

July 17, 2007

The regular meeting of the Andover Township Land Use Board was called to order at 7:35 p.m. on Tuesday, July 17, 2007 by the Chairman Stan Christodlous.

Present: Members Thomas Walsh, Class I
 Gerald Huelbig, Class II
 Gail Phoebus, Class III
 Diana Boyce
 Stan Christodlous
 Michael Crane
 Lois deVries
 Suzanne Howell
 Michael Lensak
 Attorney Thomas J. Germinario, Esq.
 Engineer Joseph Golden, P.E.
 Planner Russell Stern, P.P.
 Secretary Mary Spector
Absent: Ron Raffino, Alt. 1

FLAG SALUTE - RULES - OPEN PUBLIC MEETINGS ACT

WAWA – Bl. 158, Lot 6, HC Zone, Rt. 206 and Brighton Rd.; amended final site plan for gas station and convenience store. A motion was made by Walsh, seconded by Huelbig, to adopt the resolution memorializing the approval of this application. In favor: Huelbig, Howell, Lensak, Walsh, deVries, Crane, Boyce, Christodlous. Opposed: None. Motion carried.

SALLY DOBSON – Block 1, Lots 6 and 17, Forest Lake Drive, R-0.5 Zone, Minor Subdivision/Lot line adjustment. A motion was made by Lensak, seconded by Howell, to adopt the resolution memorializing the approval of this application. In favor: Huelbig, Howell, Lensak, deVries, Christodlous. Opposed: None. Motion carried.

THORLABS - Block 128, Lot 4.04, 69 Stickles Pond Rd, I Zone, preliminary and final site plan. Robert Guerin, P.E., sat in as Board Engineer for this application. Guerin listed the waivers requested by the applicant. He stated he had no objection to the granting of these waivers. A motion was made by Walsh, seconded by Phoebus, to grant the waivers requested and to find the application complete. In favor: Huelbig, Howell, Lensak, Phoebus, Walsh, deVries, Crane, Boyce, Christodlous. Opposed: None. Motion carried. Megan Ward, Esq. was present to represent the applicant. She noted the applicant made revisions to the plans based on reports from the Review Committee and the Board's professionals. They agree to comply with the comments of the Board engineer and Board planner on the revised plans. Ward noted the site is in the Industrial zone on an existing lot that had received a site plan approval in 2003. The property was purchased by Alex Cable, Inc. in 2006.

Allen Campbell, P.E. was sworn in. He has been qualified before this Board on previous occasions. His licenses as a professional engineer and planner are still current. His qualifications to testify were accepted by the Board. Campbell described the property in question. He noted that it had already received a variance for the undersized lot. The septic system has been upgraded by the applicant and approved by the County. They filled in a part of the detention basin so that it now conforms to State standards as to distance from the septic. They upgraded the seepage pits for the roof drainage and added two more. Campbell noted the new site plan reflects a change from a trucking warehouse to a high tech warehouse, shipping area and garage. They plan to curb the gravel area at the rear for additional parking. Parking spaces in this area will be 11 ft. wide. They will put guide lines and numbers on the curb. They are planning for 50 employees. The new septic is oversized.

Campbell continued. There will be no expansion of the building footprint. They plan for additional lighting in the gravel area and on the side of the building. They have a landscape plan for the entire site. Campbell stated they concur with the notations in the Planner's report. He noted they will need a variance for the setback of the sign. The existing sign is 12 sq. ft. A colored rendering of the site was marked Exhibit A-1. Campbell indicated the location of the sign at 8 ft. from the road. He noted the sign needs to be closer to the road for visibility because it is smaller. The narrowness of the lot is also a factor. Campbell discussed the issue of impervious coverage, noting the overall coverage is less than the 60% maximum allowed in the Industrial zone. However, the paved and gravel areas are over 30% impervious, excluding the building. Campbell noted the gravel area is useful for reducing runoff.

