

**EAST GOSHEN TOWNSHIP  
PLANNING COMMISSION**

**Agenda**

**Wednesday, May 5, 2010**

**7:00 PM**

- A. Call to Order / Pledge of Allegiance
- B. Review of Tracking Log / Determine need for Workshop Meeting
- C. Public Comment on Non-Agenda Items
- D. Approval of Minutes
  - 1. April 7, 2010**
- E. Acknowledge Receipt of New Applications
- F. Subdivision Plans
- G. Land Development Plans
  - 1. Lieberman Earley & Co., 1345 Enterprise Drive (L/D)
  - 2. National Bank of Malvern, 1305 Paoli Pike (L/D)**
- H. Conditional Uses and Variances
  - 1. Lieberman Earley & Co., 1345 Enterprise Drive (C/U)
- I. Ordinance Amendments
- J. Old Business
  - 1. Discussion on "Traditions" Ind. Living Fac. project in West Goshen
  - 2. Consider the Conservancy Board's request for the 100' Riparian buffer for high quality streams.**
  - 3. BP and Industrial Zone Parking Ordinance
- K. New Business
  - 1. Tree Ordinances**
- L. Any Other Matter
- M. Meetings and Dates of Importance

May 4, 2010	Board of Supervisors	7:00PM
May 5, 2010	Planning Commission	7:00 PM
May 6, 2010	Park and Recreation	7:00 PM
May 10, 2010	Municipal Authority	7:00 PM
May 11, 2010	Board of Supervisors	7:00 PM
May 12, 2010	Conservancy Board	7:00 PM
May 13, 2010	Historical Commission	7:00 PM
May 15, 2010	Park & Recreation	8:30 AM – 11 AM
May 17, 2010	Deer Committee	7:00 PM
May 18, 2010	Election Day – Primaries	
May 25, 2010	Board of Supervisors	7:00 PM

- N. Correspondence
- O. Goals
- P. Adjournment

- **Bold Items indicate that the Planning Commission has new information to review for that application.**

**REMINDER – Newsletter Article Submission Due Date:**

<b><u>Article Due Date</u></b>	<b><u>Delivery Date</u></b>
May 12, 2010	July 1, 2010
August 11, 2010	October 1, 2010
November 10, 2010	January 1, 2011

**EAST GOSHEN TOWNSHIP  
PLANNING COMMISSION  
APPLICATION HISTORY  
Wednesday, May 5, 2010  
7:00 PM**

**1. SUBDIVISION & LAND DEVELOPMENT PLANS**

**Lieberman Earley & Company, 1345 Enterprise Drive (L/D)**

November 19, 2009	EB Walsh – application of NPDES Permit
November 20, 2009	Application Plan
December 4, 2009	EB Walsh – 60-day extension
December 10, 2009	Memo – new hearing date
December 16, 2009	Lieberman Earley & Co. – continuance
December 29, 2009	Yerkes – L/D and C/U Plan Review

**National Bank of Malvern, 1305 Paoli Pike, L/D**

March 25, 2010	Yerkes – L/D Plan Review
<b>April 14, 2010</b>	<b>YMCA – Airport Road Sidewalk</b>
<b>April 19, 2010</b>	<b>Stantec Consulting – review of plans Plans</b>
<b>April 27, 2010</b>	<b>Yerkes – L/D Plan Review</b>
<b>April 27, 2010</b>	<b>Draft Motion</b>

**2. CONDITIONAL USE / VARIANCES / ZHB APPLICATIONS**

**Lieberman Earley & Company, 1345 Enterprise Drive (C/U)**

December 10, 2009 memo – new hearing date  
December 16, 2009 Lieberman Earley – 90 Day extension

**ORDINANCE AMENDMENTS**

**3. ANY OTHER MATTER**

Planning Commission  
Application Tracking Log

Application Name	Application (CU, LD, O, SD, V, SE, CA)	Type (Sk, P, F)	Date Filed	Start Date	Date to Yerkes/Consultant	Date to CCPC	Date to Abutting Prop. / ABC's	Extension	PC NLT Action Date	BOS NLT Action Date	Hearing Date	Drop Dead date
Leiberman Early (1345 Enterprise Drive)	CU	P/F	11/19/09	11/19/09	11/20/09	n/a	11/30/09	1	5/5/10	6/1/10	6/1/10	6/1/10
Leiberman Early (1345 Enterprise Drive)	LD	P/F	11/19/09	12/2/09	11/20/09	11/23/09	11/30/09	2	5/5/10	6/1/10	6/1/10	6/1/10
National Bank of Malvern (1305 Paoli Pike)	LD	P/F	11/24/09	12/2/09	12/7/09	12/4/09	11/25/09	2	5/5/10	5/11/10	n/a	5/31/10

Bold = New Application or PC action required

B. TRACKING LOG  
1p

**EAST GOSHEN TOWNSHIP**  
**PLANNING COMMISSION MEETING**  
**April 7, 2010**

The East Goshen Township Planning Commission held their regularly scheduled meeting on April 7, 2010 at the East Goshen Township building. Chairman George Martynick, and members Senya Isayeff, Megann Hedgecock, Susan Carty and Peter Mylonas were present. Also present were Township Zoning Officer Mark Gordon, Don McConathy from the BOS. Chris Reardon (Historic Commission Member), and Ginny Newlin (Parks and Recreation).

