

MIDDLETOWN TOWNSHIP  
DELAWARE COUNTY, PENNSYLVANIA  
JULY 27, 2020

Minutes of the Meeting of Township Council held on July 27, 2020 at 7:00 P.M., online as a virtual meeting during the COVID-19 Restrictions and/or Stay-At-Home Order.

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Present: Stephen Byrne, Bibianna Dussling, Mark Kirchgasser, Kathleen O'Connell-Bell, Susan Powell, Walter "Bok" Read, Norman Shropshire, Vince Visoskas, Meredith Merino, Joseph A. Damico, Jr., Esq., Eric Janetka

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1. OPENING/CONVENE ONLINE MEETING: Review Virtual Meeting Rules.

Chairman, Mr. Kirchgasser, called the meeting of the Council to order at 7:00 P.M. He stated that the Township is continuing to operate the meetings virtually. Mr. Visoskas stated when members of the general public join the meeting they will be muted and under Public Comments they will be unmuted. He asked that members of the public speaking please state their name and address. He stated prior to a vote the Chairman will unmute and allow any questions or comments from the public on any agenda items.

2. APPROVAL OF MINUTES:

Mrs. Powell made a motion to approve the minutes of the June 8, 2020 Council Meeting. Mr. Read seconded the motion. Mr. Kirchgasser polled all members of Council for their votes. The motion carried with a vote of 7-0.

Ms. Kathleen O'Connell-Bell made a motion to approve the minutes of the June 22, 2020 Council Meeting. Mrs. Powell seconded the motion. Mr. Kirchgasser polled all members of Council for their votes. The motion carried with a vote of 7-0.

3. PUBLIC COMMENTS

NONE

4. REPORTS

A. CHAIRMAN

Mr. Kirchgasser stated that it had been Council's intention to resume public meetings at the August 10, 2020 meeting but the Governor's mandate that public gatherings should be no larger than 25 people makes it a logistical challenge. Council is continuing to work through how future meetings can be operated. The next meeting will remain virtual.

Mr. Kirchgasser stated that an item originally placed on the agenda for consideration but tabled is a motion to address a default of obligation of Mar-J Builders in reference to the completion of the Darlington Pointe development. He stated that the Township working with Mar-J Builders has come to an anticipated date of completion of July 31, 2020. He stated that if the project is not completed, Council will have to address the default of obligation at their August 10, 2020 meeting.

B. COMMITTEE

NONE

C. MANAGER

1) Weekly Township E-newsletter Notice.

Mr. Visoskas stated the Township is using an E-newsletter to inform the public of events on a weekly schedule. He stated that it appears that this newsletter may be automatically going to junk e-mail in many instances. The best way to correct this is to find one of these e-mails and label it as good. This will prevent future e-mails from going to spam.

2) Social Distancing and Essential Workers

Mr. Visoskas encouraged residents to please wear a mask when speaking to Township employees.

3) Roosevelt Community Center Update

Mr. Visoskas stated that work began this week at the Roosevelt Community Center and is on schedule for an opening in June of next year. Mr. Kirchgasser stated that this is excellent news. He noted that park development work will soon begin on the Smedley tract. Mr. Kirchgasser added that this is the last meeting that Mr. Visoskas and Ms. Merino will be running as the new Manager will begin on August 3, 2020. Mr. Kirchgasser thanked both Mr. Visoskas and Ms. Merino for volunteering for added responsibilities during the gap between managers.

D. ENGINEER

Mr. Janetka stated that the work on Smedley Park will begin tomorrow and trucks have been mobilizing and are ready to start. Mr. Janetka stated that the park will take approximately 120 days to be completed. He stated that rehabilitation work also began on E. Old Baltimore Pike and should be completed in August.

Mr. Kirchgasser asked if there is a start date on the Roosevelt project. Mr. Visoskas stated that there is a pre-construction meeting next Monday. If all goes well, progress should start at the end of the month with a tentative move-in date of June of 2021 for the Library.

5. PUBLIC HEARING

A. Conditional Use Hearing: 133-135 S. Pennell Road - Expansion of existing nonconformity of two residential uses on the property.

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Ms. Dussling made a motion to open the Public Hearing. Mr. Read seconded the motion. The motion carried with a vote of 7-0.

SEE ATTACHED STENOGRAPHER'S REPORT

Ms. O'Connell-Bell made a motion to close the Public Hearing. Mr. Byrne seconded the motion. The motion carried with a vote of 7-0.

1) Consideration for Approval: Resolution 2020-20, Conditional Use Approval for expansion of nonconformity of two residential uses on the property at 133-135 S. Pennell Road.

Mr. Read made a motion to approve Resolution 2020-20. Ms. Dussling seconded the motion. Mr. Kirchgasser polled all members of Council for their votes. The motion carried with a vote of 6-1. Mr. Shropshire voted no.

Mr. Shropshire stated he feels this is a dangerous precedent to have two units on one building lot and asked why the applicant did request a Subdivision. Ms. Merino stated that the lot is too small and there would be a number of dimensional variances required. She stated there are some non-conforming properties in the Township that currently have two residences.

