CALL TO ORDER

Chair Willey called the Planning Commission Meeting to order at 7:00 p.m. and the Pledge of Allegiance was recited by all. Roll Call was taken by Mr. Toner. Vice-Chair Cerveny, Mr. Steffan and Mr. Siodlowski were noted as absent.

APPROVAL OF OCTOBER 28, 2019 MINUTES

Chair Willey called for the approval of the Minutes of the October 28, 2019 Planning Commission Meeting. Secretary Walter made a MOTION to approve the Minutes of the October 28, 2019. The MOTION was SECONDED by Mr. Barry Natwick. The motion carried unanimously (4-0).

REVIEW OF BOARD OF COMMISSIONERS MINUTES

Chair Willey noted the copies of the Board of Commissioners Minutes from the October 2 & October 2019 meetings. Chair Willey accepted these minutes.

NEW BUSINESS

A. Mark & Sandra S. Halbruner, Revised Subdivision Plan, UAT File No. 19-10-24

Mr. Mark Halbruner, owner, represented the plan along with the Eric Diffenbaugh, Diffenbaugh & Wadel. The reason for the revised plan is to remove a note from the original plan stating that site access can only be on Klinedinst Road. If the note is removed, Mr. Halbruner would be able to utilize a driveway that was constructed onto Lisburn Road.

Mr. Halbruner stated that in the November 19, 2019 letter he received from Ms. Boyer was to produce something in writing from PennDOT indicating whether there should be restrictions on the driveway that accesses E Lisburn Road. Mr. Halbruner supplied staff with a copy of the approved Highway Occupancy Permit (HOP). The HOP granted approval to access East Lisburn...
Road without any turn movement restrictions. The paperwork also included emails from PennDOT Representatives who located the driveway location originally.

Chairperson Willey asked if Mr. Halbruner was made known that Klinedinst Road was being made into a one-way street when he was purchasing the property. Mr. Halbruner explained that he was not made aware of that change until after the property was purchased.

Mr. Diffenbaugh wanted to reiterate that the plan that is before the Planning Commission has not been changed from the original plan that was submitted in 2005. The only change is to remove the note restricting access to the site. Mr. Diffenbaugh sees no issues with staff comments, and they will be completed before the plan is recorded.

No public comment was given.

Ms. Amanda Parrish made a MOTION to recommend approval of the plan with conditions. The MOTION was SECONDED by Secretary Jeffrey Walter. The motion carried unanimously (4-0). The conditions are:

**ADMINISTRATIVE**

1. Any modifications, waivers, and/or deferrals granted by the Board of Commissioners shall be listed on the final plan, including the date in which such action was granted, in accordance with Section 220-10.B(3) of the Codified Ordinances of Upper Allen Township. All deferred improvements shall be shown on final plans as future improvements.

2. The Applicant must sign the plan and have the signatures notarized according to Section 220-9.C(2)(dd) and 220-10.B(1)(a) of the Codified Ordinances of Upper Allen Township.

3. The Applicant must have the plan signed and sealed by a licensed surveyor and licensed engineer certifying to the accuracy of the survey and plan in accordance with Section 220-10.B(1)(b) of the Codified Ordinances of Upper Allen Township.

4. The Applicant shall also comply with all fees, taxes, utility rentals, building, police or fire codes, ordinances, resolutions and regulations as may be in effect from time to time concerning the proposed development.

5. The Applicant shall pay such fees as are charged from time to time by Upper Allen Township for other further reviews or permits as may be required concerning the proposed development.

6. The Applicant must satisfy all conditions on the approval of the plan and the plan must be recorded within 180 days from the date of approval by the Board of Commissioners or the plan will be considered disapproved. Since the final land development plan is approved with outstanding conditions, the signature block for the Upper Allen Township Board of
Commissioners shall state the date in which the conditional approval is granted. A second line shall be added to state, “The conditions of approval were satisfied this _____ day of __________, 2019.”

