

06-1144-CD  
David Piccoli vs Clfd County et al

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David Piccoli vs Clfd County et al

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IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY

DAVID L. PICCOLI, SR.,  
Appellant,

v.

CLEARFIELD COUNTY, acting through  
the CLEARFIELD COUNTY PLANNING  
COMMISSION,  
Appellee.

Docket No. 200-1144-CI

LAND USE APPEAL NOTICE

*Counsel for Appellant*  
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*Counsel for Clearfield County, Clearfield  
County Planning Commission*  
Kim C. Kesner, Esquire  
23 N. Second Street  
Clearfield, PA 16830-2438

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JUL 17 2012  
300 A.M. Strouss.  
W.M.

William A. Shaw  
Prothonotary

**IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY**

DAVID L. PICCOLI, SR., :  
Appellant, :  
: Docket No. \_\_\_\_\_  
v. :  
: :  
CLEARFIELD COUNTY, acting :  
through the CLEARFIELD COUNTY :  
PLANNING COMMISSION, :  
Appellee. :  
:

**LAND USE APPEAL NOTICE**

David L. Piccoli, Sr., by and through his undersigned counsel, hereby appeals to the Court a decision of Clearfield County, acting through the agency of the Clearfield County Planning Commission (CCPC File No. 14306-4), and in support thereof, respectfully represents, as follows:

**The Parties**

1. David L. Piccoli, Sr., is an adult individual whose address is 66 Pavilion Avenue, Providence, RI 20905 (hereinafter "Landowner").
2. Clearfield County is a county of the Sixth Class. The Clearfield County Planning Commission ("Planning Commission") is a planning agency created under the authority of Article II of the Pennsylvania Municipalities Planning Code ("MPC"), 53 P.S. § 10201, *et seq.* and performing its statutory duties pursuant to the Clearfield County Subdivision and Land Development Ordinance ("SALDO"). The offices of the Planning Commission are located at 650 Leonard Street – Suite 110, Clearfield, Pennsylvania 16830-3243.

### **The Premises**

3. Landowner is the owner of a parcel of real estate located in Pike Township, Clearfield County, consisting of approximately 4.34 acres and identified as Tax Assessment parcel #H10-000-00063.2 and Instrument #200209399 ("Premises").

4. The Premises are located in a rural area of Pike Township, approximately one and one-half (1 ½) miles west of Curwensville and are situated on the eastern side of State Route 879.

5. There is no zoning in Pike Township.

6. Since 2003, Discovery House CU, Inc. ("Discovery House") has operated a methadone treatment facility ("Facility") on the premises pursuant to a license issued by the Pennsylvania Department of Health.

7. Prior to the establishment of the Facility, Pike Township was apprised that the premises would be used as a methadone treatment facility. Pike Township did not interpose an objection to that use. Moreover, on October 28, 2002, the Landowner was provided with a building permit exemption by Pike Township with respect to repairs and modifications to be made to the Premises to accommodate the contemplated use as a methadone treatment facility.

8. In January of 2006, the principal structure located on the Premises was destroyed by fire. Discovery House has continued to provide methadone treatment on the Premises to approximately 200 patients utilizing temporary trailers.

### **Land Use Proceedings**

9. In order to replace the structure destroyed by fire, the Landowner prepared a land development plan which contemplates the construction of a new and larger structure on the Premises (the "Plan"). The Plan was submitted to the Planning Commission on April 11, 2006,

and was docketed at CCPC File No. 14306-4. A copy of the Plan is attachment "A" hereto with the qualification that the Plan submitted to the Planning Commission was also signed by Pike Township.

10. The Planning Commission received comments with respect to the Plan and discussed the Plan at meetings of the Planning Commission on April 17, May 15, and June 19, 2006.

11. At the Planning Commission meeting of June 19, 2006, the Landowner's representative was advised that the Plan met all criteria of the SALDO. See page 2 of the statement of Ms. Jodi Brennan, a copy of which is attachment "B" hereto. It states, in pertinent part, as follows:

As for the County's Subdivision and Land Development ordinance requirements, all related items have been met including the most recent outstanding item being the highway occupancy permit. Which leaves one last issue to contend with; that being the 500 ft. state prohibition.

12. Although the Plan met all of the requirements of the SALDO, the Planning Commission disapproved the Plan. The sole basis for the disapproval was the Planning Commission's conclusion that the use of the Premises as a methadone treatment facility was prohibited by §621 of the MPC, 53 P.S. § 10621 ("§621 Restriction"). The Planning Commission's decision, in the form of a letter dated June 20, 2006, is attachment "C" hereto ("Decision").

### **Grounds for Appeal**

13. The Decision of the Planning Commission was incorrect for several reasons. The principal errors are errors of law arising from the Planning Commission's erroneous perception

of its jurisdiction under the MPC and the SALDO and its erroneous interpretation of the §621 Restriction.

14. The Planning Commission's Decision and related interpretation of the §621 Restriction is inconsistent with the well-established rule that enactments that restrict the use of property are to be interpreted in favor of the property owner and against any implied extension of the restriction. *See*, for example, §603.1 of the MPC, 53 P.S. §10603.1.

**Planning Commission Lacks Authority to Disapprove Based on §621 Restriction**

15. The authority of the Planning Commission to act on land development matters comes exclusively from the MPC. That grant of authority is set forth in §501 of the MPC which provides in pertinent part, as follows:

Grant of power – The governing body of **each municipality may regulate subdivisions and land development within the municipality by enacting a subdivision and land development ordinance. The ordinance shall require that all subdivision and land development plats of land situated within the municipality shall be submitted for approval to the governing body or, in lieu thereof, to a planning agency designated in the ordinance for this purpose**, in which case any planning agency action shall be considered as action of the governing body. **All powers granted herein to the governing body or the planning agency shall be exercised in accordance with the provisions of the subdivision and land development ordinance. . .**

53 P.S. §10501 (emphasis added).

16. This grant of power mandates that the planning process, and any related proceedings, be pursuant to an ordinance enacted by the municipality and administered through a planning agency such as the Planning Commission. Similarly, the planning ordinance must be consistent with the MPC, and plats must then be submitted for approval in accordance with the parameters of the ordinance as so adopted. *See* 53 P.S. §§ 10503; 10508.

17. The power of the Planning Commission to disapprove the development must be based on the provisions of an ordinance. The County has adopted the SALDO. The administrative procedures of the SALDO parallel the MPC. *See SALDO, Section 1406.1.* However, the SALDO does not adopt the §621 Restriction by specific reference or by subject matter. Similarly, the SALDO does not envision the regulation of business uses, a subject quite appropriately left to the sphere of zoning if and when adopted by individual municipalities.