## 6. OLD BUSINESS

### B. Approval to Begin Bond Rating Analysis for Various Township Capital Projects

Mr. Visokas stated that he is seeking approval to begin a Bond Rating Analysis. He stated that there are three projects he would like to get a jump on, the Smedley Park development, the Sleighton School open space purchase and the work at Roosevelt Community Center. He stated it will cost approximately \$7,500 and will give them a 2-4 week head start for the ratings and will put the Township in a good position to close on all the Capital projects. Mr. Kirchgasser recapped that this is for Capital work at Sleighton Farm, Smedley Park, and the Roosevelt Community Center. Mr. Visokas stated Sleighton Farm is electoral debt and Smedley and Roosevelt are non-electoral debt.

Mr. Shropshire made a motion to begin Bond Rating Analysis. Mrs. Powell seconded the motion. Mr. Kirchgasser polled all members of Council for their votes. The motion carried with a vote of 7-0.

## 7. NEW BUSINESS

### A. Consideration of a Request from Riddle Memorial Hospital to Waive the Imposed Recreation fee-in-lieu pursuant to the Township's Subdivision and Land Development Code.

Mr. James Byrne, representing Riddle Hospital, stated that they are trying to put new life into the hospital with their revitalization project. He stated that the Hospital has requested some consideration with respect to the recreation fee because the Hospital provides wellness services to the community. He introduced Shelly Buck, President of the Hospital. Ms. Buck stated that Riddle Hospital and Middletown Township has had a very good relationship for approximately 57 years. She stated the hospital is investing over \$350,000,000 into revitalizing the healthcare facility including updating the MRI suite, the Maternity suite, the Emergency Department, and the Interventional suite. She stated Riddle Hospital provides critical health care and services to the community. Ms. Buck stated in the past year over 33,000 people have sought care in the Emergency Department and the Maternity Unit delivered over 1,000 births this year. She stated they also provide community services such as safe sitter courses. Ms. Buck stated the five-story pavilion being built is continuing to provide continued care for the community. Ms. Buck stated the cost of the community services far exceed the recreation fee and will satisfy the active and passive recreational needs of the hospital.

Mr. Byrne stated the hospital is not bringing people into the Township for active or passive recreation. He stated the hospital is a community facility as outlined by the code. He believes the expansion qualifies as a center that will serve the community. Mr. Kirchgasser stated that the Township is working to link trail its system. He asked if Riddle Hospital would consider allowing easements to connect the trail system over its property in lieu of providing the required recreational fee. Mr. Byrne stated that the Hospital is aware of, and very open to, the idea of joining trails. He stated he would be happy to sit with Township staff to go over this. Mr. Kirchgasser asked if the hospital would be willing to continue until the August 10, 2020 meeting. Mr. Byrne stated they would like to move forward with having the Land Development plans recorded.

Mrs. Powell made a motion to continue this item to the August 10, 2020 meeting. Ms. O'Connell-Bell seconded the motion. Mr. Kirchgasser polled all members of Council for their votes. The motion carried with a vote of 7-0.

B. Consideration for Introduction: Ordinance 819, Re-zone 1264 (1275) W. Baltimore Pike from OR-2 to B-General Business District.

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Ms. Merino stated that the Township received an application from Mr. Blake Strine for a Zoning map amendment for property he owns situated between Thomas Chevrolet and the Rocky Run YMCA. Mr. Strine stated they have owned the property for many years and recently received notification that the adjacent Thomas Chevrolet property has been re-zoned to B-Business. He stated that his property is for sale, but some potential buyers have been discouraged because they did not want to go through a Zoning change. Mr. Kirchgasser said that the Township does not have any issues considering specific uses for a re-zoning, but a general rezoning of a particular parcel without a known use is typically not practiced in Middletown. He stated that Thomas Chevrolet had a specific purpose when they came to re-zone and had all items laid out for Council. He stated that if there is a specific use in mind then the Council would be more likely to consider a re-zoning. Mr. Strine stated that the property being zoned as OR-2, is perceived as a negative to potential buyers. Ms. O'Connell-Bell stated that she agrees that a zoning change approval usually happens with a plan in place. Mr. Kirchgasser stated he would be open to a specific use but not a general change. Mr. Strine asked what was the specific request from Thomas Chevrolet. Mr. Kirchgasser stated Mr. Ecolane's request was specific to the setbacks.

Ms. Dussling made a motion to deny the request. Mr. Shropshire seconded the motion. Mr. Kirchgasser polled all members of Council for their votes. The motion carried with a vote of 7-0.

C. Consideration for Approval: Tax Appeal Settlement Agreement in the matter of Flick Brothers, LLC v Board of Assessment Appeals of Delaware County (Folio 27-00-02141-00) upon Concurrence of Delaware County and Rose Tree Media School District.

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Mr. Damico stated the property is a group of strip stores along S. Pennell Road across from CVS owned by the Flick Brothers. He stated they filed a tax assessment appeal in 2019 for

2019 and 2020. He stated there are 5 commercial tenants in the property and the current assessment for the property is 1,037,040, and the common level ratio in 2019 is 58.1% which would command a fair market value of \$1,754,721. He stated the common level ratio in 2020 is 56.4% which would set the fair market value of \$1,838,723. Flick’s appeal is seeking a value at \$0 because of environmental contamination on the property.

