

MEMORANDUM

I. EXISTING MATERIALS.

The following material exist:

1. Boundary Survey -- Nave Newell prepared an ALTA/AMCA Land Title Survey dated 9/12/06. The Boundary Survey was prepared for the DSAD and also contains a delineation of the wetlands that are located on the DASD Property. The wetlands, as depicted on the Boundary Survey, were delineated by Dr. Thomas D. Cordrey, soils and wetlands scientist with DelVal Soil & Environmental Consultants, Inc. dated April 19, 2006. It is my understanding that an application for a jurisdictional determination of the extent of the wetlands located on the DASD Property was submitted to the United States Army Corps of Engineers, but that jurisdictional

determination was not pursued when the DASD decided not to develop the DASD Property for a school campus.

2. **Topography.** Paul Lepard indicated that the aerial photography required to superimpose the topography of the site on the Boundary Survey exists, but has not been processed. However, Paul later determined that Nave Newell's aerial photography company can process the topography in about two weeks at a cost of \$6,000.

3. **Bog Turtle Survey.** A bog turtle survey of the property was completed in 2001-2002 and updated for the School District in 2006. The bog turtle survey was performed by a Penn State professor who is well known in the field and has performed work for the U.S. Fish and Wildlife Service. Therefore, although the bog turtle survey has not been submitted to the Fish and Wildlife Service or the Army Corps of Engineers, I think Stoltz can be reasonably comfortable that the survey, which determined that there are no bog turtles on the property, will be accepted by the agencies with jurisdiction.

4. **Environmental Assessment.** RT Environmental, Inc. performed a Phase 1 environmental assessment of the property. The assessment will have to be reviewed but it is safe to assume at this point that if a Phase 2 was not required that the Phase 1 indicates that there are no areas of environmental concern on the property.

5. **Flood Plain.** Nave Newell did not perform a flood plain study to determine the extent of the floodway associated with the stream that traverses the property. However, the stream is mapped on one of the panels from the FEMA flood study. We will have to determine whether the flood plain depicted on the FEMA study is from an actual calculation or an approximated calculation of the flood plain. If it is from an actual examination of the flood plain, a flood plain study may not be required. As indicated in Paul's memo, CMX may have prepared a flood plain study for the DASD.

6. **Geotechnical Investigation.** Paul Lepard has a copy of a geotechnical investigation of the site. We believe that the focus of the geotechnical investigation was to determine the proper type of subsurface structure for the proposed school buildings. The geotechnical investigation will have to be updated at some point in the process, when we have more definitive information about the location of proposed buildings.

II. INVESTIGATION/EVALUATIONS REQUIRED PRIOR TO COMMENCEMENT OF PREPARATION OF PRELIMINARY PLANS.

1. **Topography.** The topography will have to be completed – two/three weeks.
2. **Soil Investigation.** A detailed soil investigation will have to be performed to determine areas of the property which are capable of absorbing the required amount of additional stormwater runoff, so that appropriate areas will be reserved from development to satisfy DEP post-construction stormwater management rules. Stoltz will have to obtain from Del Val Soil & Environmental Consultants, Inc. a schedule,

but for purposes of this memo I assume that such evaluation can be completed within one month.