18. The sole basis for the Planning Commission's disapproval was, as follows:

This is to inform you that at their June 19, 2006 monthly meeting, the Clearfield County Planning Commission voted to  
**DISAPPROVE THE APPLICATION FOR LAND**  
**DEVELOPMENT because approval would violate §621(a)(1)**  
**of the Pennsylvania Municipalities Planning Code due to the**  
**proximity of the proposed land development to a residential**  
**housing area as well as a public recreational trail owned by**  
**Clearfield County Rails to Trails.**

Please refer to the Pennsylvania Municipalities Planning Code for the following consideration:

**621(a)(1) Notwithstanding any other provision of law to the contrary and except as provided in subsection (b), a methadone treatment facility shall not be established or operated within 500 feet of an existing school, public playground, *public park, residential housing area, child-care facility, church, meetinghouse, or other actual place of regularly stated religious worship established prior to the proposed methadone treatment facility.***

*See Attachment C. Emphasis in original.*

19. The Planning Commission's Decision contained no findings of fact.

20. A planning agency may only regulate the subdivision and development of land under and within the parameters of Article V of the MPC (relating to Subdivision and Land Development). Notably and significantly, the §621 Restriction is not part of Article V of the

MPC and is not part of the land development approval process. Rather, the General Assembly placed the §621 Restriction in Article VI of the MPC (relating to zoning).<sup>1</sup>

21. The Planning Commission's consideration of the §621 Restriction was not within its jurisdiction and was *ultra vires*. Alternatively, even if consideration of the §621 Restriction is potentially within the scope of a planning agency such as the Planning Commission, the consideration of the §621 Restriction was not within the purview of the SALDO and the Planning Commission has no authority to act outside of the purview of the SALDO or to base a decision on matters outside of the SALDO.

**Facility is Not Within 500 Feet of a Residential Housing Area**

22. The "residential housing area" referred to in the Planning Commission's decision was a single rental residence located along a commercial section of State Route 879 in Pike Township which is not subject to zoning. *See* Attachment "B."

23. The Facility is not within five hundred feet of a residential housing area. The term "residential housing area" is not defined by the MPC.

24. In *Sunrise Treatment Services, LLC v. Logan Township Board of Supervisors*, No. 2005 GN 4425 (Blair County C.P., March \_\_\_, 2006), the court considered whether the following two circumstances constituted a "residential housing area" under the §621 Restriction:

1. a group of five homes in an area zoned "Suburban Residential," and
2. two apartments, one located above a law office and one located above a TV shop in an area zoned "Neighborhood Business." (slip op. at 2, 9).

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<sup>1</sup> The §621 Restriction was separately enacted as a new §621 of the MPC (within Article VI) by Act 10 of 1999.

Apparently relying on the residential zoning designation, the court concluded that the five homes constituted a residential housing area (slip op. at 8). On the other hand, the court noted that the apartments were located along a heavily traveled state highway with commercial activity in the immediate area. The court reasoned that:

...when there is ambiguity in zoning ordinances, there is to be liberal construction to "allow the broadest possible use of land." *Light of Life Ministries, Inc.* 746 A.2d at 573 (Pa. 2000). These buildings containing the second floor apartments are zoned for and used for commercial use, and the apartments within are merely incidental to the commercial use of the building. Therefore, this Court would find that the two second floor apartments in commercial buildings under the facts and circumstances of this case would not constitute a residential housing area under 53 P.S. §10621. 53 P.S. § 10621.

*Id.* slip op. at 10 (emphasis in original).

25. Applying the *Sunrise Treatment* case to the present circumstances, it is clear that the referenced housing does not trigger the §621 Restriction. The locality is not zoned residential. It is adjacent to a state highway in a commercial or mixed use area.

26. The housing referred to by the Planning Commission clearly cannot be thought of as an "area." The word "area" must be considered in evaluating the §621 Restriction because the principles of statutory construction presume that "the General Assembly intends the entire statute to be effective and certain." 1 Pa. C.S. § 1922(2). When evaluating definitions and terms, the precise language of the statute must be followed. *See Light of Life Ministries, Inc. v. Cross Creek Township*, 746 A.2d at 573-574 (Pa. 2000).

27. The word "area" is not defined in the MPC. In common usage it is thought of as a region or zone as compared to a single location or item. For example, Merriam Webster's Collegiate Dictionary (10<sup>th</sup> ed.) includes the following within the definition of area:

[A] particular extent of space or surface or one serving a special function: as . . . a geographic region.

28. Black's Law Dictionary (6<sup>th</sup> ed.) includes: "A surface, a territory, a region" among its definitions of area. In context, the word area clearly means something more than a single property or even a small collection of properties. Rather, it denotes a primary use within a broader region.

29. Here, the primary use cannot reasonably be deemed a residential housing "area." The USGS Quadrant map discloses very few structures in the vicinity, and any housing is clearly existing in isolation, not in an "area." The housing is located close to commercial activity along a highway. There is no residential zoning – there is no zoning at all. Therefore, these circumstances cannot reasonably be embraced by the term "residential housing area." Consequently, any housing does not provide a basis for the application of the §621 Restriction.

**The Facility is Not Within 500 Feet of a Public Park**

30. The "public recreational trail" referred to by the Planning Commission is not a public park within the meaning of MPC. Therefore, the Facility is not within 500 feet of a public park.

31. The "public recreational trail" referred to by the Planning Commission is a rail trail privately owned by the Clearfield County Rails to Trails Association ("Rail Trail"). Moreover, as a matter of statutory construction, such trails do not trigger the §621 Restriction even if publicly held.

32. When the General Assembly added the §621 Restriction by Act 10 of 1999, it could have simply prohibited the construction of a methadone treatment facility within 500 feet of "public grounds" which was and is a defined term under the MPC. Section 107 of the MPC provides, as follows:

**“Public grounds,” includes:**

- (1) parks, playgrounds, trails, paths and other recreational areas and other public areas;
- (2) sites for schools, sewage treatment, refuse disposal and other publicly owned or operated facilities; and
- (3) publicly owned or operated scenic and historic sites.

53 P.S. §10107 (emphasis added).

33. Rather than applying the restriction to “public grounds,” the General Assembly itemized specific types of public facilities to which the §621 Restriction would apply. The list includes a public park. It does not include “trails, paths, or other recreational areas and other public areas.”

34. The Statutory Construction Act provides, in pertinent part, as follows:

In ascertaining the intention of the General Assembly in the enactment of a statute the following presumptions, among others, may be used:

...  
(2) That the General Assembly intends the entire statute to be effective and certain.

1 Pa. C.S. §1922(2). This means that individual statutory provisions must be construed with reference to the entire statute of which they are a part, and the entire statute is presumed to be certain and effective, not superfluous and without impact. *Freundt v. Commonwealth, Department of Transportation*, 883 A.2d 503, 506 (Pa. 2005). Reading §621 of the MPC in conjunction with the definition of “public grounds” in §107 of the MPC, it is clear that the General Assembly regards a trail as something different from a park. To conclude otherwise would render the term “trail” in §107 mere surplusage.

35. Given the General Assembly’s manifest intention to develop a specific list of protected spaces subject to the §621 Restriction, principles of statutory construction presume that

the exclusion of “trails, paths and other recreational areas and other public areas” contained in the MPC’s existing definition of public grounds was intentional. Applying that principle<sup>2</sup> the Rail Trail does not trigger the §621 Restriction.

**Vested Rights / Estoppel**

36. Prior to establishing the Facility, Landowner and Discovery House made a good faith examination of the Premises and the surrounding community and concluded that the §621 Restriction was not applicable to the Facility.

37. On October 28, 2002, the Landowner received a building permit exemption from Pike Township in order to repair and remodel the Premises to accommodate the use as a methadone treatment facility. No appeal was taken from the grant of said exemption.

38. Landowner and Discovery House made a substantial and unrecoverable investment in establishing the Facility on the Premises.

39. The Facility has been operated on the Premises since March, 2003, pursuant to a license issued by the Pennsylvania Department of Health, a circumstance of which all relevant governmental bodies and the public have been aware since that time.