Mr. Damico stated the Township hired an appraiser on behalf of all the taxing entities to appraise the property. If free of contamination, the appraisal shows a value of \$1,400,000. He stated the law is clear that fair market value is the amount the seller and knowledgeable buyer will pay. He stated the Flick’s environmental expert claims the amount to clean up the property is \$935,000. He stated he has been negotiating a possible settlement with the Flick Brothers and the other parties. The parties have tentatively agreed that a valuation of \$965,000 is an acceptable number. Mr. Damico recommends Council accept the offer of \$965,000 contingent upon final acceptance by the School Board and the County.

Mr. Shropshire made a motion to accept the offer. Mr. Read seconded the motion. Mr. Kirchgasser polled all members of Council for their votes. The motion carried with a vote of 7-0.

D. Consideration to Authorize: Appointment of the firm Lamb McErlane as Labor Counsel to the Township, on an as-needed basis.

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Mr. Visoskas stated he believes the Township will be better served with the local firm of Lamb McErlane. Their rates are \$115 per hour less than our previous firm. Ms. O’Connell-Bell stated that she had given Mr. Visoskas upon his request a list of several firms who handle labor issues for municipal clients. She stated that her firm recently became affiliated with Lamb McErlane and therefore she will recuse herself from this vote to avoid the appearance of any conflict.

Mr. Shropshire made a motion to accept the appointment. Mr. Byrne seconded the motion. Mr. Kirchgasser polled all members of Council for their votes. The motion carried with a vote of 6-0 with Ms. O’Connell-Bell recusing herself.

E. Approval of July 27, 2020 Bill List

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Mr. Kirchgasser read the bill list aloud.

<b>GENERAL FUND</b>			
Aqua Pennsylvania	June Hydrant Bills	\$	9,375.86
Applied Geoscience & Eng., Inc.	Professional Services 2/15-6/26/20	\$	12,300.00
Keystone Municipal Services.	Contracted Services. 6/15 - 6/26/2020	\$	12,112.50

Petrikin Wellman Damico	July Retainer	\$ 1,000.00
Brown & Petrosa	Twp. Solicitor Billed thru 6/30/20	<u>\$ 9,824.50</u>
		\$ 10,824.50

Rose Tree Media Sch. District.	Tax Payment. - Linville Road	\$ 7,994.57
United Inspection Agency	Inspections - June	\$ 14,471.40
	General Fund Total	<u>\$ 67,078.83</u>

**CAPITAL RESERVE**

Brian Hoskins	Ford2020 Ford Escape	\$ 23,649.00
	Capital Reserve Total	<u>\$ 23,649.00</u>

Mr. Shropshire made a motion to approve the bill list. Mr. Read seconded the motion. Mr. Kirchgasser polled all members of Council for their votes. The motion carried with a vote of 7-0

Mr. Kirchgasser adjourned the meeting at 8:22 p.m.

Respectfully Submitted,



Sharon Browne

1 MIDDLETOWN TOWNSHIP  
2 COUNCIL MEETING  
3 July 27, 2020  
4 VIRTUAL ZOOM MEETING

5 In Re: Public Hearing, Conditional Use  
6 Hearing, 133-135 S. Pennell Road  
7 Expansion of existing nonconformity  
8 Resolution 2020-20

9 Transcript of the MIDDLETOWN TOWNSHIP  
10 COUNCIL MEETING, PUBLIC HEARING portion, in the  
11 above-captioned matter, taken via on-line live Zoom  
12 meeting, before Lorraine Evans, Court Reporter-Notary  
13 Public, on Monday, July 27, 2020, commencing  
14 approximately at 7:15 p.m.

15 BOARD MEMBERS

16 MARK KIRCHGASSER, Chairman  
17 NORMAN SHROPSHIRE  
18 KATHLEEN O'CONNELL BELL  
19 SUSAN K. POWELL  
20 WALTER READ  
21 BIBIANNA DUSSLING  
22 STEPHEN BYRNE

23 JOSEPH A. DAMICO, JR. ESQUIRE, Solicitor  
24 ERIC J. JANETKA, Township Engineer

25 LORRAINE EVANS  
26 PROFESSIONAL COURT REPORTER-NOTARY PUBLIC  
27 530 Paxon Hollow Road  
28 Broomall, Pennsylvania 19008  
29 (610)203-7715 7evanslorraine@comcast.net

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ERIN COCHRAN

By Ms. Gerber

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LORRAINE EVANS



1 CHAIRMAN KIRCHGASSER: Public hearing,  
2 Item Five A, conditional use hearing. Mr.  
3 Visoskas, a overview.

4 MS. MERINO: I can handle this item.

5 CHAIRMAN KIRCHGASSER: Thank you,  
6 Meredith.

7 MS. MERINO: The applicant Ms. Cochran and  
8 her attorney, Ms. Gerber, are here on the zoom  
9 meeting and they can give a brief explanation.

