

The Swatara Township Board of Commissioners held a Public Hearing for a potential amendment to the Zoning Ordinance to Permit Auto Service Stations by Right in the C-L Limited Commercial District on Wednesday, February 1, 2023, at 7:15 p.m., at the Swatara Township Administration Building, 599 Eisenhower Boulevard, Harrisburg, PA 17111.

Members of the Board present: Commissioners Richard Boudier, Shaela Ellis, Michael Tuckey, Jeff Varner and Christine Zubeck. Also present: Manager Jim Fosselman, Assistant Manager Kim Kaufman, Solicitor Kevin Hall, Director of Code Enforcement and Zoning Officer Robert Ihlein, and Secretary Karen Alleman.

Present for Petitioner: Peter Wertz, McNeese Wallace and Nurick, Mark Whitaker of Dynamic Engineering

Solicitor Hall: Thank you President Zubeck. Tonight, we have a hearing on a zoning text amendment change, amendment to Chapter 295, Zoning, to permit Auto Stations by Right in the C-L Commercial Limited District to define spanner sign to permit certain signage on canopies and fuel dispensers located in an auto service station and to establish specific criteria for auto service stations in the Commercial Limited District. You have in front of you, which I want to make as a preliminary matter, a part of the record, Exhibit A, the notice of proof of publication. You also have in front of you commentary from the Swatara Township Planning Commission indicating that they have reviewed the proposed text change, and their recommendation as well as commentary from Dauphin County Planning Commission dated December 5, 2022 indicating that they have reviewed the proposed text change, and their recommendations, which we will also make part of the record. Is there a representative from the regional petitioner present?

Peter Wertz: Evening, Peter Wertz of McNeese Wallace and Nurick.

Solicitor Hall: Evening.

Peter Wertz: So, do you want me to just jump right in?

Solicitor Hall: Sure, Mr. Wertz if you could, in summary form if you could.

Peter Wertz: Sure. I'm here tonight with Mark Whitaker with Dynamic Engineering Consultants on behalf of the Petitioner, Swatara Paxton Developers LLC. The petitioner is the equitable owner of an approximately 2.4 acre property located north Paxton Street and south of Bridge Road. It is located within the C-L Limited Commercial District, currently is the site of a Hoss' Steak and Seahouse Restaurant. Petitioner is looking to acquire the property and redevelop it with a Wawa convenience store with fuel dispensing. The use itself falls within the definition of an auto service station which is defined as an area where gasoline is dispensed into vehicles that may contain a convenience store. Auto service stations are not presently permitted within the C-L District. The request tonight is an amendment to the Zoning Ordinance that would

permit auto service stations by right in the C-L District subject to certain supplemental criteria. Those include criteria that the subject property must front on two or more streets, at least one of which must be an arterial street and that the subject property must be between two and three acres in size. The purpose of those criteria is to limit the application of this amendment to very few properties within the Township. I do have exhibit packets I can pass out this evening. The first exhibit, A, is an aerial map of the property. Exhibit B is an excerpt from the Zoning Map, and that excerpt from the Zoning Map shows the only other area within the Township where this zoning amendment would have any application. The remaining properties within the Township are either too small, too big, or already improved, or do not meet the dual frontage requirements. That's on Exhibit B, you can see the arrows pointing to that area.

Solicitor Hall: Mr. Wertz, just because you didn't have the microphone at the time, could you repeat what's in the exhibits just for the public.

Mr. Wertz: Sure, so Exhibit A is an aerial map of the property. Exhibit B is an excerpt from, well it actually is the full zoning map for Swatara Township with two arrows showing the location of the other area besides the property where this amendment would have application, could potentially have application. Exhibit C is a site plan proposed, showing the specific application of this amendment to the Petitioner's property. So, turning you attention to Exhibit B, that's because of the limitations on this amendment, because it must front on at least two streets, at least one of which must be an arterial street, and because it has to be between two and three acres in size, that is greatly reducing the applications of this amendment throughout the C-L District. The other supplemental criteria that are included in the proposed ordinance include a thirty foot minimum front yard setback for canopy structures, it would permit accessory air pump pedestals and electric vehicle charging stations within parking areas in the front yard setback, it would permit dumpster enclosures within the side yard setback subject to the zoning ordinances regulations for screening of waste dumpsters, and it would also allow existing parking or paving setback non conformities to be continued. As you will see in further detail on Exhibit A, and as Mr. Whitaker will explain, this property has existing improvements and infrastructure. The Petitioner in this case is coming in intending to redevelop and revitalize existing infrastructure and to permit this Wawa convenience store with gasoline. Beyond that there are minor changes to signage proposed in this ordinance specifically related to signage on gasoline pump canopies. This is really just to bring the Township's ordinances up to date with respect to that sort of regulation. Previously the Township's ordinances would require a sign on a canopy to eliminate one of the free standing signs permitted for the use. This creates a limitation on that by permitting smaller signage on the canopy that would not eliminate the second free standing sign allowance.