40. No harm will result from the continued operation of the Facility on the Premises, and the public interest will be served by that continued use.

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<sup>2</sup> The principle derives from the maxim “*expressio unius exclusio alterius*” meaning that where a provision of an act is expressly stated to apply to named persons or groups, those persons or groups not named are excluded. 45 P.L.E. Statutes § 132. Our Supreme Court applied the rule in *Humphreys v. DeRoss*, 790 A.2d 281 (Pa. 2002) in considering whether the principal of an inheritance should be considered as “income” for the purposes of a parent’s obligation for child support. It concluded the inheritance was not included, stating: “In light of the fact that the legislature specifically included ‘income from an interest in an estate or trust’ but did not include the principal of an inheritance or trust, it is logical to conclude that the legislature did not intend to include the principal.” *Id.* at 285.

41. It would be inequitable to require the Facility to discontinue operations to the detriment of the Landowner, Discovery House and its patients.

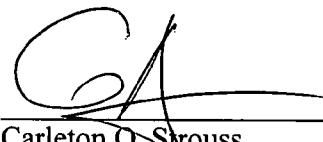
**Relief Requested**

42. The Decision of the Planning Commission was arbitrary, capricious and an abuse of discretion. More fundamentally, it was based on errors of law; and consequently this Court's review is plenary and *de novo*.

43. The only basis asserted by the Planning Commission for its disapproval was the §621 Restriction. That basis was erroneous and should be vacated. Since there were no other bases for disapproval, the Court should order that the Plan is approved as the Court is authorized to do by § 1006-A(c) of the MPC, 53 P.S. § 11006-A(c).

WHEREFORE, the Landowner respectfully requests that the Court vacate and reverse the Decision of the Planning Commission. As there were no deficiencies to the Plan, the Court should order that the Plan is approved.

Respectfully submitted,



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*Counsel for David L. Piccoli, Sr.*

A

B

## Public Education

### Land Use

This land development plan, which has received much media attention, has provided the planning commission with an opportunity to educate the public on land use regulation and in particular the extensive drug problem that is impacting our communities. Education is a key role of what a planning commission is all about. Planning Commissions can provide a forum to discuss local issues and provide education and guidance that can be used to make sound land use decisions.

The first item that I wanted to stress upon is that if a community wants to regulate how land can be used, that is, if they want to control whether a certain piece of land is used for a convenience store or simply for agricultural purposes they must do so through a zoning ordinance. A subdivision and land development ordinance, which is what the County Planning Commission administers, is not designed to regulate land use. It simply dictates development standards, regardless of the land use, development standards such as assuring the site has sufficient water and sewer capacity, adequate public access, and that storm water runoff from the development is managed to prevent flooding. In the case of the Piccoli land development plan, we have a unique situation whereas our legislators created a law specifically for a certain land use, that being the prohibition of methadone treatment clinics within 500 ft of certain facilities.

If it were not for this specific legislative requirement for methadone treatment facilities we would not even be questioning the use of this land under the county's SALDO because regulating land use is to be done through zoning regulations not subdivision & land development regulations.

If a community wants to control how land is used then they must adopt a municipal zoning ordinance. It is common misconception that a municipality can zone some use out of their municipality and that is not the case. Every legal land use must be provided for in a municipal zoning ordinance. Zoning simply allows a municipality to determine where certain uses should occur in the municipality. For example, certain incompatible land uses can be kept separate from one another. If you have limited prime business development lands you would want to protect them by designating them solely for that purpose. At the same time you would want to protect the quality of life of your residents by not allowing loud or polluting types of businesses near such residences.

Only seven of the 51 municipalities in Clearfield County have zoning. Rural Pennsylvanians are strong private property rights advocates and fear controls that would impact how they can use their properties. Many residents do not want to be told what they can and can not do on their property, however they often do not hesitate to complain that someone should be regulating what their neighbor does on his or her property. This is evident from the numerous complaints our office receives on a daily basis from residents regarding their neighbors' unkempt properties, malfunctioning sewage systems, smoke from burning trash or outdoor furnaces; building of fences/sheds on property lines, noise & odor pollution, junk cars, etc. You name it and we have probably heard it. So on one hand no one wants to be regulated however when someone is impacting your property value or quality of life it's another story. What residents need to understand is that if they want their neighbors regulated then they too have to abide by those same regulations.

### Drug Addiction & Trafficking

Last fall our office hosted several topic specific roundtables as part of our comprehensive plan process. One of those roundtables was on social services. This roundtable unveiled the extent of our social problems in Clearfield County. It was disheartening to hear how many people were in treatment for depression and drug abuse. Drug addiction is a serious problem not only here in Clearfield County but in north central PA as a whole. A report by the US Drug Enforcement Administration indicates that Philadelphia and New York based criminal groups and street gangs who distribute drugs such as heroin and cocaine are relocating to central and northern PA to establish new drug markets. The extent of our local drug addiction & trafficking problem is evident by the recent drug busts and robberies in our area.

It is unfortunate that there is a need for methadone clinics but as long as there are drug addicts there will be a need for treatment. Drug trafficking & addiction is associated with crime and that is a legitimate concern of the residents living in proximity to the clinic. Currently the Discovery House in Grampian is treating

approximately 200 patients and has a waiting list of over 400. It should be noted that all these patients are seeking treatment voluntarily. While not every patient is going to become a model citizen overnight a good majority are genuinely wanting a better life for themselves and their families. We should keep in mind that even though a waiting list of 400 seems vast; it is estimated that only 20% of heroin addicts are receiving methadone treatment. That means the other 80% are probably still out on the street buying and using drugs and committing crimes in our communities.

If there is demand for methadone treatment then it is likely that we will see another methadone facility opening up somewhere else in our area. With over 86% of our municipalities without any zoning they will have little say as to where such a facility would be best placed in their community.

There have been many misconceptions running through the rumor mill as to what Methadone is and it cognitive effects on it patients. There is plenty of literature available from reputable sources to anyone wanting to learn the truth regarding this treatment. The federal office of national drug control policy has informative fact sheets as well as links to various studies. Methadone treatment clinics are regulated not only by the State Department of Health but also by the Federal Department of Health and Human Services. Methadone, which has been used for over 30 years, is a legal and proven effective treatment for certain drug addictions.

That wraps up my public education portion of my presentation. Hopefully I provided everyone with a better understanding of land use regulation and the extent of the drug problem in our region. Now I would like to return to the land development in question which has sparked so much public interest, the Joseph Piccoli land development plan otherwise known as the Discovery House.

As for the County's Subdivision and Land Development ordinance requirements, all related items have been met including the most recent outstanding item being the highway occupancy permit. Which leaves one last issue to contend with; that being the 500ft state prohibition.

**First do we have authority to enforce Section 621 of the MPC?**

The Planning Commission has been presented with the actual dialogue between our state legislators prior to voting upon and passing Act 10, which provided for the prohibition of methadone clinics within 500 ft. of certain facilities. Upon reading the dialogue it is apparent that the legislators wanted to protect children from the increased crime activity associated with drug addicts and they wanted the 500-ft. prohibition regardless if there was any local zoning. When one legislator argued that such a prohibition could be dealt with under a local zoning ordinance, another legislator responded the only way to protect the children is to adopt a statutory solution at a state level otherwise they would be relying on others to protect the children. A letter from one of those legislators provided further evidence of this intent, James E. Casorio from the 56<sup>th</sup> Legislative District. He states in his letter that according to Patrick F. Kieley, legal counsel at the Local Government Commission this law is not conditioned to existing zoning regulations.