10 CHAIRMAN KIRCHGASSER: Can I have a motion  
11 to open the public hearing?

12 MS. DUSSLING: So move.

13 CHAIRMAN KIRCHGASSER: Thank you,  
14 Bibianna. Can I have a second?

15 MR. READ: Second.

16 CHAIRMAN KIRCHGASSER: Thank you, Mr.  
17 Read. All those in favor? Ms. Dussling.

18 MS. DUSSLING: Aye.

19 CHAIRMAN KIRCHGASSER: Mr. Byrne.

20 MR. BYRNE: Aye.

21 CHAIRMAN KIRCHGASSER: Mr. Read.

22 MR. READ: Aye.

23 CHAIRMAN KIRCHGASSER: Ms. Powell.

24 MS. POWELL: Aye.

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1 CHAIRMAN KIRCHGASSER: Mr. Shropshire.

2 MR. SHROPSHIRE: Aye.

3 CHAIRMAN KIRCHGASSER: Ms. Bell.

4 MS. BELL: Aye.

5 CHAIRMAN KIRCHGASSER: I vote aye as well.

6 Good evening, Ms. Cochran.

7 MS. COCHRAN: Good evening.

8 MS. GERBER: My name is Gina Gerber. I'm  
9 here on behalf of Ms. Cochran this evening  
10 acting as counsel. I'll give a brief overview  
11 of the application and then we are going to get  
12 into some testimony. Hopefully this should be  
13 relatively short.

14 Ms. Cochran owns property that's located  
15 at 133-135 Pennell Road, approximately point 66  
16 acres of property. It is parcel number  
17 27000206100. It is located in the R-2  
18 residential district.

19 We have filed on behalf of Ms. Cochran, a  
20 conditional use application pursuant to Section  
21 275-206B as in boy, 3, A as in apple, of your  
22 zoning ordinance in order to permit an  
23 expansion of an existing non-conformity on this  
24 lot of two principal residential uses. Right

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1 now 135 Pennell Road, there's a building which  
2 is entirely residential in use.

3 At the building located at 133 Pennell  
4 Road, that building is primarily residential  
5 use. There is a small portion of approximately  
6 251 square feet of that building that was  
7 previously used for commercial use. And Ms.  
8 Cochran is planning on doing some  
9 rehabilitation of both of those buildings. And  
10 in particular, with regard to 133 Pennell  
11 Road, is proposing to expand the residential  
12 use to the entire property, including the 251  
13 square feet previously used for commercial.

14 The determination has been made that that  
15 existing non-conforming use of two principal  
16 residential uses on the same lot requires  
17 conditional use approval in order to extend  
18 that beyond what is currently existing here  
19 today.

20 So, I would like to just as a matter of  
21 formality, introduce what we have pre-marked as  
22 Exhibit A-1, and I am going to share my screen,  
23 if I can here, and put the exhibits up as we  
24 go. Bear with me for just a moment.

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1 CHAIRMAN KIRCHGASSER: Just let me check,  
2 Meredith, are we in possession of these?

3 MS. MERINO: Yes. The file has been  
4 marked with -- pre-marked with all of the  
5 exhibits that Ms. Gerber is about to go over.

6 MR. DAMICO: You are also in possession of  
7 an Affidavit of 21st Century Media News Group,  
8 and I would like to introduce that as Township  
9 Exhibit Number 1.

10 CHAIRMAN KIRCHGASSER: Okay, thank you.  
11 Please proceed.

12 MS. GERBER: Thank you. So what I have  
13 shown on the screen here is the enclosure  
14 letter. Exhibit A-1 is the enclosure letter,  
15 the application form and an addendum that was  
16 provided to the township on June 8, 2020.

17 Exhibit A-2 is by reference, which is your  
18 zoning ordinance.

19 Exhibit A-3 is this document that is on  
20 the screen here. It's an Affidavit of Notice  
21 executed by my colleague, Ms. Zarro, indicating  
22 that we have provided notice in accordance with  
23 the township zoning ordinance to neighboring  
24 properties to apprise them of this hearing.

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1           Without further adieu, I would like to  
2           step into my first witness, and my only  
3           witness, Ms. Cochran.

4                   ERIN COCHRAN, having been called  
5                   as a witness and having been  
6                   duly sworn, was examined and  
7                   testified as follows:

8   BY MS. GERBER:

9           Q     Ms. Cochran, would you please provide your  
10          name and address for council.

11          A     I'm Erin Cochran. My address is 133-135  
12          Pennell Road, Middletown Township, Media.

13          Q     Are you the applicant of the conditional  
14          use hearing that's before Council this evening?

15          A     Yes.

16          Q     I am going to refer to what's been  
17          pre-marked as Exhibit A-4. I'm putting it up on the  
18          screen now. Is this a copy of the deed for 133-135  
19          Pennell Road recorded April 27, 2020 which exhibits  
20          that you are the owner of the property that's  
21          subject of the hearing tonight?

22          A     Yes.

23          Q     Thank you. And I am now going to put up  
24          what's been pre-marked as Exhibit A-5. This is an

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1 aerial photograph of the property for 133 through  
2 135 Pennell Road. Looking at this aerial  
3 photograph, would you please identify the property  
4 and the surrounding properties?