**WORKSHOP SESSION – 7:00pm**

The minutes of March 6<sup>th</sup> were reviewed and corrected. Motion to be passed in the formal session. The various agenda items were reviewed. George also noted that the 2010 Keep East Goshen Beautiful Day is scheduled for April 17<sup>th</sup>.

**FORMAL SESSION**

**A. Pledge of Allegiance**

George called the meeting to order at 7:35 pm and led those in attendance in the Pledge of Allegiance.

George asked those in attendance if there were any non-agenda items to be discussed. No public comment was made at this time

**B. Approval of Minutes**

The minutes of March 6<sup>th</sup> were discussed. Megann made a motion to approve the minutes of March 6<sup>th</sup>, 2010 be approved as amended in the workshop. Senya seconded the motion. No further comment was made and the motion passed unanimously.

**C. Land Development**

National Bank of Malvern- Mr. Olivio and Patrick McKenna were present to review the Yerkes letter. Various conditions were discussed. Mr. Olivio noted that the applicant would comply with all requests on the letter. Due to the fact that much work was to be done in reference to the letter, George requested an extension to May 4<sup>th</sup>.

**D. Conditional Uses and Variances**

Techniplast- Don Turner, representation for Techniplast was present to review the Yerkes letter dated April 7, 2010. Mr. Turner noted that the plans have been revised as per the Yerkes letter. In the letter, Michael Conrad from Yerkes Associates, Inc. noted in the letter that conditional use approval is recommended contingent upon the comments being addressed to the Board's satisfaction.

George noted that when reviewing plans related to this Conditional Use the square footage doesn't add up. Mr. Turner explained that the older plan was showing the incorrect square footage. 15,000sf will be office space, 25,000sf will be an assembly area, 25,000sf is warehouse, and 12,000sf is leased to another company.

Peter made a motion to recommend that the Board of Supervisors approve the conditional use application of Techniplast USA, for the property located at 1345 Enterprise Drive, to utilize an existing building and parcels for multiple principal uses pursuant to the Township Code. The applicant proposes to carry out the multiple

principal uses on three parcels in accordance with the plan dated 2/23/2010 and last revised on 3/30/2010, two of which situate the principal building and the third to accommodate parking in reserve in order to meet parking requirements outlined in the ordinance for multiple principal uses. The plan meets all applicable ordinances and is recommended for approval with the following conditions.

1. The multiple principal uses shall be carried out with strict conformity to the conditional use plans and the testimony provided during the conditional use process unless revisions are resubmitted for review and approval by the Township.
2. The applicant will follow all applicable federal, State, and Local laws and secure all proper permits prior to modification of the facilities on the property.
3. The vacant lot shall be conveyed independently of 1345 Enterprise Drive unless the applicant demonstrates that parking in compliance with the parking requirements of the Zoning Ordinance can be located on 1345 Enterprise Drive.
4. Solicitor and Board must approve the Agreement to Construct Parking and the agreement must be recorded prior to issuance of Use and Occupancy certificate.
5. Applicant shall install the appropriate number of handicapped parking spaces which are required for the 193 existing parking spaces, prior to issuance of Use and Occupancy certificate.
6. Applicant shall demonstrate a need for the parking in the front yard areas, as required by the Township Code if the required parking is required to be installed.
7. Applicant shall submit a land development application and plan, obtain all necessary governmental permits and approvals necessary to construct the reserve parking as depicted on the conditional use plan; if the Township determines that additional parking is required pursuant to the terms in the Agreement to Construct Parking.
8. Applicant shall re-stripe the walkways as depicted on the conditional use plans.
9. All items in the Township engineer's letter dated April 7, 2010 shall be satisfactorily addressed prior to the issuance of UEO.

Susan seconded the motion. The applicant accepted all conditions as stated above. No further comment was made and the motion passed unanimously.

E. **Old Business-** Traditions was briefly discussed and Mark Gordon noted that the next meeting would be held on April 13<sup>th</sup>.

F. **New Business**  
**Goshen Village Shopping Center Signs-** two tenants of the shopping center were present to propose to the PC that the consider changes in the ordinance to allow for more colorful signs representing their corporate colors and logos. Peter added that the UPS store had a similar issue and they are allowed to display their corporate logo in the picture window of the store. The idea is to keep the store fronts uniform. Mark added that there is nothing prohibiting signage with logos in windows of store fronts. Senya added that he felt it was time revisit this change and help local businesses attract more people.

Susan added that this is a wonderful location in the heart of the Township that is both accessible and convenient with good parking options. Susan also added that she respectfully suggests that the variance be kept as it is, as it wouldn't be fair to other business owners within the shopping center.

Mark Gordon gave some history on the shopping center, noting that when the center was built there were concessions and the developer created the single color signage ordinance. Senya again noted the PC needed to reconsider and make the changes to support the application. Mark added that standards can be reviewed and amended. George noted that he believed it was worth looking into again, but did note that there are little to no

1 restrictions with use of window advertisement. Senya added that a happy medium was in need and suggested  
2 going to the Zoning Board.  
3

4 Peter made a motion to deny the application for sign changes to the variance. Susan seconded the motion. At a  
5 vote of 3-2, with Senya and Megann opposing, the vote was passed to deny the applicants request.  
6

7 Public Comment: Ginny Newlin noted that she never didn't go to a store because of the signs.  
8

9 **Business Park Parking Amendment-** Five parking spaces per 1000 square feet were discussed. George  
10 questioned why should more asphalt be laid if spaces are not needed or in use. Mark noted that from a code  
11 enforcement standpoint in the BP&I district, the procedures are in place. If you change one portion this will  
12 affect all the others.  
13