B. 500 Independence Avenue Amended Final Plan, UAT File No. 19-03-01C

Mr. Mike Davis, Duke Realty Corporation, represented the plan. Mr. Davis explained that the purpose of the plan is to amend the note in the plan stating “tractor trailer parking is restricted within certain portions on the parking lot”. It was brought to the developer’s attention by the Township that the tenant of the building was violating this note on the previous land development plan. A plan was initially submitted to address this issue in March 2019; it was later withdrawn so the developer could have additional discussions with the residents of Deer Haven. Mr. Davis stated that after multiple discussions with the Deer Haven residents he feels confident that they have come up with a solution that works well for all parties.

Mr. Davis explained that they have agreed to remove a handful of parking stalls in the western parking lot to be replaced with berms and a variety of evergreen plantings, which will provide extra screening to block the view and some of the sound. In exchange, the tenant would use the western parking lot for tractor trailer use, with the exception that the lot would not be used between the hours of 10:00pm and 6:00am.

Chair Willey asked who the person would be designated for enforcing this new restriction. Mr. Davis stated that it would be a combination of the Township, the Deer Haven HOA, the tenants of the building and Duke Realty. Chair Willey asked Ms. Boyer if that was a condition the Township would take responsibility for. Ms. Boyer explained any restrictions on the use of the lot would be the responsibility of the land owner and tenant to comply with, but the Township would also monitor it through complaints to the police department. If it were determined the owner is in violation of the condition, citations would be issued. If conditions are imposed on the land owner, it should be their responsibility to ensure they are complying with the rules.

Mr. Davis apologized saying that he didn’t mean to say the Township would be responsible for making sure the tenant complied but more so stating that when the Township sees something not in compliance, they contact the property owner right away. Chair Willey appreciated the clarification. He just wanted to be sure that nobody was thinking that the Township was solely taking responsibility of monitoring this restriction on the property. Mr. Davis added that there is a full-time property manager on site and will be the point of contact for the Township if a problem were to occur with this issue. Additionally, in the tenant’s lease going forward it will state that they must abide by the restrictions on that lot.

Chairperson Willey opened the floor for public comment.

Mark Silver, 554 Harvest Lane, Resident of Deer Haven

Mr. Silver stated that what Mr. Davis reported was accurate but would like to be more complete
in regards conditions on the plan. He commends Duke Realty for being very cooperative over the years and enforcing the conditions that have been laid out on the previous land development plan years ago. He asks that the existing conditions carry over into the new plan as well. This is to ensure that if one day Duke Realty is not the owner of the property the conditions are attached to a legal document stating that they must be met.

As Mr. Davis stated that are going to add plantings on the berms as depicted on the plan. Mr. Silver requests that Duke Realty replace all the evergreen plantings that have died or have been damaged.

Mr. Silver noted the emergency access drive along the north side of the property continue to be used for that specific reason only and to continue the restriction of lighting along that access drive. Duke Realty has been using the appropriate “down lighting” there and in the trailer drop lot and it is appreciated by all the residents along the south side of Harvest Lane.

Lastly, Mr. Silver wanted to establish a timeline for when the berms and plantings were expected to be started and finished. He suggested that it begin in the Spring of 2020 possibly May 1st. Discussion ensued between residents and the Applicant. Ms. Boyer suggested the Applicant allow themselves enough time to get the work done. Planting of vegetation in April may not be appropriate, depending on the weather. We would not want new plantings to be damaged. Mr. Silver agreed and suggested June 1, 2020 as a more reasonable date.

Greg Davis, Saul Ewing Arnstein & Lehr, legal counsel for Duke Realty stated that most of the concerns Mr. Silver brought up are already conditions on the plan that was approved, and they have no intentions of changing them.

**Michael Judge, 538 Harvest Lane, Resident of Deer Haven**

Mr. Judge wanted to take a moment to commend Township staff and Duke Realty for trying to establish these discussions as a cooperative process. He stated that when the building was planned to be constructed at 500 Independence there was a cooperative effort between the residents of Deer Haven, the developer and the Township, and he appreciates that the effort is still put in all these years later.