5 A Yes, the property is approximately point  
6 66 acres on the eastern side of Pennell Road north  
7 of the intersection of Pennell Road and Lenni Road  
8 and south of intersection of Pennell Road and  
9 Whirlaway Road. The property is surrounded by  
10 primarily residential uses and the Glenwood  
11 Elementary School.

12 Q Would you please describe the current  
13 improvements on the property and its use?

14 A Yes. The property is improved with two  
15 single family detached residential dwellings. The  
16 dwelling identified as 135 Pennell Road is  
17 approximately 2,384 square feet in size and is  
18 entirely residential use.

19 The dwelling identified as 133  
20 Pennell Road has previously been utilized for a  
21 combination of commercial use and residential use.  
22 The commercial use has been abandoned.  
23 Approximately 557 square feet of 133 Pennell Road is  
24 utilized for residential use, while approximately

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1 251 square feet was previously utilized for  
2 commercial use.

3 Q I am going to put up on the screen what's  
4 been pre-marked as Exhibit A-6, which is an existing  
5 design layout for 133 Pennell Road. Is this the  
6 plan showing the current layout of 133 Pennell Road?

7 A Yes. As you can see, on the left hand  
8 side there's a portion of the front of the building  
9 that was previously commercial use while the rest of  
10 the interior was designed for residential use.

11 Q What are your plans for this particular  
12 property?

13 A I am proposing to convert 133 Pennell Road  
14 into a fully residential use and re-design the  
15 interior of that same building for that purpose.  
16 Both 135 and 133 Pennell Road will be residential  
17 use. I'm also planning on beautifying the property  
18 by painting both buildings, introducing some  
19 supplementary landscaping and possibly replacing  
20 windows. I have already done some considerable  
21 clean-up on the exterior of the property with  
22 respect to the existing landscaping and trees and  
23 trash removal, things like that.

24 Q I am going to put up Exhibit A-7, which is

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1 the proposed design layout for 133 Pennell Road.

2 Could you please walk us through what this exhibit  
3 is showing?

4 A Yes. You can see on this drawing I am  
5 converting the area that was previously for  
6 commercial use into a second bedroom and living area  
7 to be used in conjunction with the remaining  
8 residential portion of the building.

9 Q Is it your understanding that this  
10 property is zoned R-2, which permits the single  
11 family residential dwelling use by right?

12 A Yes.

13 Q Are you here this evening seeking  
14 conditional use approval pursuant to Section  
15 275-206B3A to permit the expansion of the two  
16 principal residential dwelling uses on the property  
17 to 133 Pennell Road?

18 A Yes.

19 Q And is the area that's currently used for  
20 this existing non-conformity of two principal  
21 residential uses approximately 2,941 square feet on  
22 this property?

23 A Yes.

24 Q And the area into which the existing

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1 non-conformity is proposed to be expanded, is that  
2 approximately 251 square feet?

3 A Yes.

4 Q So, the expansion of the existing  
5 non-conformity is approximately 8.5 percent, which  
6 is less than the ten percent maximum of expansion  
7 permitted under this ordinance, is that correct?

8 A Yes.

9 Q Did you receive a recommendation for this  
10 particular conditional use application from the  
11 Middletown Township Planning Commission at its  
12 meeting on July 14, 2020?

13 A Yes.

14 Q Thank you. We are not going to get into  
15 some of the conditional use standards which the  
16 township zoning ordinance lays out. Have you had an  
17 opportunity to review those standards that are set  
18 forth in Section 275-236A?

19 A Yes.

20 Q And in your opinion, to the extent that  
21 these standards are applicable to what you're  
22 proposing on this property, is the existing  
23 non-conformity of two principal residential uses in  
24 compliance with those standards?

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1 A Yes.

2 Q Is the expansion consistent with the  
3 community development objectives including the  
4 objective to maintain and promote attractive, safe,  
5 healthy and stable residential areas and to enhance  
6 and encourage rehabilitation of existing  
7 neighborhoods as well as the objective of promoting  
8 a complementary relationship among land uses?

9 A Yes.

10 Q Is your proposed expansion of the  
11 non-conformity consistent with the statement of  
12 purpose articulated in the R-2 district?

13 A Yes.

14 Q Will the expansion of the existing  
15 non-conformity be consistent with the Middletown  
16 Township Comprehensive Plan?

17 A Yes. The Comprehensive Plan recognizes  
18 this area of the township as appropriate for  
19 residential use, which is what we are proposing.

20 Q And will the expansion of the  
21 non-conformity conform to all requirements of the  
22 subdivision and land development ordinance or other  
23 applicable ordinances, codes and regulations?

24 A Yes. We are not making any improvements

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1 to the property that would require land development  
2 review or further municipal approval. We will be  
3 maintaining the existing building footprints for  
4 both buildings and will not be engaging in any land  
5 development, which would require compliance with the  
6 subdivision and land development ordinance.

7 Q Are you anticipating any adverse effect  
8 upon the health, safety and general welfare of the  
9 community in general?

10 A No. We are proposing to return 133  
11 Pennell Road to a low impact residential use, which  
12 will have a positive impact on the health, safety  
13 and general welfare of the area and the township.  
14 We're eliminating a non-conforming commercial use  
15 and rehabilitating the commercial section of the  
16 property that is currently vacant.