14 **100' Protection Buffer-** The Conservancy Board has requested a 100' protection riparian buffer for high  
15 quality streams. It was noted that information will go into packets for the next PC meeting. Ginny Newlin noted  
16 that the neighboring township of Willistown has accepted and amended such a buffer and feels East Goshen will  
17 reap the benefits as well. Mark suggested that the Conservancy Board put together a presentation for the  
18 Planning Commision to consider. Mark also noted that the CB has some work to do to convince the PC.  
19  
20

## 21 G. Adjournment

22

23 Motion to adjourn the meeting was made by Megann and seconded by Susan. The meeting adjourned at 9:40  
24 p.m.  
25

26 Respectfully submitted, \_\_\_\_\_  
27

*Linda Jones, Recording Secretary*



We build strong kids, strong families, strong communities.

G NATL BANK of Malvern  
2. 189  
ASSOCIATION OFFICE  
50 South First Avenue  
Coatesville, PA 19320  
610-643-YMCA  
610-643-0132 FAX

April 14, 2010

Mark A. Gordon  
Director Code Enforcement/Zoning Officer  
East Goshen Township  
1580 Paoli Pike  
West Chester, PA 19380

RECEIVED  
BY: \_\_\_\_\_  
APR 19 2010

Re: **Airport Road Sidewalk**

Dear Mr. Gordon:

I have discussed with Bob Adams the requirements relating to the construction of a sidewalk along the Airport Road frontage of the property owned by the National Bank of Malvern. I understand, according to the September 15, 2009 conditional use decision, that the Bank is obligated to construct this sidewalk at a time determined by the Board of Supervisors. The YMCA is obligated to construct that improvement for the National Bank of Malvern and will do so consistent with the conditional use requirement and the plan notes which are part of the land development plan for the Bank parking lot which is to be approved in the near future.

This letter will also provide my assurance to East Goshen Township that at the same time as the Bank property is improved with the sidewalk, the YMCA property will be improved to complete the link between its driveway and its southerly property line where the National Bank of Malvern property sidewalk will end. I trust this assurance will be sufficient to permit the Board of Supervisors to complete the land development approval of the National Bank of Malvern parking lot. If you have any questions, please let me know.

The YMCA of the Brandywine Valley appreciates the many courtesies that you have personally extended to our consultants in this land development review process.

Very truly yours,

Denise L. Day

pc: Robert F. Adams, Esquire

**REGIONAL BRANCHES**

Brandywine YMCA	Jennersville YMCA	Kennett Area YMCA	Octorara YMCA	Twin Valley YMCA	West Chester Area YMCA	West Chester Youth Program Center
295 Hurley Road Coatesville, PA 19320 610-380-YMCA 610-383-1583 FAX	880 West Baltimore Pike West Grove, PA 19390 610-869-YMCA 610-869-8004 FAX	101 Race Street Kennett Square, PA 19348 610-444-YMCA 610-444-1846 FAX	3095 Limestone Rd., Suite 4 Cochranville, PA 19330 610-593-YMCA 610-593-2920 FAX	51 South Pine Street Elverson, PA 19520 610-913-YMCA 610-913-7203 FAX	605 Airport Road East Goshen, PA 19380 610-431-YMCA 610-692-8712 FAX	One East Chestnut Street West Chester, PA 19380 610-696-YMCA 610-436-0624 FAX

[www.ymcabwv.org](http://www.ymcabwv.org)





**Stantec**

**Stantec Consulting Services Inc.**  
1060 Andrew Drive Suite 140  
West Chester PA 19380  
Tel: (610) 840-2500  
Fax: (610) 840-2501

G. NAT'L BANK of  
Malvern  
2.  
2 pgs

April 19, 2010  
File: 174810049

East Goshen Township  
1580 Paoli Pike  
West Chester, PA 19380

**Attention: Mr. Mark Gordon**

Dear Mr. Gordon:

**Reference: National Bank of Malvern  
East Goshen Township, Chester County, PA**

Enclosed please find the following for your review:

- Ten (10) sets of Land Development Plans dated April 19, 2010.
- Three (3) copies of the Stormwater Management Report dated April 19, 2010.

The plans have been revised per Yerkes Associates, Inc.'s review letter dated March 25, 2010. Our response to each of the comments contained therein is as follow:

September 15, 2009 Conditional Use Decision

4. Condition 7- No comment required.
5. Condition 11 – Plans were submitted to PENNDOT with a copy forwarded to the Township.
6. Condition 12 – No comment required.

Zoning Ordinances

7. A note has been added to the plans stating that Architectural renderings of the building will be submitted to the Township at the time of application for a building permit.
10. The location of wall mounted hose bib has been added to the Site Plan and Landscape Plan

Subdivision and Land Development Ordinance

17. The location of the existing well has been added to the plans as well as a note to remove the well from service according to CCHD rules and regulations.
21. Tree protection fencing along the eastern boundary limit of disturbance has been added to the Erosion and Sedimentation Control Plan.



April 19, 2010  
Mr. Mark Gordon  
Page 2 of 2

**Reference: National Bank of Malvern  
East Goshen Township, Chester County, PA**

Stormwater Management Ordinance.