By way of a brief chronology, we met with Township staff in early 2022 to discuss this redevelopment. At the time staff had recommended we take the text amendment route. We submitted our petition to amend and proposed ordinance in October of 2022. This Board of Commissioners accepted and referred out the petition and ordinance to the County and Township Planning Commissions on November 9 of 2022. On December 5

of 2022 the County Planning Commission issued its general recommendations; those recommendations were relatively neutral with respect to this amendment. They focused mainly on the Township's regulations of convenience stores generally and how comprehensive overhaul of convenience stores across the board might be in the Township's interests. The same evening, December 5, 2022 the Township Planning Commission had unanimously recommended approval of the petition and adoption of the ordinance. We are here tonight to formally request the Board, to ask the Board to adopt the proposed ordinance that submitted along with the application.

Again, this is the first step in the process, at least with respect to our site. If this was approved, we would have to come back before this Board as part of the land development process and this is just in terms of zoning. So with that, I'll turn it over to Mr. Whitaker just to give you a run-through of the existing conditions of the property and the site plan.

For reference, the two exhibits that will be referenced are Exhibit A, Existing Conditions, in your packet and then Exhibit C is the site plan.

Mr. Whitaker: Good evening. This is, which exhibit did you...this is Exhibit A. I'm just going to quickly go over existing conditions cause I'm sure everyone is familiar with the property. This is the Hoss's Restaurant. It is located at Route 322 and Bridge Road. It is 2.462 acres in size. It currently has one access point which is on the easterly side of the site, off to Bridge Road, there is no direct access to 322. The existing restaurant is 11,500 square foot in size. There's 190 parking spaces on site and there's 2.07 acres of impervious surface. We do have a flood plain associated with Swatara Creek, that runs approximately through the middle of the existing Hoss' Restaurant and that's at elevation 327.

This is Exhibit C. This is a conceptual site plan of the proposed layout. It's proposed, shaded in grey is the Wawa Convenience Store. That is a front back store with an entrance in the front for the public as well as the back. The front of the store would face to the west, the back of the store would face to the east. The fueling canopy would be on the west side of the store, that has eight multi-product dispensers for sixteen fueling positions. The setback associated with the front yard where we are requesting a modification to the ordinance is in the northwest corner of the fueling canopy that's 35.7 under the proposed condition. The traction closure is a trash compactor at a recycling dumpster, that's at the northeast corner of the site. If you're facing the Wawa it is in the back left corner, so that would be in our side yard. We are proposing fifty-seven parking spaces, eight of those spaces would be for electric vehicle charging stations. Two of those spaces would be for free air. As far as signage locations, we have a sign on the front of the building which would be facing to the west, we have a building sign on the east side of the building which is centered over the rear entrance. We have two identification signs, one that faces 322 and one that faces Bridge Road. We have canopy signs so that the spanner signs are on either end of the fueling canopy and they simply say Wawa. So the spanner signs are at the end of the fueling canopy, a red sign that just says Wawa, it identifies the fueling canopy as being owned and operated by

Wawa just like the convenience store. And then there is a small fueling canopy sign in the front left corner of the fueling canopy that also says Wawa and has the signature goose on it.

As far as stormwater management for this site, we have not designed the site yet, but we have done geotechnical testing. There is no infiltration on site anywhere throughout all of our testing so we would be looking for probably bio retention basins with under drains, possibly a manage release concept basin which is an underground basin which allows water to be detained but to flow out through positive outfall and the use of water quality filters in our inlets. Anything I missed as far as describing the client? Does anybody have any questions?

Solicitor Hall: I don't have any questions. I'll first turn to the Board of Commissioners, any questions?

Commissioner Ellis: I have some questions.

Solicitor Hall: Commissioner Ellis, sure.

Commissioner Ellis: Does anyone else have anything before...