The 500 ft. prohibition provisions were placed in the Municipalities Planning Code. They unfortunately do not specify who should enforce; however it is assumed since they were placed in the MPC they were meant to be enforced during the planning process of a development. Since the County Planning Commission represents the local township in its planning capacity for this development the Planning Commission is being asked to enforce this 500-ft. state prohibition. A question being posed of the Planning Commission is if we don't enforce it who will?

**The second question that needs to be answered is "is there a violation of this 500 ft. prohibition?**

It is alleged that the methadone clinic is within 500 ft. of both a residential housing area and a public park. Our GIS mapping shows that there is a residential rental property with 500ft (building line to building line) and the local rails to trails is also within 500 ft (building line to building line). Is this a residential housing area? Is the rails to trails a public park? These are the questions we will need to answer this evening.

The legislators unfortunately did not provide definitions of a residential housing area nor for a public park. Our solicitor has indicated that in lieu of definitions provided for in the regulations the courts tend to rely

both our solicitor and the developer's counsel different definitions and interpretations for these terms. Depending on what dictionary you use you can find different definitions. For example, one definition found defines park as "a tract of ground kept in it's natural state, about or adjacent to a residence, as for the preservation of game, for walking, riding or the like", while yet another definition for "public" found is "open to common or general use". Would rails to trails meet the literal definition of these two words "public" & "park"? Well we know that any rails to trails funded by state DCNR monies, as was the case with this trail, require that they be open to the public. Many trails are commonly called linear parks. Those in the trail development community do consider them parks since they are open to the public for recreational purposes. Another relevant question would be do children frequent this trail? The answer is yes.

Another definition we are being asked to consider is residential housing area. "Is the rental house, which is less than 500 ft. away from the clinic, part of a larger residential housing area? Looking at the literal definition are there multiple residential houses nearby? The answer is yes and at least one is within 500 ft. of the clinic. Is this a residential housing area? One definition of area found is "a geographical region of indefinite boundary." If you drew a circle around the nearby houses and defined this as an area does it fall with in 500-ft., yes. Is the entire "area" within 500 ft., no. As you can see, without legislative provided definitions we are forced to make a best judgment call. Are there children residing within any of these residential houses? There is currently at least one known child residing in at least one of those homes. The closet residential structure, a rental, does not currently house children but could in the future since this is a rental property and the current lease is ending.

If the Planning Commission's answer is yes to the first question regarding authority then the next question is do you believe that a violation has occurred depending on your interpretation of a residential housing area and a public park? If the answer is yes the next decision that the Planning Commission will need to make is will you deny this plan on this basis?

1 c



## Clearfield County Planning Commission

650 Leonard Street • Suite 110 • Clearfield, PA 16830-3243  
(814) 765-5149 • FAX (814) 765-6056

June 20, 2006

Wilson Fisher, Jr., PLS  
Hess & Fisher Engineers, Inc.  
36 North Second Street  
Clearfield, PA 16830

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

RE: David L. Piccoli, Sr. Land Development  
Pike Township  
CCPC File No.: 14306-4

Dear Wilson:

This is to inform you that at their June 19, 2006 monthly meeting, the Clearfield County Planning Commission voted to DISAPPROVE THE APPLICATION FOR LAND DEVELOPMENT because approval would violate §621(a)(1) of the Pennsylvania Municipalities Planning Code due to the proximity of the proposed land development to a residential housing area as well as a public recreational trail owned by Clearfield County Rails to Trails.

Please refer to the Pennsylvania Municipalities Planning Code for the following consideration:

621(a)(1) Notwithstanding any other provision of law to the contrary and except as provided in subsection (b), a methadone treatment facility shall not be established or operated within 500 feet of an existing school, public playground, *public park*, *residential housing area*, child-care facility, church, meetinghouse, or other actual place of regularly stated religious worship established prior to the proposed methadone treatment facility.

If this office can be of further assistance, please call at the above number.

Sincerely,

*Jodi Brennan*  
(J.B.)  
Jodi Brennan  
Director

JB/mbb

pc: Pike Township  
David L. Piccoli, Sr.

FILED

JUL 7 2006

William A. Shaw  
Prothonotary



**Kirkpatrick & Lockhart Nicholson Graham LLP**

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July 17, 2006

Carleton O. Strauss

VIA HAND DELIVERY

717.231.4503  
Fax: 717.231.4501  
[cstrouss@klng.com](mailto:cstrouss@klng.com)

Honorable William A. Shaw, Jr.  
Prothonotary, Court of Common Pleas  
Clearfield County  
Clearfield County Court House  
230 East Market Street  
Clearfield, PA 16830

Dear Mr. Shaw:

Enclosed for filing, please find an original and two copies of the Notice of Land Use Appeal of David L. Piccoli, Sr.

This is a land use appeal pursuant to Article X-A of the Pennsylvania Municipalities Planning Code, 53 P.S. §11001-A, *et seq.* Pursuant to §1003-A, 53 P.S. §11003-A(b), it is appropriate for you to serve a copy of the appeal on the Clearfield County Planning Commission and to issue a Writ of Certiorari commanding it, within 20 days, to certify to the Court its entire record in the matter.

We are also enclosing our check in the amount of \$85.00 in payment of the filing fee.

Please be in touch with us if this raises any questions or concerns.

Thanking you I remain,

Very truly yours,

Carleton O. Strauss

Enclosure

cc: Kim C. Kesner, Esq. (w/Notice of Land Use Appeal)

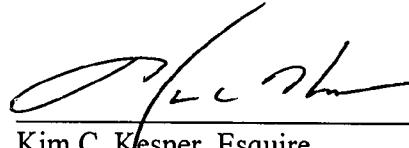
IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY

DAVID L. PICCOLI, SR., :  
Appellant, :  
v. :  
CLEARFIELD COUNTY, acting through :  
the CLEARFIELD COUNTY PLANNING :  
COMMISSION, :  
Appellee. :  
Docket No. 2006-1144-CD

**ACCEPTANCE OF SERVICE**

I accept service of the Land Use Appeal Notice on behalf of the Clearfield County  
Planning Commission and certify that I am authorized to do so.