25. Water quality stormwater management requirements are being addressed by extending detention. Therefore, the waiver request has been eliminated.

Landscape Plan

29. The Row of Arbor Vitae Evergreen Trees has been identified on the Existing Conditions Plan. The trees have been noted for protection and preservation. A note has been added to the Grading Plan indicating the area in the front yard to be fine graded, seeded, limed and fertilized. A note was also added to the Grading plan stating "provide additional fill around root zone if required"

General Comments

31. A detail of a stone foundation to support the curb in the area of the seepage bed has been added to sheet 7 of 14
32. The inlet numbers have been revised.
33. The plans have been submitted to Chester County Conservation District.

This concludes our revisions to the plans. If you have any questions or require further information, please contact me.

Sincerely,

**STANTEC CONSULTING SERVICES INC.**



Charles J. Olivo, PE  
Principal  
charles.olivo@stantec.com

- c. Michael Conrad, Yerkes (2 sets of plans (1 highlighted), 1 stormwater report)  
Robert Adams  
National Bank of Malvern  
Denise Day

G. NAT'L BANK of MALVERN  
2.  
2 pop

## Memorandum

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East Goshen Township  
1580 Paoli Pike  
West Chester, PA 19380

Voice: 610-692-7171  
Fax: 610-692-8950  
E-mail: [mgordon@eastgoshe.org](mailto:mgordon@eastgoshe.org)

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**Date:** 4/27/2010  
**To:** Planning Commission  
**From:** Mark Gordon, Zoning Officer *mlb*  
**Re:** National Bank of Malvern, Land Development, DRAFT MOTION

Dear Commissioners,

I have drafted a motion for your review and consideration for the Land Development application of The National Bank of Malvern.

**DRAFT MOTION:**

Mr. Chairman, I move that we recommend that the Board of Supervisors approve the Land Development Application to construct a bank branch and associated parking along with additional parking for the abutting YMCA as depicted in the plans dated November 2009 and last revised April 19, 2010, with the following conditions:

1. The applicant will follow all applicable federal, State and Local laws and secure all proper permits prior to construction of the improvements depicted on the plans.
2. In the event that the parking for the YMCA is constructed prior to the bank building the applicant agrees to install all lighting and landscaping associated with the parking and driveway areas prior to the use of the new parking areas or driveway entrance.
3. The applicant shall provide in writing an executed maintenance agreement for the parking areas, landscaping and lighting for the parking and driveway areas to be constructed.
4. Should the Township require, the applicant agrees to construct a pedestrian side walk across their property along Airport Rd.
5. The YMCA has agreed to install a sidewalk if the National Bank of Malvern is required to do so by the Township, in their letter dated April 14, 2010 by Denise L. Day, President / CEO of The YMCA of the Brandywine Valley.
6. The Applicant agrees and offers the Township the opportunity for the placement of a plaque near the riparian buffer area on the East side of the property and on the West side of the Chester Creek measuring no larger than (9"X 12") and containing an inscription honoring Ms. Virginia Strong Newlin for her work on

the Township Conservancy Board and her efforts to protect the Riparian Buffer along Chester Creek.

7. The applicant agrees to submit a supplemental traffic report to the Township six months after completion of the Paoli Pike entrance driveway and parking area to be used by the YMCA, for the intersection of Airport Road and Paoli Pike. If upon review of this supplemental traffic report, it is determined by the Township Traffic Engineer that the signal timing of the signal at the intersection needs to be modified the applicant shall do so as required by the Township Traffic Engineer and the PA Department of Transportation.
8. The Plan shall not be released for recording until all the escrow for the improvements depicted on the plans has been posted.

**§ 205-61 Existing trees.**

A. Neither portions of tree masses nor specimen trees shall be cleared unless absolutely necessary. Applicants shall make all reasonable efforts to ~~harmonize their plans in order to~~ preserve these existing trees.

B. When ~~effectuation of~~ a proposed subdivision and/or land development necessitates the clearing of trees or portions of tree masses, applicants shall be guided by the following criteria in selecting trees and ornamentals for retention or clearing:

(1) Aesthetic ~~s values~~ (autumn coloration, type of flowers and fruit, bark and crown characteristics and amount of dieback present).

(2) Susceptibility of tree to insect and disease attack and to air pollution.

(3) Species longevity.

(4) Wind firmness and characteristic of soil to hold trees.

(5) Wildlife values (e.g., oak, hickory, pine, walnut, and dogwood have high food value).

~~Comfort to surroundings~~ **Climate** (e.g., hardwoods reduce summer temperatures to surroundings more effectively than pines or cedars).

(7) Existence of disease, rot or other damage to the tree.

(8) Protection of buildings (e.g., dead and large limbs hanging over buildings shall be removed).

(9) The size of the tree at maturity.

C. Applicants shall ~~exercise care to~~ protect trees which remain from damage during construction. The following procedures and those in § 218-4, Protection of existing trees during construction, of the Township Code shall be adhered to in order to preserve the remaining trees and shall be noted on the plan. All remedial work shall be performed by qualified personnel. [Amended 3-18-2003 by Ord. No. 129-D-03]

(1) Where existing ground levels are raised, drainage tile will be placed at the old soil level and open into a well built around the base of the tree. Such wells may be left open or can be filled with coarse stones or gravel. Tiles may be installed in a radiating pattern or laid in parallel lines. Where existing ground levels are to be lowered, a retaining wall must be built around the tree.