President Zubeck: I had some questions, and I'll defer to you.

Commissioner Ellis: You can go first, you're fine.

President Zubeck: I know there have been some questions regarding the flood plain. So, and I was at the Planning Commission meeting, I know you had answered these questions before, I'm going to ask them again just for the public edification. The tanks, it was my understanding that they were going to be outside of the flood plain, is that correct?

Mr. Whitaker: That is correct, the tanks are in front of the fueling canopy on the west side of the site, they are completely out of the 100-year flood plain.

President Zueck: Okay, so also, describe any other flooding issues you would foresee and what you have done with your geotechnical studies and all of that to mitigate those issues.

Mr. Whitaker: We have not done any studies associated with the flood plain. It is established through FEMA for the Swatara Creek.

President Zubeck: Okay.

Mr. Whitaker: The flood plain as indicated runs almost like through the middle of the existing restaurant so it's between our store and our fueling canopy. To comply with your flood plain management ordinance we will have to do a combination of filling, but we can't fill it too much to displace the water you have an ordinance citation you can't

displace it so that it changes the elevation of the flood plain by more than one foot, one foot. And then we'll also consider, we'll have to talk to Wawa obviously, we can flood proof the building so you can allow the water to come up to the building, but not get into the building. That's called a dry flood proofing. We haven't designed that yet, that will be a part of the land development process, but we have looked at it.

President Zubeck: So I know at the Planning Commission meeting it was asked, and it was responded, just to clarify, the tanks are outside of the flood plain, and the building itself is above the flood plain.

Mr. Whitaker: The building will be set on a finished floor above the flood plain, that is correct. Unless we dry flood proof it, which is an option.

President Zubeck: Thank you, I appreciate that. I'll defer to anybody else for questions now.

Solicitor Hall: Commissioner Ellis.

Commissioner Ellis: Okay, I have to look through my scribblings. Do we know, what is the distance from the creek to the farthest edge, or to the edge of the Hoss's property? Do you know that off the top of your head?

Mr. Whitaker: I do not. (inaudible, Mr. Whitaker was not at a microphone) Its fairly far away, but the creek has a very large flood plain.

Commissioner Ellis: Right.

Mr. Whitaker: It probably shouldn't be called a creek, it should be called a river but yeah, it's a very large flood plain so it extends that far.

Commissioner Ellis: Okay. The reason that I asked that is because we own property in that vicinity as well and on one side we have like, not permanent parking, and then on the other side we were limited to what we could pave because of the flood plain as well and we had a situation where we were trying to put in a dog park and DEP required all this special like requirements as far as, and we still haven't put the dog park in because of the cost of all the special requirements. So, some of my other questions. With the recommendations from the Planning Commission, let me find that. There was a summary, this probably isn't going to be a question for you guys, this might be a question for our staff. The summary from the County Planning Commission recommended that we update our language. So, I just wanted to understand the rationale of why we didn't do that now rather than go ahead and approve or at least recommend to approve this project without updating, let me see the definition. It's, it says that the definition, that the existing definition to determine the proper language to utilize in the ordinance and it relates to, now I'm not seeing it.

Mr. Wertz: I can take a stab at that. I think I know what you're getting at.

Commissioner Ellis: Yeah, why didn't we do their recommendations rather than moving forward with this project right now without updating what was recommended?

Mr. Wertz: I think the Planning Commission's memo, the County Planning Commission's memo... what it's stating essentially is that what is there, convenience stores generally are not independently regulated they're not provided for on the use table apart from auto service stations so it almost appears like they're superfluous but I don't believe that's actually how the ordinance is written currently. So, the definition of auto service station, excuse me, the definition of convenience store, the last sentence of it is...

Commissioner Ellis: That's, yes

Mr. Wertz: A convenience store involving the sale of gasoline shall be regulated as an auto service station. There are instances when a convenience store would not be, would not include the fuel dispensing aspect so then it's its own stand alone use. I think that the County Commission is looking at that and saying well if its its own independent use and it's not being used in the context of fuel dispensing, then it's not permitted anywhere because no where in the zoning ordinance is it a stand alone permitted use. But I do believe based on the way that this is written, a convenience store is a use that primarily sells routine household goods, groceries, prepared, ready to eat foods and similar miscellaneous items to the general public but that is not primarily a restaurant and includes a building with a floor area of less than 6,000 square feet. Based on my reading of the ordinance, if it does not have that fuel dispensing component, it would fall generally into a retail use and it would be permitted where retail uses are permitted. So, while I understand what the County is saying in this memo, I don't believe that's the correct interpretation of the zoning ordinance. I don't think that the convenience store is strictly a superfluous use within the Township. I will also note that that obviously came contemporaneously with when we obtained our Planning Commission approval, and this is really a broad scale sort of issue for the Township to consider. Really it would affect the entire scheme of convenience stores throughout the whole Township so if the Township is interested in pursuing that, it would be better done separate and apart from this which is limited application dealing with a very specific place and circumstances.