August 2, 2006

  
\_\_\_\_\_  
Kim C. Kesner, Esquire  
Solicitor for Clearfield County  
Planning Commission  
23 N. Second Street  
Clearfield, PA 16830-2438

**FILED**

AUG 10 2006  
m 11:25 (w)  
William A. Shaw  
Prothonotary/Clerk of Courts (GK)  
I Cite to Attn

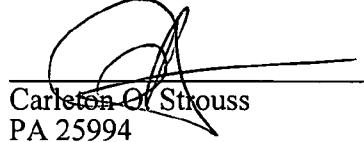
IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY

DAVID L. PICCOLI, SR. :  
Appellant, :  
v. :  
CLEARFIELD COUNTY, acting through :  
the CLEARFIELD COUNTY PLANNING :  
COMMISSION, :  
Appellee. :  
Docket No. 2006-1144-CD

**CERTIFICATE OF SERVICE**

I hereby certify that on August 8, 2006, I caused a copy of the foregoing Acceptance of Service to be served via United States first class mail upon the following persons:

Kim C. Kesner, Esq.  
Solicitor for Clearfield County,  
Pike Township and  
Clearfield County Planning Commission  
23 N. Second Street  
Clearfield, PA 16830-2438



\_\_\_\_\_  
Carleton O. Strauss  
PA 25994  
Kirkpatrick & Lockhart Nicholson Graham LLP  
17 N. Second St., 18<sup>th</sup> Floor  
Harrisburg, PA 17101  
717.231.4500  
717.231.4501 (fax)  
Counsel for Plaintiff David L. Piccoli, Sr

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

LP Land, LLC, a limited liability corporation, )  
Plaintiff, ) Case No.: 2006-1191- CD  
vs. )  
 ) Type of Case: CIVIL  
 )  
Samuel J. Serian, Harold G. Eyster Jr., Janet ) Type of Pleading: ENTRY OF  
Bonita Hartshorn, Edward K. Eyster, unknown ) APPEARANCE  
heirs and successors in interest to the estate of )  
Josephine Edwards; unknown heirs and ) Counsel of Record for this Party:  
successors in interest to the estate of Harold G. ) J. KIPP LUKEHART  
Eyster; and unknown heirs and successors in ) PA I.D. 05865  
interest to the estate of Effie M. Rupert, ) LUKEHART & LUNDY  
individuals, ) 219 East Union Street  
 ) PO Box 74  
 ) Punxsutawney, PA 15767  
 ) (814) 938-8110  
Defendants.

FILED NO CC  
m 11:14 6/1  
AUG 10 2006 copy to CIA

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

LP Land, LLC, a limited liability corporation, )

)

Plaintiff, )

vs. )

)

Samuel J. Serian, Harold G. Eyster Jr., Janet )  
Bonita Hartshorn, Edward K. Eyster, unknown ) Case No.: 2006-1191- CD  
heirs and successors in interest to the estate of )  
Josephine Edwards; unknown heirs and )  
successors in interest to the estate of Harold G. )  
Eyster; and unknown heirs and successors in )  
interest to the estate of Effie M. Rupert, )  
individuals, )

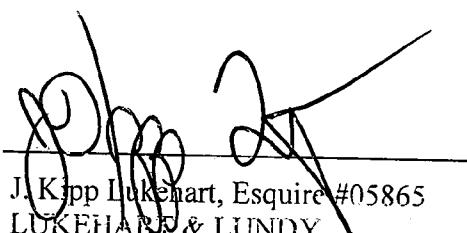
)

Defendants.

**ENTRY OF APPEARANCE**

TO THE PROTHONOTARY OF CLEARFIELD COUNTY:

Please enter my appearance on behalf of the Defendant, Samuel J. Serian.

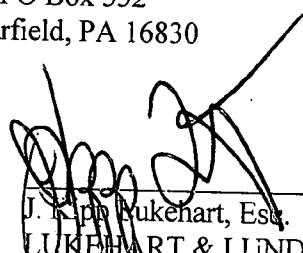


J. Kipp Lukehart, Esquire #05865  
LUKEHART & LUNDY  
PO Box 74  
219 East Union Street  
Punxsutawney, PA 15767  
Bus: (814) 938-8110

## **CERTIFICATE OF SERVICE**

I, J. Kipp Lukehart, Esquire, do hereby certify that a copy of the within Entry of Appearance was served upon counsel of record by first-class mail this 9<sup>th</sup> day of August, 2006, as follows:

James A. Naddeo, Esquire  
207 East Market Street  
PO Box 552  
Clearfield, PA 16830

  
J. Kipp Lukehart, Esq.  
LUKEHART & IUNDY  
219 East Union Street  
PO Box 74  
Punxsutawney, PA 15767  
(814) 938-8110

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

DAVID L. PICCOLI, SR., :  
Appellant : No. 2006-1144-CD  
vs. : Type of Pleading: Land Use Appeal  
CLEARFIELD COUNTY acting through :  
The CLEARFIELD COUNTY PLANNING : Type of Pleading: Certification of  
COMMISSION : Record  
Appellee : Filed on behalf of: Appellee  
: Counsel of Record for this Party:  
: Kim C. Kesner, Esquire  
: Supreme Ct. I.D. #28307  
: 23 North Second Street  
: Clearfield, PA 16830  
: 814-765-1706 – phone  
: 814-765-7006 – facsimile  
: Opposing Counsel of Record:  
: Carleton O. Strouss, Esquire  
: Ruth E. Granfors, Esquire  
: Kirkpatrick & Lockhart  
: Nicholson Graham LLP  
: 17 North Second Street, 18<sup>th</sup> Floor  
: Harrisburg, PA 17101-1507  
: 717-231-4500 – phone  
: 717-231-4501 – facsimile

FILED  
01/14/2016  
SEP 11 2016  
S

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

DAVID L. PICCOLI, SR., :  
Appellant :  
vs. : Docket #2006-1144-CD  
CLEARFIELD COUNTY acting through :  
The CLEARFIELD COUNTY PLANNING :  
COMMISSION :  
Appellee :  
:

**CERTIFICATION OF RECORD**

TO: The Honorable Judges of Said Court

In accordance with Article X-A of the Pennsylvania Municipalities Planning Code, 53  
P.S. §11003-A9(b), I, Jodi Brennan, Director of the Clearfield County Planning Commission,  
being the governing body to whose decision this Appeal has been filed, hereby certifies, that the  
following are true copies of the actions of the Planning Commission and matters considered by  
it:

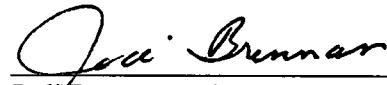
1. Application for Consideration of Subdivision Land Development Plan (Preliminary/Final Land Development Plan of David L. Piccoli, Sr.) submitted April 6, 2006.
2. Letter from the Clearfield County Planning Commission to Wilson Fisher, of Hess & Fisher Engineers dated April 18, 2006, advising him that the Application referenced above was incomplete.
3. Supplemental information from David L. Piccoli, Sr. or his agent, received by the Planning Commission in response to above letter including the following:
  - a) Letter dated May 15, 2006, from Patricia C. Shea, Esquire, Kirkpatrick & Lockhart to Jodi Brennan, Director of the Clearfield County Planning Commission.
  - b) Letter dated May 10, 2006, from Kevin W. Bloom, Project Engineer of Hess & Fisher Engineers to Clearfield County Planning Commission, with enclosures.

- i) Erosion and Sedimentation Control Plan for David Piccoli, Sr. Land Development dated May 2, 2006.
- ii) Stormwater Management Plan for David L. Piccoli, Sr. dated May 9, 2006, from Project Engineer of Hess & Fisher Engineers.
- c) Letter dated May 31, 2006, from Project Engineer to Clearfield County Planning Commission with Highway Occupancy Permit attached.
- d) Letter dated June 16, 2006, from Curt White of PA Department of Environmental Protection to Pike Township Supervisors.

4. Letter dated April 6, 2006, from Kim C. Kesner, Solicitor – Pike Township, to Clearfield County Planning Commission with enclosures.

5. Map prepared by Clearfield County GIS indicating the concerned site and its proximity to residential properties and Rails-to-Trails.

6. Letter dated June 20, 2006, from Jodi Brennan to Wilson Fisher, Jr., Project Engineer disapproving the Application for Land Development.