(2) Those trees or tree masses which have been delineated on the plans ~~and are within 25 feet of~~ proposed building excavation or other locations designated by the Township Engineer shall be protected by installing and maintaining a fence ~~to~~ **at the dripline or to 25 feet from the tree trunk.**

(3) No boards or other material shall be nailed to trees during construction.

- 1 (4) Heavy equipment operators shall not damage existing tree trunks and roots with their  
2 equipment. Feeder roots shall not be cut closer than 25 feet to tree trunks.
- 3 (5) Exposed roots damaged during construction shall be protected from further damage and cleanly  
4 pruned.
- 5 (6) Tree limbs damaged during construction shall be ~~properly~~ **laterally** pruned **immediately** and  
6 ~~treated immediately~~.
- 7 (7) Construction debris shall not be disposed of ~~near or around the bases of such trees~~ **within the**  
8 **drip line**.
- 9 (8) Trenching and root pruning shall not take place within the fenced area at the tree drip line **or to**  
10 **within 25 feet of the tree trunk**.
- 11 (9) Root pruning should not be done on more than one side of the root system in a given year.  
12 Delay additional pruning for at least two years following initial pruning. Optimum timing is autumn.
- 13 D. Unless otherwise provided in this chapter, no more than 20% of the trees on any wooded lot  
14 may be cleared or removed and the remaining 80% shall be retained.
- 15 E. A maximum of 50% of the trees on a wooded lot may be removed if all of the following  
16 requirements are met: [Amended 12-5-2006 by Ord. No. 129-H-06]
- 17 (1) The trees removed that are in excess of the 20% permitted pursuant to § 205-61D shall be  
18 replaced on an inch-for-inch basis.
- 19 (2) The diameter breast height (dbh) of the trees to be removed that are in excess of the 20% shall  
20 be determined.
- 21 (3) All replacement trees shall be a minimum three-inch caliper.
- 22 (4) The total diameter of the replacement trees shall equal the dbh of the trees removed (~~i.e.,~~ **e.g.,**  
23 if a tree having a dbh of 12 inches is removed, it shall be replaced by four trees each having a minimum  
24 three-inch caliper).
- 25 (5) The replacement trees shall be planted in accordance with a plan prepared by a licensed  
26 landscape architect and approved by the Board of Supervisors to ensure that the replacement trees are  
27 not located in such a manner that they crowd each other and consequently fail to thrive.
- 28 (6) The Board of Supervisors shall review and approve the species of trees to be used for  
29 replacement.
- 30 (7) Plantings required pursuant to the buffer yard and landscaping requirements of this chapter  
31 may not be considered in calculating the replanting requirements of this section.



1 (8) The replanting shall occur on the wooded lot that is being developed or at another location  
2 within the Township that is acceptable to the Board of Supervisors.

3 F. List of species that are recommended for planting:

4 (1) Deciduous canopy trees.

5 (a) *Acer rubrum*, *saccharum* (maple: red, sugar).

6 (b) *Catalpa speciosa* (catalpa).

7 ~~(c) — *Fraxinus pennsylvanica* (green ash).~~ *{" Emerald ash borer (EAB), *Agrilus planipennis* Fairmaire, is*  
8 *an exotic beetle. The adult beetles nibble on ash foliage but cause little damage. The larvae (the*  
9 *immature stage) feed on the inner bark of ash trees, disrupting the tree's ability to transport water and*  
10 *nutrients." Thus, planting is not longer recommended.}*

11 (d) *Larix laricina* (tamarack).

12 (e) *Liquidambar styracifera* (sweet-gum).

13 (f) *Liriodendron tulipifera* (tulip tree).

14 (g) *Magnolia acuminata* (cucumber tree).

15 (h) *Nyssa sylvatica* (sourgum or tupelo).

16 (i) *Populus deltoides* (poplar).

17 (j) *Quercus coccinea*, *imbricaria*, *phellos*, *rubra* (oak: scarlet, laurel, willow, red).

18 (k) *Tilia americana*, *cordata* (linden: american, littleleaf).

19 (2) Understory trees.

20 (a) *Amelanchier* species (serviceberry or shadbush).

21 (b) *Asimina triloba* (pawpaw).

22 (c) *Betula lenta* (cherry or sweet birch).

23 (d) *Betula nigra* (river birch).

24 (e) *Betula papyrifera* (paper birch).

25 (f) *Celtis occidentalis* (hackberry).

26 (g) *Cercis canadensis* (redbud).

27 (h) *Chionanthus virginicus* (fringe tree).