3. **Traffic Impact Study.** A preliminary traffic impact study will have to be prepared to document how adequate ingress and egress to the site will be obtained, and to determine the scope of off-site road improvements that will be required. Paul Lepard believes that Traffic Planning & Design, Inc. prepared the traffic impact study for the Vanguard Campus to be located on the Happy Days Farm. Therefore, I believe that a substantial amount of the basic information is already available. I suggest that Don Jacobs at Traffic Planning & Design, the engineer who was responsible for the Vanguard study, be contacted to obtain a schedule. For purposes of getting started with the planning for the site, we may be able to limit the traffic impact study to the locations of accesses. If that is correct, the access determination should be able to be completed within one month.
4. **Sewer Investigation.** Stoltz will have to supply to Nave Newell its best estimate of the type and sizes of its projected users of the site so that an estimate can be made of the total amount of sewage that will be generated by the development. When that amount is determined we will have to determine whether it is possible to purchase reserved treatment capacity in the Downingtown Area Regional Authority's sewer treatment plant so that Stoltz is assured that there will always be adequate sewage capacity available. I suspect that it will be problematic to reserve sewage treatment capacity for the entire buildout, but the initial investigation should give us the necessary information. Similarly, there will have to be an evaluation for the adequacy of the existing off-site sewage conveyance facilities. It appears from our discussion on Wednesday that while there are ways to convey the sewage from the development there are weaknesses in the existing sewer lines and pump stations that will have to be improved. The investigation should give us a better understanding of those issues. It should not take longer than four weeks to perform a substantial portion of the sewer evaluation. It may take much longer to be able to definitively solve the sewer problems.
5. **Conclusion.** Approximately four weeks to complete the pre-preliminary plan investigation/evaluation.

III. ZONING ISSUES.

1. **Conditional Use.** It is my understanding that with the exception of a relatively small portion of the DASD Property located on the eastern side of the property, the entire DASD Property is located in Uwchlan Township's Planned Industrial Commercial (PIC) Zoning District. Shopping centers are permitted in the PIC District as a conditional use. Therefore, at least the portion of the property that is to be developed as a shopping center will have to go through the conditional use process. Depending upon the attitude of the township and any protestants, the conditional use process can be very short or very long. Until we discuss the proposed use and other zoning issues with township officials, the time frame for the conditional use will remain an open question.

2. Hotel. While motels and motor courts are permitted uses in the PIC District, "hotel" is not a designated use in the District. Motel and motor court are defined in the definitional section of the Zoning Ordinance as basically hotel rooms with individual entrances. While this is obviously an antiquated definition of motor court, it appears to prohibit a hotel. However, there are a number of other hotels located along Route 100 in the Township's Planned Commercial District. Therefore, I suspect that the hotel issue will be a minimal problem.
3. Parking. The parking requirement is nine (9) spaces per thousand square feet. However, that requirement can be reduced by conditional use.
4. Buffer Adjacent to Residentially Zoned Ground. All of the ground along the eastern and northern boundary of the property is zoned Rural Residential. The Zoning Ordinance requires a 150 foot front yard, side yard or rear yard where there is an adjacent residential district. However, the buffer can be reduced by conditional use.
5. Adjacent Property Owner. The large property located to the east is owned by Melba J. and Samuel Matthews who operate some type of farm operation on the property. My understanding is that the Matthews family has been in the Township for over 100 years and that we will have to talk to the Matthews' as soon as possible.
6. Conclusion. The parking ratio issue, the 150 foot setback issue, the fact that the shopping center is permitted by conditional use and the definitional issue with regard to hotel will require us to attempt to reach an agreement with the Township as early as possible. If we do not reach an agreement quickly, the property will have to be designed in accordance with the parking requirement and in accordance with the front yard, rear yard, side yard buffer issue. While I suspect that we will be able to reach an agreement with the Township, there is no way to determine at this point how long it will take to reach that agreement, in what stage of the development process that agreement will be reached, and what will be demanded in order to obtain favorable conclusions. Because the shopping center issue, the parking lot issue and the buffer issue can all be solved by the conditional use process, I suspect that we are going to have to submit at least the conditional use application for the shopping center to meet the procedural requirements to obtain the approval of the conditional uses needed. In order to move the process as quickly as possible we will have to make the assumption that we will obtain the appropriate relief. If not, it will be months before the conditional use/land development plans can be filed.