Ward summarized the relief being requested. Campbell referred to Stern's comment about the concrete curbing being more useful for the numbering and stated the applicant would like to keep the Belgian block curbs instead. He also explained the size of the detention basin, noting the original basin was constructed in a somewhat circular fashion, reducing the distance between it and the septic system. They will reconstruct the basin to conform to the original approval. Campbell stated they prefer the smaller sign as it is more attractive on the narrow lot. Ward confirmed they will add landscaping under the sign. DeVries requested they consider alternatives to burning bush which is considered invasive by the DEP. Campbell confirmed they will revise the plans to show the proper lighting configurations. Ward explained they want to leave the gravel area because it may be useful to a future tenant. She stated the gravel is better for the overall utility of the lot.

Michael Spozarsky was sworn in. He stated he is the facility and operations manager at Thor Labs and in charge of special products. He stated the hours of operation in this location are from 7:30 a.m. to 5:00 p.m. He stated the use is predominantly for warehousing. He described the product – optical tables or “breadboards” which range in size from that of a pizza box to a pool table. They are manufactured in the United Kingdom and shipped to the US in crates. They are delivered to the site by truck from Port Newark. The deliveries are about once a week. It takes about 15 to 20 minutes to unload the product by forklift and move it to shelves in the warehouse. Trucks then come at specific times to pick up the product for delivery to their customers. They plan to leave the overhead doors in place as a future owner may want them. The shelving is in front of four of the doors; they use one. They are moving clerical staff

including sales, tech support and some marketing people from their Rt. 206 location. The office space is on the west side of the building. Some employees may be on the site until 7:00 p.m. on occasion as they take orders from California.

Spozarsky described interior changes. One of the second floor spaces has been enlarged to house the tech support. The first and second floor office space occupies about 1,200 sq. ft. They have obtained building permits. They don't plan any other expansion and there will be no manufacturing at the site. They store the large boards in wooden crates. The forklift is the only equipment used. Spozarsky noted there are only a few warehouse employees, most are office staff. He noted the entrances used by employees. In the shed they store the lawnmower and gardening tools for maintenance. There is a 2 to 3 gal. container of gas for the lawnmower. Their product goes to laboratories and universities around the country so they provide delivery. The boxes come to the site on 20 ft. tractor trailers which can negotiate the loading dock.

DeVries asked if cleaning fluids are used. Spozarsky stated they only inspect the product when the crate is opened. They arrive ready to go on to the customer. Boyce asked about delivery times. Spozarsky stated deliveries are between 9:30 and 11:00 a.m. or from 3:30 to 4:00 in the afternoon if necessary. Huelbig asked about security gates. Spozarsky stated there is an alarm system in the building. He noted the product weighs hundreds to thousands of pounds and would be difficult to move. The lighting will be on timers. Germinario noted the current design of the building calls for 9,288 sq. ft. as shown on the architect's plan. Spozarsky stated the warehouse is 80% of the floor space and the office area is 20%. Guerin asked about the restoration work on the adjoining property. Campbell stated there had been a previous encroachment of about 25 ft. and the applicant is planning to reseed that area and restore it.

A motion was made by Walsh, seconded by Crane, to approve the preliminary and final site plan for Thor Labs subject to the conditions discussed tonight. In favor: Huelbig, Howell, Lensak, Phoebus, Walsh, DeVries, Crane, Boyce, Christodlous. Opposed: None. Motion carried. The motion was amended on a motion by Phoebus, seconded by Crane, to be effective immediately. All in favor. Motion carried.

BALLENTINE WOODS - Block 6, Lot 3.02, Block 7, Lots 10, 10.02 & 10.03, R-3.0 Zone; review of second aquifer test. Boyce, Christodlous and Howell recused themselves. Crane took the chair as Vice-Chairman. There was a question about Walsh sitting for this hearing. Germinario stated this is a new issue with new evidence and he is eligible to participate. The applicant's attorney, Joel Kobert, stated he had no problem with the Board's composition. He stated they are here to determine the adequacy of the water supply for this development and to determine there would be no effect on neighboring lots. He noted two experts are present to provide information so that the Board can make an informed decision.