Commissioner Ellis: Just for clarification too, I know when you were speaking earlier you said that it was December 5 that the Township Planning Commission recommended approval, is that correct?

Mr. Wertz: I believe yes, it was the same date as the Township and County were the same times, the County was actually...

Commissioner Ellis: Okay, it does say that, okay.

Mr. Wertz: 4:30 p.m.

Commissioner Ellis: Okay, got it. Just because the date of the memo is the 9<sup>th</sup>, that's, I see, okay.

Mr. Wertz: Okay.

Commissioner Ellis: And it, for our recommendation, it does say from our Planning Commission, at your discretion we would be, again this more to the Township, we would be happy to engage in the process to present you with some possible additional changes to the zoning ordinance in the near future. And that is in regard to convenience stores. So I don't know if Township staff or the solicitor can speak to, again, why we didn't opt to go that route and like, stay this situation before we made any of those changes because I know we've had other projects in the past where there have been requests for changes in zoning and its taking quite like, its been a year or so since the request was made. There was lots of time looking at it, this one is like a month or less before we're moving forward with it so I'm trying to understand the rationale of why it's so quickly.

Solicitor Hall: Commissioner Ellis, I think there's two points to be made in response, just answering your questions. As to why so quickly, it's a relatively minor change to a very small zone within the Township that already permits very similar uses so I don't know, and particularly given the recommendations of the Planning Commission and County Planning Commission, I don't know that there would have been much additional diligence that the Township would have done on behalf of this particular text amendment. The second thing, as to the recommendations from the County Planning Commission and why not act on them first, Mr. Wertz said those recommendations were somewhat neutral. I would view them as almost inapplicable to this particular request. They're more a recommendation to review convenience stores from a standalone perspective, on a broad perspective of the Township whereas this is to allow fueling stations to be used within the C-L zone alone. I think they are a little bit apples and oranges. I think they are saying if you're going to continue to, you know, look at, update your zoning ordinances going forward, this is something you might want to take a look at as well. They are not saying at all that they have issues or problems with this particular update.

Commissioner Ellis: So, hypothetically, if we were to move forward with that review process and add certain stipulations and recommendations and set, whatever, setbacks, different conditions, and things like that, this property would then be exempt I'm assuming at this point if we move forward and approve it now.

Solicitor Hall: If...

Commissioner Ellis: If we update the convenience store definition or add that in the future.

Solicitor Hall: I would say if they had gone through the subdivision and land development process already and had done so under the current zoning and there was

additional impacts that would affect convenience store, then it would be potentially grandfathered. I think is maybe what you are getting at, I think.

Commissioner Ellis: Right.

Solicitor Hall: So I think the answer to that is probably yes, but I don't foresee any changes that we would make to a convenience store update that would apply to this property because there is the auto service fueling station aspect to this as well. Does that make sense?

Commissioner Ellis: To a certain extent, yes. My other question is, in relation, this is for the lawyers in the room. Are you guys familiar with Conshohocken Borough vs. Conshohocken Borough Zoning Hearing Board? It was decided on August 16, 2021. Are you guys familiar with that case?

Mr. Wertz: I have read that case at some point, and I can't recall off the top of my head what it is.

Commissioner Ellis: So, it was another Wawa that requested a change in zoning to go into, it was a resi.....

Mr. Wertz: I do recall this case, yes.

Commissioner Ellis: Yes, yes. It was determined to be spot zoning.