IV. **CONDITIONAL USE PLANS/PRELIMINARY SUBDIVISION/LAND DEVELOPMENT PLANS**

1. Master Plan. Based on our discussion Wednesday morning, I believe that the first plan to be prepared will be an overall or master subdivision plan for the entire property. That plan will establish the accesses to the property, the major road network through the property, the location of master stormwater/infiltration facilities throughout the property, the sewer and water routings, master buffer and landscape areas and the manner in which the wetlands will be maintained/crossed. While the Municipalities Planning Code does not provide for a master plan, an overall subdivision plan as

referred to above can be fit into the Municipalities Planning Code regimen. In preparing the master subdivision plan Nave Newell will have to assume/determine where and what kind of buildings will be located throughout the various large subdivided portions of the property, so that areas for buildings, parking facilities, landscaping and stormwater management can be determined on an overall basis.

2. **Conditional Use.** In addition to the master subdivision plan, a conditional use plan/preliminary land development plan will have to be prepared for at least the shopping center portion of the property. Because the initial sketch plans indicate that the retail portion of the development will be located along the eastern boundary of the property we will be able to file a conditional use application with regard to parking, buffers and the use of the eastern portion of the property for a shopping center.

Based on the foregoing, the following plans will be required:

3. **Plans.**

- a) Master Subdivision Plan
- b) Conditional Use/Preliminary Development Plan for the Shopping Center
- c) Master On-Site Sewer Plan
- d) Master On-Site Water Plan
- e) Off-Site Sewer Improvement Plan
- f) Preliminary On-Site Traffic Plan
- g) Preliminary Off-Site Traffic Plan
- h) Erosion and Sedimentation Control Plan
- i) Completion of Jurisdictional Determination for Wetlands
- j) Drawings with regard to the Crossings of Wetlands
- k) NPDES/Post Construction Stormwater Management Plans

4. **Conclusion.** Based on our discussions Wednesday morning, it will take approximately three to four months to complete all of the foregoing plans. However, the preparation of the Preliminary Plans cannot start until after substantially all of the preliminary investigation is completed and after there is some degree of resolution of the zoning issues.

V. **APPROVAL OF CONDITIONAL USES AND APPROVAL OF MASTER SUBDIVISION PLAN.**

1. **Procedure for Approval of Conditional Use.** The conditional use process is supposed to be limited to a determination of whether the requests for the approval of

conditional uses comply with the objective criteria of the zoning ordinance for the granting of conditional uses. Theoretically, it is an objective process. However, the Zoning Ordinance merely permits the Board of Supervisors to reduce the parking ratio and to reduce the buffer. There are very few, if any, objective requirements. Therefore, both of those items will require that Stoltz obtain the "approval" of the Board of Supervisors. The criteria for the conditional use to permit a portion of the property to be used as a shopping center is more objective; however, once we are in the negotiating process for the reduction in the parking and the reduction in the buffer, we will be in a negotiation for other aspects of the shopping center. The Municipalities Planning Code requires that the Board of Supervisors conduct an evidentiary hearing for each of the requested conditional uses. The hearing must be advertised and the Board has 45 days after the completion of the testimony in which to make a decision. While we should be able to present all of our evidence with regard to compliance of the shopping center with the objective criteria and to make our case for the reduction in parking and the reduction in the buffers in one night, it would be unusual for a conditional use hearing for a project of this size to be concluded within one hearing. Although it is very difficult to predict how long the conditional use process will take, based on the assumption that we are going to have to negotiate many aspects of the development of the property before the commencement of the conditional use process, I would estimate that the actual conditional use process will take 4-6 months. What is unknown at this time is how long it will take to reach at least preliminary agreement with the Board so that we can proceed with the conditional use process based upon the agreements we have reached with the Board of Supervisors.