Secretary Walter made a **MOTION** to recommend approval of the plan with conditions. The **MOTION** was **SECONDED** by Mr. Barry Natwick. The motion carried unanimously (4-0). The conditions are:

**GENERAL**

1. All curb radii shall be shown on the plan in accordance with Section 220-16.C(3) of the Codified Ordinance of Upper Allen Township.

**ADMINISTRATIVE**
2. The Applicant must sign the plan and have the signatures notarized according to Section 220-9.C(2)(dd) and 220-10.B(1)(a) of the Codified Ordinances of Upper Allen Township.

3. The Applicant must have the plan signed and sealed by a licensed surveyor or licensed engineer certifying to the accuracy of the survey and plan in accordance with Section 220-10.B(1)(b) of the Codified Ordinances of Upper Allen Township.

4. The landscape architect licensed by the commonwealth of Pennsylvania shall sign and seal the landscaping plans, as designed in accordance with Section 245-7.5.B. of the Codified Ordinances of Upper Allen Township.

5. If the Applicant installs the improvements prior to recording the plan, then the surveyor or engineer shall provide a signed and sealed letter stating all property pins and monuments are installed, and all other improvements are installed on site as required by the revised final plan. If the Applicant does not install the improvements prior to recording the plan, then:
   
   a. The Applicant must submit a signed and sealed construction cost estimate for all improvements, in accordance with Section 220-13 of the Codified Ordinances of Upper Allen Township.
   
   b. The Applicant must provide financial security in a form acceptable to the Township and in an amount to be estimated by the applicant and approved by the Township Engineer to insure construction of the improvements and/or concrete monuments shown on the plan, and the applicant must enter into an agreement with the Township providing for construction and installation of all improvements shown on the plan according to Section 2230-13 of the Codified Ordinances of Upper Allen Township. The financial security shall contain the provision that the Township shall be informed in writing thirty (30) days before the expiration date of any letter of credit or bond provided as condition of approval.  
   
   c. The Applicant must also furnish financial security to the Township in an amount equal to 10% of the total financial security provided to cover the cost of construction inspection, administrative, and other related costs according to Section 220-52.B of the Codified Ordinance of Upper Allen Township.

6. The Applicant shall enter into a Stormwater Best Management Practices Maintenance Operation and Maintenance Agreement with the Township and pay all applicable fees, in accordance with Section 214-20.E of the Codified Ordinances of Upper Allen Township.

7. The Applicant shall pay such fees as are charged from time to time by Upper Allen Township for other further reviews or permits as may be required concerning the proposed development.
8. The Applicant shall also comply with all fees, taxes, utility rentals, building, police or fire codes, ordinances, resolutions and regulations as may be in effect from time to time concerning the proposed development.

9. The Applicant must satisfy all conditions on the approval of the plan and the plan must be recorded within 180 days from the date of approval by the Board of Commissioners or the plan will be considered disapproved. Since the final land development plan is approved with outstanding conditions, the signature block for the Upper Allen Township Board of Commissioners shall state the date in which the conditional approval is granted. A second line shall be added to state, “The conditions of approval were satisfied this ___ day of, 20___."

10. In a discussion held between Mike Davis and the Deer Haven HOA during the Planning Commission meeting, Duke Realty agreed to address several issues. While many of the concerns are already identified on the revised land development plan, the following shall be taken into consideration. If the applicant chooses to take the conditions into consideration they should be shown as additional notes on the plan.

   a. The land owner and any future owners shall be responsible for replacing any and all landscaping along the north side of the property that may have died or been removed in addition to the landscaping on the proposed plan.

   b. The land owner and any future owners shall continue the restriction of lighting along the rear of the property and use the appropriate “down lighting” in the trailer drop lot.

   c. The proposed landscaping shall be completed no later than June 1, 2020. In the event it is not completed by that time the landowner shall cease use of the trailer drop lot until plantings are complete.

BUILDING INSPECTOR’S REPORTS

Chair Willey noted the Building Inspector’s Report for October.

ADJOURNMENT

There being no further business Secretary Walter made a MOTION to adjourn. The MOTION was SECONDED by Mr. Natwick. Chair Willey adjourned the meeting at 7:42 PM.