Mr. Wertz: Yes, and I think there's differences between our proposal here, very distinct differences. First, as you mentioned that was a residential zone and they were really coming in and placing this Wawa, it wasn't even just residential, it was a historic residential so there was some very, they were very much at odds with the comprehensive plans and I know the court had looked at that very intensively because that is one of the questions when you come to spot zoning. There has to be this, you know, it's a constitutional question so you have to meet those constitutional questions with zoning and their relationships with the public interests, etc. And they looked at that and saw that while in terms of the comprehensive plan, the preservation and continuation of historic districts, residences that was clearly at odds. Also, unlike in that case, here we do have not total exclusive application. So Exhibit B, which I, in your exhibit packet, that shows another location where we believe this is really feasibly a place that could be developed with a convenience store with fuel pumping if this amendment were to take place. Now, is that the only other place? Not necessarily if you had buildings that, you know, you could have theoretically many lots consolidated, it would take some buildings being torn down, you might have a subdivision in a certain location somewhere else that could make this use possible. From a feasibility perspective, we feel like, you know, you can look at things a million different ways to come to a conclusion, but what is the reasonableness of that actually happening. But in our case, we do not have it limited with our criteria such that it really only applies to our



property. It would have greater application than the Wawa in the instance in the Conshohocken case.

Commissioner Ellis: So, as of right now, there are two properties that, are they undeveloped, well not undeveloped, cause Hoss's is an existing property too. It looks like you have two arrows on your map.

Mr. Wertz: That's right, so on Exhibit B, you can see the C-L District checkered white/red checkers. The two arrows are pointing to two properties that are adjacent to one another that are vacant. Those two properties, if consolidated, would have the frontage along, GIS referred to it as CH Road, but I think that's a...

Robert Ihlein: Chambers Hill Road

Mr. Wertz: Chambers Hill Road is the abbreviation, which is an arterial street. And then you can see the other, 40<sup>th</sup> Street wraps around the rear which would give it that second frontage so it would have the requisite two streets, one of which is an arterial and if it was combined it would meet that two to three acre requirement. So that's vacant land feasible for development. There's other areas in the C-L District that potentially could be utilized for this use under certain circumstances. By and large that would require demolition of existing buildings, things that really aren't feasible or foreseeable at this point. There is one property I believe towards the middle south of the Township that is improved with a church, the church can theoretically subdivide off a portion of that property and might be able to meet that dual frontage acreage requirement. There are other areas, the ones that we identified on the zoning excerpt is really just to keep it limited to potential, reasonable instances where that could happen.

Commissioner Ellis: And I just want to read the definition of spot zoning real quick. It says it's the signaling out of one lot or a small area for a different treatment than for similar surrounding land for the benefit or detriment of that lots owner. So, I'm just, I'm not a lawyer, this does still seem similar to the Conshohocken case in my opinion. But I would like to know, I guess this is for Robert, what protections are we going to be putting in to this, or do we have, are we going to put anything in here that protects the residents from those potential situations where say, someone wanted, sold off their property and then you have all of these other potential areas where gas stations could pop up where they weren't permitted previously. It doesn't look like we have anything like that at this time.

Robert Ihlein: Those would be unintended consequences.

Commissioner Ellis: Right.

Mr. Wertz: Just to add, the, in thinking about that potential scenario, we did try to create the definition such that it would require the frontage along an arterial street. You know, an arterial street is a street that is sort of a thoroughfare, it's more prone to having those sort of uses surrounding it. Also, the dual frontage, meaning that there is another street

somewhere fronting upon the property. Those are, I think, mitigating circumstances to try to reduce that. I do agree with you because when you are talking about rezoning and limiting applications you have the counter veiling circumstances on the one hand, spot zoning concerns on the other hand, limiting it to the applications the Township is looking for. Sometimes when you look at a case and somebody is trying to tie a zoning amendment to a certain specific property they might go so far as to write into their ordinance it has to be between three and four acres with frontage along Smith Road, or something like that. Its very specific and those cases tend to scream more spot zoning than a case like this where we have reasonable concepts, reasonable location, we are not exclusive and I think we're also comporting with the comprehensive plan, the purpose of the specific zoning district by tying it to these arterial streets with dual frontages. So we do try to stay away from that really, really narrow application that would bring us under the confines of the Conshohocken case.

Commissioner Ellis: And, let me look at my notes real quick to make sure that I'm not missing any of my other questions. The only other question I have then is, so you are saying it has to be on two streets, obviously Bridge Road is the arterial street. So are you considering the ramp to 322 as your second street?