17 Q Will the expansion of this non-conformity  
18 promote the harmonious and orderly development of  
19 the R-2 district?

20 A Yes. This is a residential sector of the  
21 township zoned R-2. We will be maintaining that.

22 Q Is the size, character and type of  
23 development compatible with what you're proposing in  
24 terms of the non-conformity on this particular

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1 property?

2 A Yes. We are not expanding the existing  
3 buildings in anyway. We are simply extending the  
4 existing residential use to a portion of the  
5 property that was previously commercial.

6 Q Will this proposed expansion detract or  
7 cause harm to neighboring properties or have any  
8 sort of negative impact on the aesthetic character  
9 of the community?

10 A No. This rehabilitation that's an  
11 expansion of the non-conformity will improve the  
12 aesthetic character of the community and address an  
13 existing vacant portion of the property. We are in  
14 the process of cleaning up the property. I look  
15 forward to restoring the bungalows to their 1930's  
16 character.

17 Q Is this expansion reflective of effective  
18 site planning and design in terms of energy  
19 efficiency, environmental protection and aesthetic  
20 composition?

21 A Yes. The residential lots in this area  
22 are relatively small and the homes are close  
23 together which creates a larger residential density  
24 in this area of the township. The existing size of

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1 the lot and the buildings on the property is not  
2 inconsistent with the lot size and buildings in this  
3 part of the township.

4 Q And are you proposing to rehabilitate the  
5 existing buildings on the property rather than build  
6 new in order to continue to preserve the environment  
7 and are you also keeping the existing trees and  
8 landscaping on this particular property?

9 A Yes. We are proposing to rehabilitate the  
10 existing buildings on the property rather than waste  
11 resources and building new and we are preserving the  
12 existing landscaping, including a number of mature  
13 trees which we have already done some work to care  
14 for.

15 Q Do you expect the expansion of the  
16 non-conformity to be consistent with the logical,  
17 efficient and cost effective extension of public  
18 services and utilities?

19 A Yes. The residential uses are existing on  
20 the property. Both 133 and 135 Pennell Road have  
21 housed residential use for many years. We don't  
22 anticipate any greater impact on public services and  
23 utilities with the proposed rehabilitation.

24 Q What's your proposal for disposal of solid

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1 waste for these two residential buildings?

2 A Trash and recyclables will be addressed as  
3 any other residential use. We have already hired a  
4 private company for that.

5 Q Is the expansion of this non-conformity  
6 providing safe and efficient access to roads and  
7 will it create any sort of traffic congestion?

8 A It won't create any congestion. The two  
9 principal dwelling use is existing on the property  
10 and there's no difficulty with respect to access to  
11 roads or traffic congestion associated with those  
12 low impact uses.

13 Q Are you expanding with a nod toward  
14 limiting the number of access points along Pennell  
15 Road?

16 A No. There will be no change to the  
17 existing access to Pennell Road or the frontage of  
18 the existing buildings.

19 Q Are you providing adequate off road  
20 parking that's going to be minimally visible from  
21 public streets?

22 A Yes. There are already off street parking  
23 areas for both buildings and we will be maintaining  
24 those for future use.

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1 Q And are you attempting to preserve for the  
2 maximum extent possible Woodlands and other existing  
3 trees on the site?

4 A Yes. We are going to continue to maintain  
5 existing trees and the existing plants in place.

6 Q Can you speak a little bit as to the  
7 existing landscaping and buffers that are currently  
8 in place with regard to this property?

9 A There is mature trees on the property and  
10 there is also a fence to the north that's the  
11 neighbor's fence.

12 Q And final question I have for you tonight,  
13 will the expansion of this non-conformity provide  
14 effective subdued lighting on this particular  
15 property?

16 A Yes. There are existing exterior  
17 residential lights for safety on both buildings.  
18 133 Pennell Road has two lights and 135 Pennell Road  
19 has one porch light. We are just going to be  
20 switching those existing fixtures out for more  
21 updated fixtures.

22 Q Thank you.

23 MS. GERBER: That's all the questions I  
24 have for this witness, and this will be our

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1           only witness this evening.

2           CHAIRMAN KIRCHGASSER:  So questions for  
3           the witness from members of Council?

4           MR. SHROPSHIRE:  Yes, Mr. Chairman.  I was  
5           wondering, basically you're then going to have  
6           two residential units on one lot?

7           THE WITNESS:  Yes.

8           MS. GERBER:  Yes.

9           MR. SHROPSHIRE:  So you're going to have  
10          two residential units on one building lot?

11          THE WITNESS:  Yes.

12          MR. SHROPSHIRE:  Also in your  
13          correspondence you mentioned something about  
14          removing the third use of which was commercial.  
15          Meredith, was there ever a third use of  
16          commercial on that property?

17          MS. MERINO:  Yes, there was.

18          MR. SHROPSHIRE:  When was that  
19          acknowledged as commercial use, do you know?

20          MS. MERINO:  It had been acknowledged as a  
21          commercial use throughout the history of the  
22          property.  I don't have the actual file.