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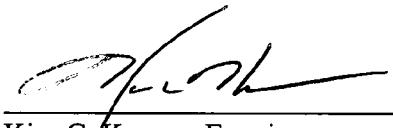
Jodi Brennan, Director  
Clearfield County Planning Commission

**CERTIFICATE OF SERVICE**

AND NOW, I do hereby certify that on the 11<sup>th</sup> day of September, 2006, I caused to be served a true and correct copy of the Certification of Record by U.S. First Class Mail, Postage Prepaid upon the following:

Carleton O. Strouss, Esquire  
Kirkpatrick & Lockhart Nicholson Graham LLP  
17 North Second Street, 18<sup>th</sup> Floor  
Harrisburg, PA 17101-1507  
*Counsel for Plaintiffs*

Date: 9/11/06

  
\_\_\_\_\_  
Kim C. Kesner, Esquire

## APPENDIX 1

### APPLICATION FOR CONSIDERATION OF SUBDIVISION LAND DEVELOPMENT PLAN

#### For Commission Use Only

CCPC FILE NO. 14306-4 Tele. \_\_\_\_\_

Date of Receipt 4/6/06 Elec. \_\_\_\_\_

Date of Filing \_\_\_\_\_ PADOT \_\_\_\_\_

Municipality \_\_\_\_\_

Fire \_\_\_\_\_

Meeting Date 4/17/06

The undersigned hereby applies for approval/review under the Clearfield County Subdivision and Land Development Ordinance of 1995 for the (Subdivision) (Land Development) Plan submitted herewith and described below:

Review X In accordance with Section 301 of the Ordinance.

Review \_\_\_\_\_ In accordance with Section 106 of the Ordinance where a local municipal Subdivision and Land Development Ordinance is in effect.

1. Plan Name: PRELIMINARY/FINAL LAND DEVELOPMENT PLAN OF DAVID L. PICCOLI, SR.

Plan No: \_\_\_\_\_ Plan Date: February 17, 2006

2. Project Location: Between Grampian & Curwensville on S.R. 0879

Municipality: Pike Township Tax Map Parcel H10-63.2

3. Name of Property Owner (s): David L. Piccoli, Sr.

Address: 66 Pavilion Avenue  
Providence, RI 20090-9399 Phone No: \_\_\_\_\_

4. Project Description:

Existing Land Use: No. of Lots: 1

Commercial

Proposed Land Use: No. of Units: 1

Commercial

Current Zoning:

N/A

APPENDIX 1 (Continued)

5. Total Acreage: 4.34

6. Application Classification: (Check One)

Preliminary Plan

Final Plan  
(must be accompanied by completed Verification Form) \_\_\_\_\_

Revised Subdivision and/or Land Development Plan

7. Name of Applicant (if other than owner): N/A

Address: \_\_\_\_\_ Phone No: \_\_\_\_\_

8. Firm Which Prepared Plan: Hess & Fisher Engineers, Inc.

Address: 36 N. 2nd Street, Clearfield, PA 16830 Phone No: 765-7541

Person Responsible for Plan: Wilson Fisher, Jr.

9. Type of Sewer Service Proposed:  Public  Community  Individual

10. Type of Water Supply Proposed:  Public  Community  Individual  
(Live, Capped)

11. Lineal Feet of New Street N/A

Identify All Streets(s) Not Proposed for Dedication N/A

12. Acreage Proposed for Park or Other Public Use: N/A

13. Amount of Filing Fee Enclosed \$25.00

The undersigned hereby represents that, to the best of my knowledge and belief, all information listed above is true, and complete.

Date

2/21/06

Kenneth Fisher

Signature of Landowner or Applicant

**FINAL PLAN CHECKLIST**  
**SUBDIVISION AND LAND DEVELOPMENT**  
**(ARTICLE VII, SECTION 703.5)**

If the following information is not provided (where applicable) the Clearfield County Planning Department cannot accept the subdivision or land development plan.

**FOR MORE INFORMATION CALL OR WRITE:**

CLEARFIELD COUNTY PLANNING DEPARTMENT  
JODI MC CLUSKEY, DIRECTOR  
209 EAST LOCUST STREET  
CLEARFIELD, PA 16830

PHONE: (814) 765-2641, Ext. 1509  
FAX (814) 765-7509

**THE FOLLOWING INFORMATION IS REQUIRED (WHERE APPLICABLE):**

- Proposed Subdivision Name, Identifying Title and the Words "Final Plan"
- Names and Addresses of Owners and Developer(s)
- Date
- North Arrow
- Graphic Scale
- A Key Map for the Purposes of Locating the Site in the County, Showing the Relation to Adjoining Property and Streets, Roads, Bodies of Water, and Municipal Boundaries Within Two Thousand (2,000) Feet of Said Property.
- N/A Zoning District (If Applicable; Where Not Applicable, Lot Size, Width, and Building Setbacks Shall Conform to Minimums Specified in ARTICLE VIII, SECTION 805.7)
- N/A Block and Lot Numbers. (NOTE: Residual Parcel Should Be Identified As "Residual Lot" and Not Assigned a Number)
- Lot Lines and Tract Boundaries With Accurate Bearings and Distances
- N/A Exact Acreage of Entire Subdivision and Each Individual Lot
- N/A Notation of Right of Way to Current and Future land Owners
- Accurate Bearings and Distances to the Nearest Established Street Corners or Official Monuments Where Practical
- Accurate Locations of All Existing and Recorded Streets Intersecting the Boundaries of the Tract
- N/A Complete Curve Data for All Curves Included in the Plan
- Locations, Names (Utilizing Official 911 Address Names), and Cartway & Right-of-Way Widths of All Existing Public Streets, Roads, Alleys, and Right(s)-of-Way(s)

Location and Material of All Permanent Existing and Proposed Monuments and Lot Markers

N/A Easement for Utilities and Any Limitations on Such Easements

N/A Accurate Dimensions of Existing Public Land and of Any Property to be Dedicated or Reserved for Public, Semi-Public or Community use; and All Areas to Which Title is Reserved by Owner(s)

Sources of Title to the Land of the Subdivision and All Adjoining Lots, as Shown by the Books of the County Recorder of Deeds and Names of the Owners of All Adjoining Unsubdivided land; Including Dates When Outtake Parcels Were recorded

The Locations and Dimensions of All Existing Streets, Roads, Railroads, Public Sewers, Aqueducts, Water Mains, and Feeder Lines, On-Lot Sewage Systems, Private and Public Wells, Fire Hydrants, Gas, Electric, Communications and Oil Transmission Lines, Streams, Intermittent Drainage Ways, Swales, Flood Plains, and Wetlands and Other Significant Features Within the Property Proposed to be Subdivided or Within Ten (10) Feet of Said Property

N/A Location of All Private Access Rights-of-Way With a Citation to the Grant or Means By Which the Easement Was Acquired (e.g., Deed Book Reference)

Location of Water Source, On-Lot Perk Holes, Slope and Indication if Utilities Are Above or Below Ground

Flood Plain Boundaries

Location of All Buildings and Approximate Location of Tree Masses Within the Property

N/A Culverts

N/A For Subdivisions Proposing One (1) or More Lots of Ten (10) Acres or Greater and Proposing On-Lot Sewage Where the Local Municipality Has Enacted an Ordinance Exempting Such Lots From Sewage Planning: Identify All Structures, Facilities, Streams, Springs, Drainage Ways, Swales and Other Significant Features Within a Two Hundred (200) Foot Radius From Any Proposed On-Lot Sewage System(s)

