that on August 8<sup>th</sup>, he knew nothing about it. We did not have a pamphlet on their door.

**Response: The Contractor was responsible for placing door hangers at each property fronting on Kylock and Ravenwood. We are unable to verify whether door hangers were placed at every residence.**

- The most he saw before he left for work, he was walking around the neighborhood, a gentleman spray painting markers where all of the manhole covers were in our front yards. He said he came home from work and the tar and chip was down. He said he was surprised at that. He said kids could not ride their bikes; they could not do anything really on the street. There were a lot of stones flying up, damaging cars, all this. We did get a notification that they are coming back to do the final seal on top. They did not notify us they were coming back the night before to sweep all the extra stones off. So, if you actually look at the road, which I know several members here have, because I watched you guys drive by our house this evening, no one actually got out and looked at the road itself. There are large cracks that you can see the unconditioned stone underneath right there, so what is that going to do in the wintertime when the water gets in that crack? It is going to expand; it is going to tear up.

**Response: I was unable to identify the location of large cracks in the chip seal.**

- Plow truck comes through, that is going to end up in our lawns. The other issue that we are really running into now, because we have a lot of leaves up there, all these leaves are sticking to this fresh seal. So, the appearance of our entire neighborhood now, is ridiculous. It is very unappealing.
- The other issue, when you walk at night, like Mr. Martin said, there is large aggregate still in the middle of the road, it is a tripping hazard because there is no lighting up there. He said he was literally walking his dog last night and tripped over a very large piece of stone. It is not a 2b, it is not a small, it is large.

**Response: Please refer to my previous response to Mr. Martin.**

- There are just a lot of concerns that we do have. He said he does not feel that the road did not need any maintenance at all, and it also was to him as a taxpayer, it feels like a waste of money. He said he knows a lot of others have said that. We are just here to voice our opinion and see what is going to be done. What kind of warranty may be even covered under this as it does crack and chip under the warranty, because it was not properly done in the first place.

**Response: The contract includes a 1-year performance guarantee that initiates upon issuing a substantial completion notice.**