23          MR. SHROPSHIRE:  Originally it was a gas  
24          station and you know, Meredith, that this

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1 property has a long long long history, as  
2 proven by your affidavits and your memos that  
3 were included in this evening's meeting.

4 I have a problem as far as we have had  
5 other properties in the township like this, to  
6 give you an example, Cherrywood Lane, are you  
7 familiar with that?

8 MS. MERINO: I am not familiar with that.

9 MR. SHROPSHIRE: That was also requested  
10 for the township to have two separate building  
11 lots or two separate residences on one building  
12 lot.

13 MS. MERINO: I think in that case there  
14 was a request to initiate a new separate  
15 building. In this case the residential was  
16 existing as an existing non-conformity.

17 MR. SHROPSHIRE: I thought the original  
18 intent when we had discussed this property was  
19 that that second unit, and I don't want to be  
20 mistaken about the address, I'm not sure if  
21 it's 133, the smaller unit that's basically a  
22 studio, would that be 133?

23 THE WITNESS: Yes. That is 133.

24 MR. SHROPSHIRE: And I was under the

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1 impression that that, at the time, the use for  
2 that could only be a garage that would be  
3 adjoining an existing residential use. And it  
4 could not be used as a separate residential  
5 unit.

6 THE WITNESS: I am not aware of that  
7 myself when I purchased the property. I know  
8 that it was used as a separate residence by the  
9 previous owner.

10 MR. SHROPSHIRE: The son lived there for a  
11 little while, yes.

12 MS. GERBER: The property that Ms. Cochran  
13 purchased is existing two residential uses and  
14 they are being used for residential purposes.  
15 The commercial is really just 251 square feet  
16 of a --

17 MR. SHROPSHIRE: I am familiar with that.  
18 This property, Ms. Gerber, has been ongoing  
19 with us for quite a few years as far as --

20 MS. GERBER: We understand this has some  
21 history.

22 CHAIRMAN KIRCHGASSER: Little bit.  
23 Anything further, Mr. Shropshire?

24 MR. SHROPSHIRE: Not right now.

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1 CHAIRMAN KIRCHGASSER: Any other questions  
2 from members of Council? Ms. Cochran, I have a  
3 couple of questions. So you're proposing the  
4 expansion of residential use of the property by  
5 eliminating the commercial aspect, eliminating  
6 the 251 square feet of commercial at the front  
7 of I believe 133, is that correct?

8 THE WITNESS: Yes, that's correct.

9 CHAIRMAN KIRCHGASSER: Will 133 be your  
10 primary residence?

11 THE WITNESS: It will not.

12 CHAIRMAN KIRCHGASSER: Will 135 be your  
13 primary residence?

14 THE WITNESS: No, it will not.

15 CHAIRMAN KIRCHGASSER: Do you have any  
16 plans on leasing these properties?

17 THE WITNESS: Yes, that is my hope.

18 CHAIRMAN KIRCHGASSER: So you'll be  
19 leasing both properties?

20 THE WITNESS: Yes.

21 CHAIRMAN KIRCHGASSER: So in advance of --  
22 I am sorry, let me follow-up. You own a  
23 business, is that correct.

24 THE WITNESS: I do.

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1           CHAIRMAN KIRCHGASSER: And that business  
2 is Revealing Redesign?

3           THE WITNESS: That is correct.

4           CHAIRMAN KIRCHGASSER: I want to be clear,  
5 you will be leasing these properties and not  
6 operating demonstration studios of Revealing  
7 Redesign out of either of these properties, is  
8 that correct?

9           THE WITNESS: That's correct. They will  
10 be just residential.

11          CHAIRMAN KIRCHGASSER: Okay, so leased  
12 properties.

13          THE WITNESS: Yes.

14          MR. BYRNE: Mark, I want to ask one  
15 question. If down the road these properties  
16 are sold, do they have to be sold together  
17 since they're on one lot? Two houses on one  
18 lot, how does that effect the future sale?

19          THE WITNESS: My understanding is that  
20 they would need to be sold together. That's  
21 how they were presented when I purchased them.  
22 That's my understanding if I were to sell them  
23 in the future, they would be sold as one  
24 property.

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1           CHAIRMAN KIRCHGASSER: Steve, at some  
2 point, if the applicant so chose, you would  
3 have to come in and do a reverse subdivision,  
4 although that's been attempted many times. I  
5 think the precedence is well established for  
6 this property.

7           Any other questions for the witness? Ms.  
8 Cochran, to make sure we eliminate any  
9 confusion over possible commercial or related  
10 use through your ownership of this property,  
11 with this approval you commit to not operating  
12 demonstration studios or other effects for  
13 Revealing Redesign out of this property.

14           THE WITNESS: That is correct. I have no  
15 intention of doing anything other than making  
16 them both fully residential. I look forward to  
17 restoring them and making them beautiful again  
18 and renting them out as beautiful little  
19 houses.

20           CHAIRMAN KIRCHGASSER: Thank you for the  
21 clarity. Mr. Damico, anything further for you?

22           MR. DAMICO: No. I would ask the motion  
23 be placed on the floor to admit all the  
24 exhibits.

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1 CHAIRMAN KIRCHGASSER: Motion to admit the  
2 exhibits.