Germinario discussed procedure, noting they will allow the experts to testify before opening the hearing to questions from the public. Kobert stated the legal notice was sent to all property owners within 500 ft. Applicant's exhibits were marked A-1, the aquifer test configuration, and A-2, the well location map. Thomas Dwyer was sworn in. He presented his credentials to testify. He is president of Eastern Geosciences, Inc. He has a B.A. from Old

Dominion College and a M.A. in geology from Kent State University. He has been practicing for 22 years. He has testified before numerous Boards throughout the State, including this one.

Dwyer gave a summary of his June 2007 report. He stated they proceeded according to the directions in the Court Order of March 2007 to be in conformance with testing protocol outlined in Exhibit A-7 of the hearing on 9/8/06. The protocol called for two additional test wells in the western portion of the site where the majority of homes are to be built. He stated TW3 and TW4 were suggested to the Township's consultant who recommended that TW4 be relocated to TW5, a more central location nearer to the photolineaments. The applicant agreed to put in a third well. Dwyer stated the well yields were as follows: TW3 – 9 gpm, TW4 – 6 gpm, and TW5 – 11 gpm. He noted all of these well results are sufficient for domestic water supply. It was determined that TW5 would be the test-pumping well because its orientation is parallel and perpendicular to major geological structures on the site.

Dwyer continued. Test observation wells were to be TW3 and TW4 and also TW1, DW1 and OW2. They also got permission to use the domestic well DW1. The testing consisted of 6 days of background monitoring, then the pumping phase and a 3 day recovery period. Germinario referred to Exhibit A-1, noting the TW5 location was the recommendation of M². Dwyer stated the test well was pumped at 6½ gpm for 24 hours. He described the drawdown response. He stated the drawdown at TW3 and TW4 showed a good fracture connection with the test well. He stated there was no measurable drawdown at TW1 or OW1. At TW1, there was a small impact of 0.1 ft. OW1 is also being used for domestic water usage. Dwyer noted the rapid response during the recovery period indicates the fracture system is receiving adequate recharge. Drawdown for neighboring wells was calculated. Dwyer stated the drawdown was less than one foot at all the offsite domestic wells except for Block 7, Lot 10.01, which is approximately 2.2 ft. He noted he had used a conservative approach in arriving at these conclusions. In response to questions Dwyer noted the well on Bl. 7, Lot 10.01 is a high yielding one. It yields 18 gpm. DeVries raised a question about the hold harmless clause in the letter to neighbors. Crane stated they would hold off on that discussion for now.

Germinario summarized the information presented by Dwyer. The applicant met the requirements of the order of judgment. They installed three wells on the western side of the property. Based on the results of this and previous testing, the applicant finds there is sufficient water and the development will not create an adverse impact. In response to questions from Kobert, Dwyer testified the water supply is sufficient for the proposed homes. In his experience he would say that this testing shows a supply far in excess of what is needed for a development of this size. Dwyer confirmed the development will not have an adverse impact on homes in this area. He stated they don't project that the drawdown would be detrimental to this area.

Matt Mulhall of M² Associates was sworn in. His qualifications to testify were accepted. Germinario noted Mulhall's report of July 7, 2007 was based on the report from Eastern Geosciences. Mulhall added it was also based on data he collected during testing. He reviewed the history of the aquifer testing and summarized the judge's order and the protocol for additional testing that was submitted by the applicant. Mulhall stated he recommended the applicant use the TW5 location. He noted the on-site testing procedures met or exceeded the requirements. The

judge's order did not require off-site testing but Mulhall thought it was appropriate. One homeowner agreed to testing. His well is designated as DW1. Mulhall stated at this point that he disagrees with the applicant's professional. Mulhall saw a minor drawdown on TW1. He doesn't see a connection between the two sides of the site. He sees a natural declining trend. He didn't see any influence in OW1. Well OW2 experienced a small amount with some natural fluctuations. Mulhall explained there are cycles throughout the year, with a naturally declining phase in the summer. He stated the aquifer is capable of transmitting adequate water for 19 homes. The pump test didn't result in mining or dewatering. Mulhall stated Dwyer was being cautious and conservative in his determinations.