2. Preliminary Master Subdivision Plans and Preliminary Plans for Land Development for the Shopping Center. I recommend that all of the plans referred to in Section IV.2 of this Memorandum be prepared and submitted with the Conditional Use Applications. While it is possible that plans prepared to a lesser degree of detail can be filed with the Conditional Use Application, in order to expedite the entire process as much as possible, it is important to answer as many of the questions concerning the property and the development of the property as soon as possible. Having engineered plans available at the time of the review of the Conditional Use Application will expedite the process. Equally important, the Preliminary Master Subdivision Plan can be reviewed by the Township engineer during the same period of time that he would have been reviewing just the Conditional Use Plans.

Based on the foregoing assumption that the Master Subdivision Plan and the Conditional Use Plans will be submitted at the same time, it is possible that we could receive approval of both the Conditional Uses and the Master Subdivision Plan at the same time.

VI. PENNSYLVANIA DEPARTMENT OF TRANSPORTATION, HIGHWAY OCCUPANCY PERMITS AND TRAFFIC SIGNAL PERMITS. The first step in the PennDOT process is a preliminary application meeting with the Traffic Services Manager, Fran Hanney, and the PennDOT Permits Manager, Richard Avicolli. Hanney and Avicolli have agreed to unofficially review projects that require a PennDOT Highway Occupancy Permit, particularly large projects such as the

development of the DASD as early in the Township land development process as possible in order to coordinate the approval of accesses, off-site traffic improvements and signal permits required from PennDOT with the land development process at the Township. Therefore, by completing the initial traffic impact study referred to in paragraph II.3 above as soon as possible, we will be able to expedite the review and approval of the traffic study and ultimately the access, off-site improvements and traffic signals, with the goal being that the PennDOT process will not delay final unconditional approval of the plans for the development of the property.

VII. PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION.
The following DEP or DEP related approvals and permits will be required:

1. **Agreement on Extent of Wetlands.** As indicated in paragraph I.3 above, the Army Corps. Of Engineers' jurisdictional determination process to establish the exact boundaries of the wetlands was started. Ideally, this process will be completed as quickly as possible. However, recently the jurisdictional determination procedure conducted by the Army Corps. Of Engineers has been practically halted because of the United States Supreme Court's decision in *Rapanos*. We will have to determine whether or not it is possible to obtain a jurisdictional determination from the Army Corps. Of Engineers as DEP will recognize the Army Corps. jurisdictional determination.
2. **Erosion and Sedimentation Control Plans.** The Chester County Soil Conservation Service has been designated by DEP to review and approve soil erosion and sedimentation control plans for projects that require approval under the United States Clean Water Act and a number of Pennsylvania statutes. It is possible to obtain a preliminary or concept review of soil erosion and sedimentation control scenarios for developments in Chester County early in the process so that the grading plans and erosion control plans to be filed with the Township application will be consistent with the conservation district's requirements. Ultimately a request for approval of the erosion and sedimentation control plans will have to be filed with the Conservation District and can be filed as soon as the grading plans and erosion and control plans contained in the Master Subdivision Plans have been adequately finalized and receive at least conceptual approval by the Township engineer.
3. **Sewer Planning Approvals.** The planning module for land development, either for the shopping center portion of the property or the entire development will have to be approved by the Township and then approved by DEP. Based on our discussions on Wednesday, it appears that the Township has enough capacity allocated to it in the Downingtown Area Regional Plant to provide adequate sewer for at least the shopping center. Therefore, there should not be a problem in obtaining approval of a planning module for at least the shopping center. Whether we will be able to obtain approval of a planning module for a to be designed mixed use development will depend upon how much capacity in the Downingtown Area Regional Sewer Plant has been allocated to Uwchlan Township and how much of that capacity the Township is willing to allocate to the development of the property. The planning module process can be initiated early enough in the development process that it should not delay the project.