- 1 (i) Cornus florida, alternifolia (dogwood: flowering, pagoda).
- 2 (j) Crataegus species (hawthorns).
- 3 (k) Diospyros virginiana (common persimmon).
- 4 (l) Halesia carolina (carolina silverbell).
- 5 (m) Magnolia virginiana (sweetbay and other magnolias).
- 6 (n) Malus species (crabapple).
- 7 (o) Oxydendron arboreum (sourwood).
- 8 (p) Sassafras albidum (sassafras).
- 9 (q) Stewartia ovata f. grandiflora (mountain stewartia).
- 10 (r) Styra obassia (fragrant snowbell).
- 11 (s) Viburnum prunifolium (black haw).
- 12 (t) Abies concolor (white or concolor fir).
- 13 ~~(u) — Tsuga canadensis (canadian hemlock).~~ *{"Hemlock woolly adelgid (Adelges tsugae) is an insect*
- 14 *pest introduced from Asia that has been a problem in southeastern Pennsylvania since the mid-1960s.*
- 15 *They have spread westward in spite of the prevailing winds and now cover about two-thirds of our state.*
- 16 *They have devastated Canadian hemlocks throughout the Northeast and mid-Atlantic states since they*
- 17 *were first identified in the early 1950s. In areas where they are prevalent, Canadian hemlocks (Tsuga*
- 18 *canadensis) and Carolina hemlocks (T. caroliniana) are no longer recommended for planting. }*
- 19
- 20 **(u) Pinus strobus fastigiata ('Fastigiata' Eastern White Pine) {** *grow mostly upright and will not droop;*
- 21 *needs little pruning to develop; less likely to have branches break with heavy snow due to a strong structure}*
- 22
- 23 § 205-62 Street trees.
- 24 A. Trees with a minimum caliper of 2 1/2 inches (one foot above ground level) shall be provided
- 25 where deemed advisable by the Township Planning Commission and/or Supervisors. Street trees shall
- 26 be installed on forty-foot centers (see Appendix). Tree varieties permitted will be determined by the
- 27 Board of Supervisors.
- 28 B. Street tree varieties.
- 29 (1) Catalpa speciosa (northern catalpa).
- 30 (2) Celtis occidentalis (hackberry).
- 31 (3) Diospyros virginiana (common persimmon).

1 (4) ~~Fraxinus americana (white ash).~~ {see notes above on green ash}

Carpinus betulus 'Fastigiata' (columnar hornbeam)

Carpinus betulus 'Frans Fontaine' (columnar hornbeam)

Carpinus caroliniana (American hornbeam)

2 (5) ~~Fraxinus pennsylvanica (green ash).~~ {see notes above on green ash}

3 **Acer Campestre (Hedge maple)**

4 **Acer Griseum (Paperbark maple)**

5 (6) Quercus imbricaria (laurel or shingle oak).

6 (7) Quercus phellos (willow oak).

7 ~~(8) — Quercus rubra (red oak).~~ {Red oak borer (*Enaphalodes rufulus* (Haldeman)) attacks oaks of both  
8 red and white groups throughout the eastern United States, but prefers members of the red oak group;  
9 however, it does not kill trees. Outbreaks are associated with stressed trees that eventually die from oak  
10 decline. The complete life cycle takes 2 years.}

11 (9) Tilia cordata (littleleaf linden).

12 ~~(10) — Ulmus parviflora (chinese elm).~~ {Dutch elm disease is caused by the fungus *Ophiostoma ulmi*  
13 (syn. *Ceratocystis ulmi*) which is transmitted by two species of bark beetles or by root grafting. The  
14 American elm, *Ulmus americana*, is the most seriously affected of all elms. The Siberian elm, *Ulmus*  
15 *pumila*, (colloquially called "Chinese elm" in North Dakota) is tolerant but not immune to the disease.}

16 ~~(11) — Zelkova serrata (japanese zelkova).~~ {Not native species}

17 **American elm cultivars, 'Valley Forge' and 'New Harmony'**

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2 **Chapter 218, TREES**

3 [HISTORY: Adopted by the Board of Supervisors of the Township of East Goshen 9-17-1996 by Ord. No.  
4 114. Amendments noted where applicable.]

5 § 218-1. Definitions and word usage.

6 A. Word usage. The singular number includes the plural, and the masculine gender includes the  
7 feminine.

8 B. Terms defined. Unless expressly stated otherwise, the following words and phrases shall be  
9 construed throughout this chapter to have the meanings indicated in this section:

10 APPLICANT -- The person who makes the application for the permit and who is responsible for the work.

11 BASAL TRUNK ELEVATION -- Grade elevation in the area around a tree which is in close proximity to the  
12 tree's base.

13 BOARD -- The Board of Supervisors of the Township of East Goshen.

14 CALIPER -- The diameter of a tree trunk measured at a point four and one-half (4 1/2) feet from the  
15 ground surface. For all new trees to be planted in accordance with the requirements of this chapter, the  
16 tree trunk shall be measured at a point six inches above the ground surface. [Amended 3-18-2003 by  
17 Ord. No. 129-D-03]

18 DRIPLINE -- The line marking where the outer edges of a tree's branches overhang the ground.

19 EMERGENCY WORK -- Any work performed for the purpose of preventing or mitigating physical or  
20 property damage threatened or caused by an emergency.

21 HISTORIC TREE -- Any tree over 100 years old ~~specified~~ **identified** by a licensed arborist.

22 PERSON -- Any individual, firm, association, partnership or corporation.

23 SPECIMEN TREE -- A tree that is unique in either size, beauty, location, species or condition as  
24 determined by a licensed arborist.

25 TREE -- Any woody perennial plant usually having one or more main stems or trunks and more or less  
26 definitely formed crowns and growing to a height of 15 feet or more at maturity.

27 TREE PROTECTION ZONE (TPZ) -- An area that is radial to the trunk of a tree in which no construction  
28 activity shall occur. The tree protection zone shall be ~~15~~ **25** feet from the trunk of the tree to be retained  
29 or the distance from the trunk to the dripline, whichever is greater. Where there is a group of trees or  
30 woodlands, the tree protection zone shall be the aggregate of the protection zones for the individual  
31 trees.