3 MS. POWELL: So move.

4 (Whereupon, all pre-marked  
5 exhibits are admitted into  
6 evidence.)

7 CHAIRMAN KIRCHGASSER: Thank you, Ms.  
8 Powell. May I have a second?

9 MS. DUSSLING: Second.

10 CHAIRMAN KIRCHGASSER: Thank you,  
11 Bibianna. All those in favor. Ms. Dussling.

12 MS. DUSSLING: Aye.

13 CHAIRMAN KIRCHGASSER: Mr. Byrne.

14 MR. BYRNE: Aye.

15 CHAIRMAN KIRCHGASSER: Mr. Read.

16 MR. READ: Aye.

17 CHAIRMAN KIRCHGASSER: Ms. Powell.

18 MS. POWELL: Aye.

19 CHAIRMAN KIRCHGASSER: Mr. Shropshire.

20 MR. SHROPSHIRE: Aye.

21 CHAIRMAN KIRCHGASSER: Ms. Bell.

22 MS. BELL: Aye.

23 CHAIRMAN KIRCHGASSER: And I vote aye as  
24 well. We'll now shift questions for the

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1 witness -- my apology, to the public. Any  
2 questions from the public for the witness?  
3 Hearing none, Ms. Gerber, nothing further?

4 MS. GERBER: I have nothing further.

5 CHAIRMAN KIRCHGASSER: Motion to close the  
6 hearing. Mr. Shropshire, did you have a  
7 follow-up before I close the hearing?

8 MR. SHROPSHIRE: No.

9 CHAIRMAN KIRCHGASSER: Motion to close the  
10 hearing.

11 MS. BELL: So move.

12 CHAIRMAN KIRCHGASSER: Thank you, Ms.  
13 Bell. May I have a second?

14 MR. BYRNE: Second.

15 CHAIRMAN KIRCHGASSER: Thank you, Mr.  
16 Byrne. All in favor? Ms. Dussling.

17 MS. DUSSLING: Aye.

18 CHAIRMAN KIRCHGASSER: Mr. Byrne.

19 MR. BYRNE: Aye.

20 CHAIRMAN KIRCHGASSER: Mr. Read.

21 MR. READ: Aye.

22 CHAIRMAN KIRCHGASSER: Ms. Powell.

23 MS. POWELL: Aye.

24 CHAIRMAN KIRCHGASSER: Mr. Shropshire.

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1 MR. SHROPSHIRE: Aye.

2 CHAIRMAN KIRCHGASSER: Ms. Bell.

3 MS. BELL: Aye.

4 CHAIRMAN KIRCHGASSER: And I vote aye as  
5 well. Do we have any action on this tonight,  
6 Meredith?

7 MS. MERINO: Yes.

8 CHAIRMAN KIRCHGASSER: Under Item 5A-1,  
9 consideration for approval, conditional use  
10 approval for 133-135 South Pennell Road. May I  
11 have a motion?

12 MR. READ: So move.

13 CHAIRMAN KIRCHGASSER: Thank you, Mr.  
14 Reed. May I have a second?

15 MS. DUSSLING: Second.

16 CHAIRMAN KIRCHGASSER: Ms. Dussling. All  
17 in favor? Ms. Dussling.

18 MS. DUSSLING: Aye.

19 CHAIRMAN KIRCHGASSER: Mr. Byrne.

20 MR. BYRNE: Aye.

21 CHAIRMAN KIRCHGASSER: Mr. Read.

22 MR. READ: Aye.

23 CHAIRMAN KIRCHGASSER: Ms. Powell.

24 MS. POWELL: Aye.

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1 CHAIRMAN KIRCHGASSER: Mr. Shropshire.

2 MR. SHROPSHIRE: Nay.

3 CHAIRMAN KIRCHGASSER: Ms. Bell.

4 MS. BELL: Aye.

5 CHAIRMAN KIRCHGASSER: I vote aye as well.

6 Congratulations, Ms. Cochran. Best of luck

7 with the property. No more candy sales.

8 MS. GERBER: Thank you very much for your  
9 time tonight.

10 CHAIRMAN KIRCHGASSER: Have a good  
11 evening.

12 (Whereupon, the public hearing  
13 portion of the meeting is  
14 concluded at 7:40 p.m.)

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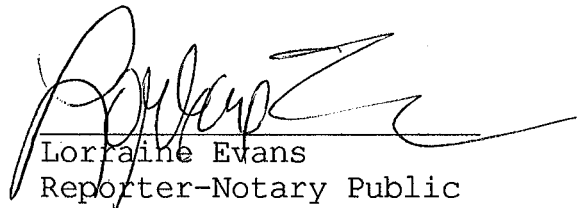
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REPORTER'S CERTIFICATION

I HEREBY CERTIFY that I was present upon the virtual Zoom hearing of the above-entitled matter and there reported stenographically the proceedings had and the testimony produced; and I further certify that the foregoing is a true and correct transcript of my said stenographic notes.



Lorraine Evans  
Reporter-Notary Public  
My Commission Expires  
October 25, 2022

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