Pennsylvania One Call System, Inc. "STOP, CALL BEFORE YOU DIG" Logo

#### **CERTIFICATES (SECTION 703.6)**

Certification, With Seal, By a Registered land Surveyor to the Effect That the Survey and Plan Are Correct

Certificate for Approval by the County of Clearfield Planning Commission

Certificate Confirming Review of the Plan by the Municipality and Indicating Any Comments Have Been Submitted

## CERTIFICATES (CONTINUED)

- A Statement, Duly Acknowledged Before a Notary Public, With Seal and Signed by Owner(s) of the Property, to the Effect That the Subdivision Shown on the Final Plan is the Act and Deed of the Owner(s). That He/She is the Owner(s) of the Property on the Survey and Plan; and That He/She Desires the Same to be Subdivided and Recorded as Shown. Said Statement to Include an Offer Dedicating of Public Roads, Easements of Other Property Improvements as Needed
- A Certificate to Provide for the Recording of the Subdivision Plan
- A Certificate to Advise of the Date the Plan Must be Recorded By
- A Highway Occupancy Permit Notice When So Required by Section 508 (6) of the Pennsylvania Municipalities Planning Code

## ADDITIONAL INFORMATION (SECTION 703.7)

- Application for Consideration of a Subdivision and/or Land Development (See APPENDIX 1)
- Filing Fee (Next to the Last page of Ordinance Book, or Check With the Clearfield County Planning Department for Fee Schedule)
- N/A Approval of Sanitary Sewerage Service and Water Service by the Local Municipal Engineer. Include DEP Sewage Facilities Planning Modules, Components and Waivers Where Applicable
- N/A Five (5) Copies of Proposed Subdivision Maps, Including Any Proposed Covenants
- N/A Tentative Time Table for the Proposed Sequences of Development for the Subdivision, If Required (Two [2] Copies)
- N/A Suggested Deed Description(s) for All Newly Created Parcels
- N/A A Letter From the Appropriate Postmaster and the Coordinator of the Clearfield County Emergency Operation Center, Stating That the Proposed names (Except in the Case of Extension of Existing or Proposed Streets) DO NOT DUPLICATE THE NAMES OF STREETS NOW IN USE. The Administering Body of the Clearfield County "911" System Will be Asked, by the Developer, to Comment on the Proposed Street Name(s)
- N/A When Wetlands Exist on Property Proposed to be Subdivided, the Following Shall be Recorded on the Plan. "NOTE WETLANDS EXIST ON LOT(S) NO \_\_\_\_ WETLANDS ARE PROTECTED UNDER PENNSYLVANIA CODE CHAPTER 105. CAUTION SHOULD BE EXERCISED TO ENSURE THAT ANY DEVELOPMENT PROPOSED FOR LOT \_\_\_\_ DOES NOT DISTURB THE WETLANDS."
- N/A Final Profiles, Cross Sections, and Specifications for Street Improvements, and Sanitary Storm Sewer, and Water Distribution Systems Shall be Shown On One (1) Or More Separate Sheets. (Two [2] Copies.)

## ~~ADDITIONAL INFORMATION (CONTINUED)~~

N/A Letter From the Appropriate Utility Companies Stating That They Will Provide the Subdivision With Service

N/A Letter From the Local Municipality With Any Comments, Objections or Suggestions on the Plan, If Applicable

X Title Information, Including Copies of Deeds and Other Documents Record Confirming That All Parcels of the Proposed Subdivision Shall Have Adequate, Enforceable and Permanent Access to a Public Road

### **FOR MORE INFORMATION CALL OR WRITE:**

#### **CLEARFIELD COUNTY PLANNING DEPARTMENT**

**JODI MC CLUSKEY, DIRECTOR  
209 EAST LOCUST STREET  
CLEARFIELD, PA 16830**

**PHONE: (814) 765-2641, Ext. 1509  
FAX (814) 765-7509**



**Kirkpatrick & Lockhart Nicholson Graham LLP**

7 North Second Street, 18th Floor  
Harrisburg, PA 17101-1507  
717.231.4500  
Fax 717.231.4501  
[www.klng.com](http://www.klng.com)

May 15, 2006

Patricia C. Shea

717.231.5870  
Fax: 717.231.4501  
[pshea@klng.com](mailto:pshea@klng.com)

**First Class Mail**  
**Via Facsimile (814) 765-6056**

Jodi Brennan  
Director  
Clearfield County Planning Commission  
650 Leonard Street - Suite 110  
Clearfield, PA 16830-3243

Re: David L. Piccoli, Sr. Land Development  
Pike Township  
CCPC File No. 14306-4

Dear Ms. Brennan:

This letter responds to your April 18, 2006 letter to Wilson Fisher, Jr., P.E., P.L.S., Hess & Fisher Engineers, Inc., in which you list five pending items with respect to the land development plan noted above and provides a status of those pending items. As you know, this firm represents Mr. Piccoli with respect to this land development.

Item 1 – Highway Occupancy Permit. We have submitted all materials necessary to obtain the Highway Occupancy Permit to the Pennsylvania Department of Transportation so that it may re-issue the permit to reflect the current owner of the property and the estimated usage. We anticipate receiving the permit in the near future and will let you know when it is received.

Item 2 – On Lot Sewage System. We understand that Kevin Bloom has spoken with you about the on lot sewage system and has advised you that this system is not the system that existed when Mr. Piccoli purchased the property. Moreover, the existing on lot sewage system was permitted by Pike Township in 2002 when Mr. Piccoli obtained the property. The projected sewage flow generation that was the basis for the on lot system design and permit issuance is well above the existing sewage generation. In addition, there has been no indication of plans for increased flow above the data submitted in 2002 that would be the basis for new sewage planning.

Furthermore, specific to the capacity of the existing system and its ability to function properly, it is our understanding that Pike Township, through its SEO, has evaluated the system and that the sewage flows are within the design capacity. Thus, Pike Township considers the existing on lot system to be fully compliant with the applicable regulations and ordinances. Indeed, Pike Township Secretary Jim Norris has indicated to Mr. Bloom that the Pike Township minutes from March and April 2006 Township meetings address this issue. I understand that Mr. Norris would be happy to confirm the content of these minutes for you if you would like to speak with him.



Kirkpatrick & Lockhart Nicholson Graham LLP

Jodi Brennan

May 15, 2006

Page 2

We are surprised that the Planning Commission listed the on lot sewage system as a pending item given that Pike Township did not raise it as an issue when it forwarded the land development plans to you by letter dated April 5, 2006. Nevertheless, based on Pike Township's evaluation and public consideration and determination of the adequacy of the sewage system, we have concluded there are no further issues regarding the on lot sewage system. If you need further information on this matter, please let us know as soon as possible.

Items 3 & 4 – Erosion and Sedimentation Control Plan and Stormwater Management Plan. By letter dated May 10, 2006, Kevin Bloom, P.E., submitted these two plans to you.

Item 5 – Section 621 of the Pennsylvania Municipalities Planning Code. We will address this item by separate letter to the counsel for the Planning Commission.

If you have any questions about this letter, please contact me at 717.231.5870.

Sincerely,

Patricia C. Shea

A handwritten signature in black ink that reads "Patricia C. Shea".

cc: Kevin Bloom, P.E.  
Kim C. Kesner, Esq.  
Ruth E. Granfors, Esq.