4. **Wetlands Disturbance Permits.** Whether we will need wetlands disturbance permits from DEP and possibly the Army Corps. Of Engineers and when we will need those permits depends on the design of the overall land, whether there will have to be a crossing of the stream and wetlands on the property and the magnitude of that crossing. If we have to obtain a "Joint 105" permit from DEP and possibly the Army Corps. Of Engineers it will delay final approval because a wetlands crossing permit cannot be submitted until sewer approvals are obtained and other DEP approvals are obtained. Therefore, it will probably be prudent to delay the approval of roads and utilities to service the western portion of the property until we have obtained approvals for the shopping center.
5. **NPDES Permit.** This permit is issued by DEP, usually in conjunction with the Conservation District's approval of the erosion and sedimentation control plan. This is a very important permit and every step should be taken to obtain this permit as early as possible as it is possible to actually start earth moving activities when there is a preliminary land development plan approval and an NPDES permit.

Attachment: Paul Lepard's memo dated 7/30/2008

Marc B. Kaplin

From: Paul Lepard [plepard@navenewell.net]
Sent: Wednesday, July 30, 2008 5:17 PM
To: Marc B. Kaplin; Mark Curcio; Andrew Bowers
Cc: Greg Newell
Subject: Stoltz

Marc, Mark and Andy,

I wanted to take a moment and follow-up our discussions this morning to out-line the items we discussed that need to be considered as part of your project schedule and on-going dialogue with the seller. (Please note that added a few items that we did not have a chance to discuss but I believe should be considered).

1. Topography – Processing of flown topography to supplement NN Boundary/ALTA. Anticipated processing time - 2 weeks.
2. Concept Master Plan – Refine KA Concept Sketch for the purposes of formalizing the site's design program. This plan will be used by NN, Traffic Consultant and Geo-Technical Consultant to further advance investigation and relevant analysis and testing for sewer and water services, traffic impact study, fiscal impact study and geo-technical investigation. Anticipated design time – 3 to 4 weeks.
3. Sewer Analysis – Based upon tentative project yields, prepare sewer demand analysis to address sewer permitting, capacity, routing and conveyance issues for the project. Identify areas of potential off-site improvements. Anticipated study time 3 – 6 weeks.
4. Water Service Analysis – Based upon the Concept Master Plan, initiate analysis and study to determine water service need and routing. Identify areas of potential off-site improvements. Anticipated study time 3 to 6 weeks.
5. Traffic Impact Analysis – Based upon the Concept Master Plan, engage Traffic Engineer to prepare a Traffic Impact Study to address Township and PennDOT requirements. Identify off-site improvements to roadways, intersections and signal improvements warranted by the proposed development. Anticipated study time 4 – 6 weeks (assume the later if updated counts are needed)
6. Geo-tech/Infiltration Study – Engage Soils Scientist to conduct comprehensive soils and infiltration study needed to meet PaDEP/CCCD NPDES Phase II requirements. Anticipated study time 3 to 4 weeks (could be longer if results are poor).
7. Archeological (Phase I) – Retain historical resource scientist to perform a Phase I arch. study for the 2 Class I Resources on-site that are anticipated to be razed or relocated. Anticipated study time 4 – 6 weeks
8. Master Plan: Based upon the resulting data from the study and analysis associated with items 1-7 above, refine and update the concept master plan to address on-site improvements associated with the site's development (retail/office/residential), sewer, water, traffic and SWM/NPDES. Initiate preliminary engineering of the infrastructure design including roadways, SWM and utilities. The intent of the Master Plan is to qualify 'over-all' development feasibility for the phased site development. This plan will be used for the purpose of submitting a Conditional Use Application for the Shopping Center Use. The Master Plan is intended to be detailed enough to secure use approval but is not detailed to the level of Land Development Plans. Anticipated design time 6 to 8 weeks.
9. Preliminary Land Development Plans (Phase I – Shopping Center): Prepare fully engineered land development plans for Phase I of the Master Plan. These plans are the engineered documents for both the on and off-site improvements for the proposed Shopping Center; inclusive of the re-alignment of Lionville Station Road and the Haywood Road Extension. Anticipated design time 10 to 16 weeks.
10. Approvals: Please note, regulatory approvals can, and will likely, run concurrently with the municipal review and approval.

a. Municipal Approvals:

- i. Conditional Use: Public Hearings: Projected approval time 4 to 6 months.
- ii. Preliminary Land Development Approval: Projected approval time 6 to 9 months
- iii. Final Land Development Approval: Project approval time 3 to 4 months.