Mulhall further stated there was very little influence between the two parts of the site. He stated at the property boundary with the Roberts the drawdown would be less than 1 ft. He asserted it would be diminished even if the drawdown was at 2 ft. He stated there is adequate water without an adverse influence on water levels in neighboring wells. Germinario noted the well record was used for the well on Bl. 6, Lot 10.01 to determine whether there would be adverse impacts and asked if this was adequate. Mulhall stated they would have to accept it. Germinario pointed out only one off-site well was observed and asked if additional off-site wells would have changed his analysis. Mulhall stated he didn't think it would change. Crane asked about the impact of this development on future development. There was discussion about what was required in terms of future development. Mulhall stated there was no evidence that there would be an impact. Phoebus asked about the depth of the wells. Mulhall stated they are 500 to 600 ft. deep. Huelbig brought up that it's first come, first serve in terms of development. They can't decide on future development. He gave an example from his neighborhood.

DeVries asked about the impact of sprinkler systems on the residential lots. She noted they can require 5 to 15 gal. per unit. She asked if the calculations took into account the use of sprinklers and whether the test wells would be used for homes. Mulhall stated TW4, TW3 and TW5 would be on residential lots. He noted those wells are not the best for irrigation. The applicant, Phil Deacon of Ballantine Woods LLC, was sworn in. Deacon stated they would not put it irrigation systems on these properties. DeVries pointed out if 50% of the homeowners were using sprinklers there would be an impact. Mulhall stated he didn't think it would be a problem if they were on timers. He noted the homeowner running the irrigation system would be the first to suffer. Phoebus noted in dry periods the Township can impose limits. There were no further questions from the Board at this time.

Peter Spinney was sworn in. Spinney noted he was referring to Mulhall's report. He stated he is not a hydrogeologist but he has work experience with hydrogeology. There was discussion about the use of the isotropic model by Dwyer that was disputed by Mulhall. Mulhall repeated that Dwyer had overestimated the drawdown effects when saying that the drawdown impact would be uniform in all directions. Dwyer noted he took the greatest impact and assumed it applied in all directions. Spinney questioned Mulhall's interpretation. There was further discussion among the experts about this issue. Diane Gillespie was sworn in. She stated the Board knew the neighbors didn't participate in the well testing because of the hold harmless clause in the letter from Eastern Geosciences. She stated they wanted to participate. They didn't think it was fair to agree to the hold harmless clause. She pointed out this was brought out at the

Board meeting of May 15th and the Board attorney agreed to write a letter. Gillespie stated the neighbors think they were deliberately left out of the process. She stated no one has convinced her that her well will not be affected.

Kobert stated they can't force the applicant not to include the hold harmless clause. If the issue was of great concern someone should have contacted the company for further information. Germinario noted the Board thought it was an unreasonable restriction to have the hold harmless clause. He advised the applicant that if they proceeded without changing that, and if the data fell into a gray area, they could require further testing. However, he stated, the data did not fall into a gray area. The issue of further testing becomes moot because based on the testimony from the Board's expert it is not material to the Board's determination. Gillespie stated she thinks they were forced out of the testing. Germinario noted that is not relevant to the Board's proceedings. Gillespie stated they relied on the Board and the experts. They are owed at least to have their wells tested. They want to know whether they will have water. Gillespie noted the surrounding properties that have not yet been developed and asked Dwyer whether there would be sufficient water if these properties were to be developed. She stated the applicant is only addressing half of the judge's order.