Mr. Wertz: You raise a very good question because this actually goes back to our initial reaction to the property and then after we got it surveyed, I think Exhibit C will show you the boundary lines, it does. If you look at Exhibit C you will see that this property doesn't actually have frontage on that ramp. That actually took us out of the definition of a corner lot. And this is a conversation we had with Robert when looking at this. That is an area of unknown title, we don't know if it belongs to PennDOT, Township or somebody else. So we are a, I believe a double reverse frontage lot, or some other term like that, where our front yard is determined by how do other people access, surrounding properties access, nearby properties, how are we getting access. Here at Bridge Road is our front yard because that is our primary access and that's where other properties access along that area, with the 322 constituting our rear yard. Those are our two frontages, the frontage simply meaning fronting upon that. Not necessarily front yard but having that relationship with two different roads where you are bound by different rights of way. In this case it has to be two, at least one has to be an arterial. We are saying 322 is an arterial, Bridge Road, per Dauphin County mapping is actually designated as an arterial. We actually changed the language from at least, I believe at first we originally proposed one of which must be an arterial, but we changed that before we submitted to say at least one of which must be an arterial. In this case it might actually be two.

Commissioner Ellis: So that's a little bit confusing to me because the property doesn't have access to 322 as far as actually driving a vehicle.

Mr. Wertz: Correct.

Commissioner Ellis: So basically, the only road that anyone that come in or out of this is, that they'll have access to is Bridge Road which is a tiny road and just has like

neighborhood traffic. Have there been any, I'm assuming at this point there have been no traffic studies to show how this will impact the neighbors?

Mr. Wertz: No, there have not been any traffic studies done at this point, we are still in the zoning phase so this is still, this still must go through the land development process. Mark, I believe you had mentioned that Bridge Road was classified as an arterial on the Dauphin County mapping?

Mr. Whitaker: Yes

Mr. Wertz: On the PennDOT mapping. Obviously, we are contemplating a lot of our access coming from 322 and there is a short travel distance there, but based on our reviews, Bridge Road was classified as an arterial road in that way, meaning it provides regional traffic thoroughfare.

Commissioner Ellis: I mean, the way that I was reading what is listed in here that it says that it has frontage on two or more streets, I took that to mean that you could like actually use, like have access to the property from the two streets, so I mean, I just, I just see issues with this impacting people that live down there with traffic and again, the proximity to the creek is concerning considering the Hoss's has flooded like basically up to the roof on more than one occasion. I understand where you are placing the gas pumps, but it, having to fill that, that also presents an issue as far as we are right next to a creek. We have our pollutant reduction plan, we have stormwater requirements that we are held to and just seems like a questionable area to put in something of this nature. I'll just leave it at that at this point.

Solicitor Hall: Thank you Commissioner Ellis. Any other questions from the Board of Commissioners?

Commissioner Tuckey: It was mentioned about FEMA in your presentation. What are the Federal Regulations that you would have to follow if this would move forward?

Mr. Whitaker: FEMA regulations?

Commissioner Tuckey: Yes.

Mr. Whitaker: It is actually under your flood plain management ordinance. That is what we would be following.

Commissioner Tuckey: Okay.

Mr. Whitaker: You have an ordinance, we like I said, we can fill it but we can't fill it to an extent where we change the flood elevation by more than one foot on site. We can't put structures in the flood elevation, we have some other regulations like that. We would raise the building to be at or above the flood elevation and or dry flood proof the building.

Commissioner Tuckey: And the gas tanks are definitely out of the flood zone?

Mr. Whitaker: The gas tanks are outside of the 100-year flood elevation. That is correct.

Commissioner Tuckey: Okay, thank you.

Mr. Whitaker: I know there has been reference to flooding of Swatara Creek in 2011, that event was not a 100 year flood, that was probably over a 500 year flood. The crest of Swatara Creek was 27 feet whereas, from 1975 on it had never been higher than 16 feet so it was about 11 feet higher than it had ever seen before. That's why you saw the water as Commissioner Ellis mentioned, up to the roof it was actually about three feet above the finished floor of the building. That is not an occurrence you design to, you design to the 100 year flood elevation because it probably has a .1 percent of happening in any one year.

Commissioner Tuckey: The other question I had with the fuel tanks in the ground, do you have special protective measure to go how they are installed?

Mr. Whitaker: Fuel tanks are highly regulated in this state as far as installation. In addition, if there was any potential for them to float under a flood condition, they are anchored with dead men underneath the tanks. Those are basically big concrete blocks and we do buoyancy calculations so that the tanks can't float up out of the ground. We would defer to our geotechnical engineers to make sure that is designed correctly. They are all double wall piped, double wall tanks. Wawa basically elects to put in a Cadillac system in my opinion. As far as their tanks, I am not aware of any leaks or issues they have with tanks since I have been working with Wawa for over twenty years.