1 TREE REMOVAL -- The cutting down of a tree, the transplanting of a tree to a property other than that  
2 under development or the infliction of damage to a tree which is of such severity as to show evidence  
3 within a period of two years of irreparable harm leading to the premature death of the tree.

4 § 218-2. Trees on Township streets and property.

5 The Township shall have exclusive custody and control of those trees that are located within the area  
6 where the Township owns the right-of-way in fee of any Township street and/or Township-owned  
7 property and is authorized to plant, remove and protect such trees.

8 A. Except in cases of emergency work necessary for protection of life or property, it shall be a  
9 violation of this chapter for any person, without first obtaining a permit **township approval**, to do any of  
10 the following:

11 (1) Cut, break, climb with spurs, injure in any manner or remove any tree.

12 (2) Cut down any tree or interfere in any manner with the main roots of any tree.

13 (3) Place any rope, guy wire, cable, sign, poster or other fixture on a tree.

14 (4) Injure, misuse or remove any device placed to protect trees.

15 (5) Place or install any stone, cement or other substance which shall impede the passage of water  
16 and air to the roots of any tree.

17 B. Emergency work. Notwithstanding any other provisions of this chapter, the Township shall have  
18 the right, without prior notice to any property owner, to perform any act/acts necessary to abate clear,  
19 present and immediate threats to the public health, safety or welfare caused by the condition of trees or  
20 parts thereof of those trees that are located within the area where the Township owns in fee the right-  
21 of-way of any Township street. The Township shall have the right to assess the cost of such summary  
22 abatement against the person whose action or inaction caused such threat to the public health, safety  
23 or welfare.

24 § 218-3. Removal of diseased trees.

25 A. The Township can, upon four weeks' prior written notice to the owners of any property, require  
26 owners of property to cut and remove trees or parts thereof afflicted with contagious diseases such as  
27 Dutch Elm disease.

28 B. Upon the failure of any such owner to comply with such notice, the Township can cause the  
29 work to be done by the Township and levy and collect the cost thereof from the owner of the property.  
30 The cost of such work shall be a lien upon the premises from the time of commencement of the work,  
31 which date shall be fixed by the Township Engineer and shall be filed with the Township Secretary. Any  
32 such lien may be collected by action in assumpsit or by lien filed in the manner provided by law for the  
33 filing and collection of municipal claims.

C. The Township shall give said four-week notice by mailing it, by certified mail, to the last known address of the owner of the property and by posting the notice at a conspicuous location on the property.

#### § 218-4. Protection of existing trees during construction.

Trees to be retained must be protected from damage during construction activities. The following procedures shall be observed in order to protect those trees that are to remain.

##### A. Protection from mechanical injury.

(1) All trees to be retained shall be protected from equipment damage by enclosing the tree(s) at the edge of the tree protection zone with sections of snow, fence or other fencing attached to posts set 12 inches into ground with at least four feet above the ground and set not more than 12 feet apart. This fencing shall not be removed without Township permission.

(2) Construction equipment shall not operate within the TPZ nor shall dirt, rocks, debris or other materials be placed there. The area within the TPZ shall not be built upon, nor shall any materials be stored there either temporarily or permanently. Vehicles and equipment shall not be parked in the TPZ.

(3) Trees shall not be used for roping, cables, signs or fencing. Nails and spikes shall not be driven into trees.

##### B. Protection from grade change.

(1) Raising the grade. If an increase in the grade of the land is proposed, the applicant shall install either:

(a) A system of gravel and drain tiles at the old soil level opening into a dry well built around the trunk and designed for each tree, individually fitting the contour of the land so that it drains water away from the tree trunk.

(b) A retaining wall between the existing grade and higher grade.

(2) Lowering the grade. If a lowering of the grade is proposed, the applicant shall use one of the following methods, individually designed to each tree:

(a) Terracing the grade.

(b) Placing a retaining wall between the existing grade and the lower grade.

#### § 218-5. ~~Permit procedure~~ Land Development Applications.

A. All **land development** applications for permits shall be on forms approved by the Township. The applicant shall submit a plan which contains the following:

(1) All existing trees having a diameter of six inches caliper or greater, their species and size.



- 1 (2) Tree(s) to be removed and trees to be maintained.
- 2 (3) Specifications for removal of trees.
- 3 (4) Specifications for protection of existing trees that are to remain during construction.
- 4 (5) Grade changes or other work adjacent to the tree which would adversely affect the tree, with
- 5 specifications on how the grade, including existing basal trunk elevations drainage and aeration will be
- 6 maintained around the tree.
- 7 B. ~~B.~~ All **land development** applications for permits shall be submitted to the Conservancy
- 8 Board for review **and comments shall be forwarded to the planning commission for consideration.**
- 9 **Upon plan approval,** ~~then goes to the Planning Commission,~~ and the Zoning Officer who shall issue a
- 10 permit ~~within 15 days,~~ provided that the provisions of this chapter have been complied with.

# 11 § 218-6. Violations and penalties. EN

12 Any person who violates or permits the violation of any provision of this chapter shall, upon being found  
 13 liable therefor in a civil enforcement proceeding commenced by the Township before a District Justice,  
 14 pay a fine for each such violation in an amount not less than \$100 and not more than \$600, plus all court  
 15 costs, including reasonable attorney's fees, incurred by the Township. No judgment shall be imposed  
 16 until the date of the determination of a violation by the District Justice. If the defendant neither pays  
 17 nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable  
 18 rules of civil procedure.