- b. PennDOT: Difficult to anticipate since the scope of off-site improvements isn't defined yet. Based upon recent work of similar magnitude I would anticipate 9 to 12 months. (Excludes design and approval of slip ramp)
- c. NPDES Phase II: Insofar as this is a HQ water shed and will require an individual NPDES Permit, I would anticipate 6 to 9 months for NPDES approval.
- d. PaDEP Sewer Facilities Planning Module: Given the scope of this project, I would anticipate that the sewer Planning Module will take between 9 to 12 months to complete. (See comment 11.g below)
- e. General Permit(s): Wetland crossing permits (GP-7/8) for roadway and utilities. Anticipated approval time 4 to 6 months.

11. Other considerations:

a. PA Turnpike Commission:

- i. Slip Ramp: It will be important to determine if this project will include the slip ramp as this would likely affect the magnitude of other off-site roadway improvements. In addition to the design time needed for this facility, Turnpike Commission approval will be required and may extend the projected PennDOT approvals noted in 10.b above.
- ii. Sewer Routing: Conceptually we believe a sewer improvements might warrant boring within the ROW for the PA Turnpike. It would be prudent to anticipate PATC review/approval for this potential construction improvement.
- b. PHMC: PHMC will be notified of this project pursuant to both the NPDES and GP permit applications. Insofar as it is anticipated that the 2 Class I structures on site will be affected by the project, PHMC will likely require a Phase II arch. study. You may want to consider authorizing this investigation concurrently with 7 above. I would assume 6 – 8 weeks for the Phase II. A conservative 'guesstimate' of anticipated time to secure PHMC approval for razing and/or relocating the Class I structure is 6 to 9 months.
- c. Haywood Road Extension: Additional ROW for the Haywood Road extension will need to be acquired from the adjoining property owner. Marc, I will defer to you on what might be a reasonable time needed to negotiate this transaction.
- d. Future Township Park: I note on the zoning map that a portion of the property is assigned as a future park. The future master plan revisions should address the park.
- e. HOP/Signal Design: To be determined based upon scope of off-site improvements and project programming related to the slip ramp. Design time needs to be assigned to both NN and the Traffic Engineer for this purpose. At this juncture I would provide a time allowance of 8 – 12 weeks (again, the depends upon the traffic engineering recommendations per the TIS and related off-site improvements and is a best guess given similar scope).
- f. Flood/Hydro Analysis: It is our understanding that CMX prepared a hydro-report. Assuming that the report will be released for your use and information, the report findings will need to be reviewed and incorporated into the survey plan so to delineate the extent of the 100 Flood.
- g. PaDEP Part II Permit: In the event that a pump station and force main alternative is determined to be the best means to connect to the Township's Interceptor on the south side of the turnpike, a Part II Permit will be required for the pump station. Allocate 4 – 6 months to secure approval.

I hope this is helpful to you programming and scheduling efforts. If you have any questions regarding the outline, tasks or anticipated schedule, please give me a shout.

Regards,

Paul E. Lepard, Jr., RLA, ASLA
Principal, Director of Operations
Nave Newell, Inc.
357 South Gulph Road, Suite 300, King of Prussia, PA 19406
610-265-8323 / 610-265-4299
plepard@navenewell.net www.navenewell.com

Paul E. Lepard, Jr., RLA, ASLA
Principal, Director of Operations
Nave Newell, Inc.
357 South Gulph Road, Suite 300, King of Prussia, PA 19406
610-265-8323 / 610-265-4299
plepard@navenewell.net www.navenewell.com