Commissioner Tuckey: Okay, thank you.

Solicitor Hall: Any other questions from the Board of Commissioners?

Commissioner Ellis: I have two, I'm sorry.

Solicitor Hall: No, go ahead.

Commissioner Ellis: I knew I had more questions, they were on, I had to flip my page over so I apologize about that. So, the only question that I didn't ask, well sort of, well it's a two-part question. How common is it for a gas station to go this close to a flood plain. You said you worked with Wawa for like twenty years, is this something that...

Mr. Whitaker: Yes, we actually, in Fairfield, New Jersey, designed a site that is actually, the flood plain is actually five feet higher than the finished floor of the store. So we have done it, we don't do it everywhere, but they basically dry flood proofed the building so they have these panels that go up if there are flood conditions, they basically block the water from entering the building. All the outlets are set above that five year, that five

foot level so that they don't get flooded in the flood condition. There's usually signage in the parking lot to warn people that you are in a flood zone so if there is a, you know, an event, the parking lot may flood. So, we have done it before.

Commissioner Ellis: And this is probably more for the Solicitor, or Robert. Do we have any local example for us that we have done anything similar to this?

Robert Ihlein: Not that I'm aware of.

Commissioner Ellis: Thank you.

Mr. Whitaker: And if I could just touch briefly on one of your earlier comments regarding traffic. I just wanted to point out that Wawa's doesn't provide diesel fuel for tractor trailers so there is only low flow diesel. So unlike Sheetz or maybe a Rutter's you won't see anything like that, they don't accommodate it.

Commissioner Ellis: Thank you.

Mr. Whitaker: You're welcome.

Solicitor Hall: Any other questions from the Board of Commissioners? Seeing none, I have no additional questions at this time. We are going to open it up for an opportunity for public comment. Thank you to the Petitioners for the presentation. At this time, it is not necessarily a question and answer session, just reminding the public it is an opportunity for you to come forward and present comment. Are there any public comments?

Dave Souder, 890 West Main Street, Hummelstown: I live on the other side of the creek from where they are doing this. When I went through rebuilding my house when I lost it, we had to build on the same foot print, is that what you guys are going?

Mr. Whitaker: No, this building is not exactly in the same spot, the Hoss's Restaurant is a little bit further to the west.

Mr. Souder: Okay, and what are you guys going to do about your run off pond?

Mr. Whitaker: As I indicated, we have not designed our stormwater yet. We have done geotechnical testing, we are reducing impervious surface on this application by almost twenty percent. We have introduced a lot more green space in and around our fueling canopy and our store along Bridge Road so our runoff is actually going to be less than existing conditions. In Pennsylvania, and in your ordinance, you do have to consider twenty percent of existing impervious as meadow conditions to it's probably going to balance out that we don't need a lot of on site storage. We will have to provide water quality so we will do that through the use of some type of water retention basin with an under drain so if we do need storage we will use an underground system outside of the flood zone.

Solicitor Hall: Sir, I want to remind you, just for your benefit, going forward, the Petitioner, should they come forward with an eventual plan, will have to go through the formal subdivision land development process.

Mr. Souder: That's just it, they're gonna have to go through DEP then and have the environmental impact studies done.

Solicitor Hall: There will have to be all the requirements going forward with the planning, but this is just on the question of the zoning change to allow the text amendment tonight.

Mr. Souder: Alright.

Solicitor Hall: Just so you know going forward, this is not the last stage in the process.

Tom Connolly, 345 North Harrisburg Street: You said there was a place on Derry Street, in the middle of the Township that a church, an existing church, would be, could give us that address or the block?

Mr. Whitaker: I don't know the name, but I might be able to show you. And this is from memory. I believe and can't say with one hundred percent certainty that it would be right here. If that property were subdivided it would have, two to three acres would need to be subdivided off and it would still need to have the frontage on both, I believe 441 would be your arterial and then another road, whether that is the north south road there, maybe that, that might be a private road there, but that could also potentially qualify. That would be the other location.

Mr. Connolly: Robert, there's are a lot of colors on here. You might know this better than anybody, but what are the crossing streets? I see Keckler and Highland, I'm trying to figure out what church they are talking about.