## BUFFERS AND TAKINGS

### What is a “taking”?

The term “taking” stems from the United States Constitution. The Takings Clause of Article V of the United States Constitution states that “nor shall private property be taken for public use, without just compensation.” The Pennsylvania Constitution contains a similar provision.

These constitutional provisions mean that, when the government takes your property for public use, it must compensate you fairly for that loss.

Some overly-restrictive land use regulations can, under the law, constitute a taking. For example, where a regulation authorizes a “physical invasion” of private property, it is a taking. Short of physical invasion, a regulation constitutes a taking only if it goes “too far,” such as when the regulation denies all economic use of the land, or when it unjustly forces one or more persons to bear public burdens that should be borne by the public as a whole.

### Does restricting development in buffers along streams constitute a “taking”?

No. It would be exceedingly rare for reasonable limits on land use such as restricting development in riparian buffer areas along streams to constitute a “taking” under the United States or Pennsylvania Constitution. Regulations which are clearly based on preventing a community hazard or harm to others have been consistently upheld in the face of takings challenges. Takings concerns are nonexistent where the buffer regulation remains rationally related to legitimate police powers, draws upon existing science regarding the benefits of riparian buffers, allows for reasonable non-intrusive uses within buffer areas, and grandfathers existing structures.

### ***Buffers 100* is a well-crafted proposal that does not pose any takings concerns.**

A rule requiring developers to maintain forested buffers along streams within property being developed clearly serves the legitimate interest of promoting health, safety, and welfare. Ensuring that certain land uses do not destroy the important health, safety and environmental functions of forested riparian areas fits squarely within government’s police powers.

*Buffers 100* is a proposal grounded in sound science. The benefits of forested buffers—flood protection, pollution removal, increased property values, infrastructure cost savings, erosion control—are numerous and well-documented. So are the benefits of widths proposed in *Buffers 100*—pollution removal is maximized when forested buffer widths are 100 feet or greater.

The proposal also allows reasonable uses of land to continue. Although invasive activities such as construction are prohibited within the buffer, disturbance of soil and vegetation to conduct minimally disruptive activities is still permitted. Moreover, developers are free to develop other portions of their properties outside of the buffer area. Finally, the rule does not apply to existing development, thus protecting any homes and structures already built in buffer areas.

### **Allowing development in buffers—the hidden taking.**

Allowing development to proceed in buffers actually takes from all of us. Clean drinking water, healthy streams for fishing and swimming, protection from stormwater damage and flooding, and robust property values and local economies are all threatened when buffers are not protected.

PC FYI

**BOARD OF SUPERVISORS**  
EAST GOSHEN TOWNSHIP  
CHESTER COUNTY  
1580 PAOLI PIKE, WEST CHESTER, PA 19380-6199

April 8, 2010

East Goshen Township  
Board of Supervisors  
1580 Paoli Pike  
West Chester, PA 19380

Re: TecniplastUSA Conditional Use Application  
1345 Enterprise Drive

Dear Board Members:

At our meeting on April 7, 2010, the Planning Commission unanimously approved a motion recommending approval, with conditions, for the Conditional Use application for TecniplastUSA, to be located at 1345 Enterprise Drive.

Motion:

Mr. Chairman, I move that we recommend that the Board of Supervisors approve the conditional use application of TecniplastUSA, to utilize an existing building for multiple principal uses pursuant to the Township Code §240-21.C(1) and §240-31 and to have the reserve parking in the front yard pursuant to §240-31.C(qq) in accordance with §240-31.C.(3.)(h.) of the Township Zoning Ordinance, subject to the following conditions:

1. The multiple principal uses shall be carried out with strict conformity to the conditional use plans and the testimony provided during the conditional use process unless revisions are resubmitted for review and approval by the Township.
2. The applicant will follow all applicable federal, State and Local laws and secure all proper permits prior to modification of the facilities on the property.
3. The vacant lot (Lot 22, 1353 Enterprise Drive, TPN 53-4-173 ) shall not be conveyed independently of 1345 Enterprise Drive (TPN 53-4-171 and 53-4-172 ) unless the applicant demonstrates that parking in compliance with the parking requirements of the Zoning Ordinance can be located on 1345 Enterprise Drive (TPN 53-4-171 and 53-4-172).
4. The Township Solicitor and Board must approve the Agreement to Construct Parking and the agreement must be recorded prior to issuance of Use and Occupancy certificate.
5. The applicant shall install the appropriate number of handicapped parking spaces which are required for the 193 existing parking spaces, prior to issuance of Use and Occupancy certificate.
6. The applicant shall demonstrate a need for the parking in the front yard areas, as required by the Township Code if the required parking is required to be installed.
7. The applicant shall submit a land development application and plan, obtain all necessary governmental permits and approvals necessary to construct the reserve parking as depicted on the conditional use plan; if the Township determines that additional parking is required pursuant to the terms in the Agreement to Construct Parking.

BOARD OF SUPERVISORS  
EAST GOSHEN TOWNSHIP

8. The applicant shall re-stripe the walkways as depicted on the conditional use plans.
9. All items in the Township Engineer's letter dated April 7, 2010 shall be addressed to the satisfaction of the Township prior to issuance of a Certificate of Use and Occupancy.

Sincerely,

A handwritten signature in black ink, appearing to read "George Martynick", written over a horizontal line.

George Martynick  
Chairman

CC: Ross Unruh, Esq., Attorney for the Applicant