Bill Howell was sworn in. He asked about the testing wells. He noted they were treated rudely by Eastern Geosciences a year ago. Dwyer stated he was not aware of that call. Germinario noted the Board did what they could to get the hold harmless clause dropped. Howell stated they want piece of mind. He noted his property was not tested. Lensak asked why there was a hold harmless clause. There was further discussion about this matter. Fred Gillespie was sworn in. He asked if there was an impact because of the depth of the wells. Dwyer stated the depth may not necessarily show an impact. It depends on when the fracture is hit. He noted well depths vary. Gillespie asked whether Mulhall was to be present at the time they were drilled. Mulhall stated he knew the location. It was not his understanding that he was to be present. Al Roberts was sworn in. He asked how the aquifer will regenerate. Dwyer stated it occurs on a regional basis. The Chairman closed the hearing to the public.

Kobert stated he heard the concerns of the public. He noted the conclusions cited in paragraphs 5 and 10 of Mulhall's report that show the lot can be subdivided with plenty of water. Kobert summarized the Board can rely on important scientific data presented here and he thinks the judge would see it in the same way. Germinario referred to Condition 9 of the April 2005 resolution of approval "to determine the adequacy of the on-site wells for individual water supply for the individual homes without substantial detriment to the existing and future homes in the area." He stated this was the remand from the Court which is to be determined by the Board. A motion was made by Huelbig, seconded by Walsh, to find that the applicant has met the criteria stated in Condition 9 of the resolution of approval of the preliminary major subdivision. In favor: Huelbig, Lensak, Phoebus, Walsh, deVries, Crane. Opposed: None. Motion carried. Germinario noted the Board continues to have a concern about the location of the school bus pickup. A subcommittee was appointed to meet with the applicant, to include Phoebus and Crane.

RECESS – The Chairman called a recess from 10:55 p.m. to 11:00 p.m.

CONSISTENCY REVIEW – Review of amended checklist ordinance for consistency with the Master Plan. Stern stated he didn't see any inconsistency in the revised checklists with the Master Plan. Christodlous thanked the Board's professionals for their work on this revision. A motion was made by Phoebus, seconded by Walsh, to find the revised checklists consistent with the Master Plan. In favor: Huelbig, Howell, Lensak, Phoebus, Walsh, deVries, Crane, Boyce, Christodlous. Opposed: None. Motion carried

MINUTES - June 12, 2007. A motion was made by Phoebus, seconded by Howell, to approve the minutes as amended. In favor: Opposed: None. Motion carried.

June 27, 2007. A motion was made by Howell, seconded by Lensak, to approve the minutes as amended. In favor: Huelbig, Howell, Lensak, Walsh, deVries, Crane, Boyce, Christodlous. Opposed: None. Motion carried

June 27, 2007, executive session. A motion was made by deVries, seconded by Huelbig, to approve the minutes as distributed. In favor: Huelbig, Lensak, Walsh, deVries, Crane. Opposed: None. Motion carried.

VOUCHERS - See Schedule A. A motion was made by Walsh, seconded by Phoebus, to approve the vouchers submitted. All in favor. Motion carried.

NEW BUSINESS – DeVries referred to a copy of a letter received by the Environmental Commission from Eric Snyder concerning the Wawa site and the karst topography underlying the site. One of Snyder's recommendations in the letter is that the Township look further into a carbonate rock ordinance. DeVries noted she has been calling attention to this need for some time. She asked that the Board discuss this letter and its implications at the next Board meeting.

MATERIAL RECEIVED, GENERAL INFORMATION - See Schedule A.

RESOLUTIONS – Resolutions adopted during this meeting are made a part of these minutes by referral to the specific file.

ADJOURNMENT - Time 11:03 p.m. A motion was made by Lensak, seconded by Phoebus, to adjourn. All in favor. Carried unanimously.

Respectfully submitted,

Stan Christodlous, Chairman

Mary Spector, Secretary