Mr. Ihlein: It's the church on top of the hill, across from WITF.

Mr. Connolly: So Swatara Church of God could put up, they could put up a Wawa in their front parking lot and the church would remain because they have enough room.

Mr. Whitaker: That would be, so I don't know, you said it's up on a hill? I don't know the topographies, I was just looking at the zoning map.

Mr. Connolly: Let's just say we know yours is in a flood plain, and this is on top of a hill. Everyone else is familiar with it, I just wanted to know the name of the church. That's what I was thinking, they have, the church is set back so they have a corner there, there's a traffic light there. That would be another place that a Wawa would go in that it can't go in right now.

Mr. Whitaker: Potentially, yes.

Mr. Connolly: Okay.

Mr. Whitaker: Potentially yes, that is an area where you could potentially have a subdivision to get that between two and three acres. You would have to keep the dual frontage, but that is potentially something...

Mr. Connolly: Did you have a third, or no?

Mr. Whitaker: No I had, this was, this was the one that was listed and there are two parcels there.

Mr. Ihlein: That's right by here, the Super 8.

Mr. Connolly: 40<sup>th</sup> and Chambers Hill Road? Okay, so that's three places where a Wawa could go in if their project goes through that potentially that prior to tonight you knew a Wawa couldn't go in.

Mr. Whitaker: And then all these other properties are either developed, don't meet the frontage requirements, this parcel here is a cemetery. Those are really the, our property, the church area if there was a subdivision and again, I don't know anything about the feasibility of that, but strictly looking at the criteria and then this location if it was consolidated.

Mr. Connolly: Do we know what this one is that comes in off of Evelyn Street?

Mr. Whitaker: There's several properties back up that way. They either do not qualify because of the frontage issue or they are already developed.

Mr. Connolly: Okay, the last thing I have was just comment. I want to say I absolutely love Wawa. When I travel, I stop at Summers Point when I'm going to Ocean City and Sea Isle. There are Wawa's there, I stop all the time. I know where there's a Wawa in Florida that I will be at in a couple weeks, on the Central Florida Parkway. So this has nothing to do with Wawa, I like to eat and I like you know, obviously the food and the things they provide. My concern here is in the flood plain. If you are going to be putting in fill, then there's two issues. Where you put in the fill during the flooding and I'm not saying the flooding that goes to the roof, but the flooding that we see on a regular basis down there that crosses the street. I say on a regular basis, every so many years it happens. If you are putting in fill, then the flow has now changed and you're going to slow the flow so water is going to be going slower past there which means it is going to be rising higher as you go back through in the residential neighborhoods and then it is going to alter the flow downstream. Right now, and I am on the Swatara Township Stormwater Authority, not that means a whole lot here, but we are trying to work with stormwater around the Township and it seems like in this case if you are going to raise the elevation because you are going to have a beautiful Wawa that's flat, then the water that's flowing across that now crosses into the parking lot and ponds or pools and won't be on your property because you've fixed that. You fixed that because you've built your

property up high but its going to go slower as it goes by there, and anybody that's familiar with flooding, then it's going to build up farther back. We also have homes in the flood plain that would then see the water leaving their property and going away, would actually be building and building faster because we raised the ground. My other concern is the Township owns property around there and Mr. Kaufman is the Recreation Director for the Township. Whenever we tried to put anything on that property, we were told there were a lot of restrictions that we couldn't put in even for our own children, dugouts or permanent structures. I believe Commissioner Ellis referred to this in her comment about a dog park. The distance from the creek on the McNaughton side across that big field is much farther than the distance from the creek to where your property will be. I'm just going to finish by saying I think there's solutions in lots of places that Wawa can go in, I'm a fan of Wawa, I just don't think this is the right place for Wawa. Thank you.

Solicitor Hall: Is there any other public comment? Okay, seeing none, any additional exhibits or testimony from the Petitioner?

Mr. Wertz: No, just to reiterate again, that this is the first step in the process. We would be back before, if approved, we would be back before this body and both the County and the Township Planning Commissions as we work through land development and work with you to resolve some of the concerns that came up tonight regarding flooding, flood plain, etc. and traffic and other items as well. Thank you.

Solicitor Hall: Thank you. We will close the hearing and turn it back over to President Zubeck.

The Public Hearing concluded at 7:50 p.m.

  
Karen Alleman, Township Secretary