Rec 5/11/06

# HESS & FISHER ENGINEERS, INC.

*Professional Engineers since 1900*

36 NORTH SECOND STREET  
CLEARFIELD, PA 16830

May 10, 2006

814-765-7541  
800-720-7541  
FAX 814-765-6488  
www.hessfishereng.com

Ms. Jodi Brennan, Director  
Clearfield County Planning Commission  
650 Leonard Street, Suite 110  
Clearfield, PA 16830

Re: David L. Piccoli, Sr.  
Land Development Plan  
CCPC File 14306-4  
Pike Township  
Clearfield County

Dear Jodi:

As requested by your April 18, 2006 letter to Wilson Fisher, Jr., P.E., P.L.S., of Hess & Fisher Engineers, Inc., the following items are provided for the above referenced site:

1. An Erosion and Sedimentation Control Plan per 1011A of the Clearfield County Subdivision and Land Development Ordinance (CCSALDO).
2. A Stormwater Management Plan per Section 811 of the CCSALDO.

Additional items requested in your April 18, 2006 letter will be responded to separately.

Please contact me if you have any questions.

Very truly yours,



Kevin W. Bloom, P.E.  
Project Engineer

KWB:tlc

Cc: David L. Piccoli, Sr.  
Kenneth Tressler  
Patricia C. Shea, KLNG  
File/Mydoc/Discoveryhouse

# HESS & FISHER ENGINEERS, INC.

*Professional Engineers since 1900*

36 NORTH SECOND STREET  
CLEARFIELD, PA 16830

814-765-7541  
800-720-7541  
FAX 814-765-6488  
[www.hessfishereng.com](http://www.hessfishereng.com)

EROSION AND SEDIMENTATION CONTROL PLAN  
FOR  
DAVID PICCOLI, SR.  
LAND DEVELOPMENT  
TAX ASSESSMENT PARCEL H10-000-00063.2  
PIKE TOWNSHIP, CLEARFIELD COUNTY

Date: 5/2/06

Prepared by:

*Kevin W. Bloom*

Kevin W. Bloom, P.E.  
Project Engineer

David L. Piccoli, Sr.  
Erosion & Sedimentation Control Plan

A. EXISTING TOPOGRAPHY

Reference is made to the E&S Control Plan Map, which shows the existing topography, stream (Kratzer Run) site area and other local features. A location map from the Curwensville 7½' Minute Quadrangle map is included as well.

B. TYPE, DEPTH, SLOPE, LOCATION AND LIMITATION OF SOILS

Soils for the site include the following mapped zones from the Clearfield County Soils Manual.

HbF - Hazelton very stony loam - 25-80%  
Ud - Udifluvents sandy - 0-3%

The soils map, however, does not accurately reflect the site modifications that occurred with the construction of S.R. 0879 in the 1950's. Most of the level area above the stream valley were the existing structure and parking area are located consist of Uo (Udorthents) soils. These materials were placed within the site during the PA DOT road construction and Kratzer Run stream relocation.

C. CHARACTERISTICS OF EARTH DISTURBANCE ACTIVITY

The earth disturbance area will be limited to the area surrounding and to contain a commercial building to be constructed to replace an existing building that was destroyed by fire. The total earth disturbance projected for razing the old building and construction of the new building is 8000 ft<sup>2</sup>. The earth disturbance activity will be limited to topsoil removal and minor grading. The land use characteristics will remain the same.

D. THE QUANTITY OF RUNOFF FROM THE PROJECT AREA

The peak discharge from the earth disturbance area during a 10-year storm would be 0.5 cfs. There is only a limited amount of area upslope of the earth disturbance area with S.R. 0879 acting as an upslope diversion.

E. THE LOCATION OF RECEIVING STREAMS

The project area is located adjacent to Kratzer Run, tributary to Anderson Creek. All runoff from the site would eventually provide surface recharge to Kratzer Run. The Chapter 93 stream classification for Kratzer Run is CWF.

David L. Piccoli, Sr.  
Erosion & Sedimentation Control Plan

F. NARRATIVE DESCRIPTION OF BMPs TO BE UTILIZED AT THE SITE DURING EARTHMOVING ACTIVITIES

The BMPs to be utilized during earth disturbance include the use of filter fence downgradient of the disturbed areas to control any surface runoff from earth disturbance areas. A vegetated earth berm along the upgradient S.R. 0879 highway right-of-way will preclude any surface runoff from entering the earth disturbance area. Refer to the attached construction details and specifications, as well as the map showing the location of the filter fence and soil berm BMPs. Also, note that the site already has in place a stable access road off of S.R. 0879. BMPs of temporary and permanent revegetation would be established using the following guidelines:

1. Temporary Revegetation

Drill or broadcast seeding will be used as necessary to establish vegetation.

Grass hay or cereal straw will be used as mulch and will be applied to produce a layer  $\frac{1}{4}$ -inches thick. The temporary cover revegetation seeding requirements are as follows:

<u>Revegetation Grass Mix</u>	
Temporary Species:	Annual Ryegrass
Pure Live Seed:	81%
Application Rate:	48 lbs/acre
Liming Rate:	300 lbs/1000 s.y.
Mulch Type:	Clean Straw or Grass
Hay	
Mulching Rate:	3 tons/acre (3/4" thick layer)

2. Permanent Revegetation

Permanent Vegetative Cover will be established on all disturbed areas of the site. This will occur as the final surface configuration is established.

Preparation

The surface and subsurface layers will be limed and fertilized as per the guidelines. The seedbed will be

David L. Piccoli, Sr.  
Erosion & Sedimentation Control Plan

prepared in accordance with soil test recommendations.

Planting

Drill and/or broadcast seeding will be used as necessary to establish vegetation.

Grass hay or cereal straw will be used as mulch and will be applied to produce a layer  $\frac{1}{4}$  inches thick. Generally, three (3) tons of mulch per acre is sufficient to provide the  $\frac{1}{4}$  inch thickness.

Cover Measurement

The standard for successful re-vegetation shall be the percent of groundcover of the vegetation, which exists on the site. The Department will not approve less than a 70% groundcover of permanent plant species. No more than 1% of the total area may have less than 30% groundcover.

The permanent grass mix cover specifications are as follows:

(PERMANENT SPECIES)	PERENNIAL RYEGRASS	CREEPING RED FESCUE	KENTUCKY BLUEGRASS
%PURE LIVE SEED	88	83	78
APPLICATION RATE PER LB/ACRE	4	6	11
FERTILIZER TYPE	10	20	20
FERTILIZER APPLICATION RATE: 140 LBS. PER 1000 S.Y.			
LIMING RATE: 800 lbs. per 1000 s.y.			
MULCH TYPE: straw or Hay			
MULCHING RATE: 3 TONS/ACRE			
Seeding season dates: 3/15 to 6/01 and 8/01 to 10/15			

G. SEQUENCE OF BMP INSTALLATION

The following progression of BMP installation is proposed:

1. Installation of filter fence downgradient of the construction site.
2. Removal of topsoil and construction of upgradient berm.
3. Vegetation of earth berm with a combination of temporary and permanent vegetative cover.

David L. Piccoli, Sr.  
Erosion & Sedimentation Control Plan

4. Revegetation of earth disturbance areas upon completion of construction.
5. Removal of upgradient earth berm and filter fence.

H. SUPPORTING CALCULATIONS

Refer to the attached sheets for supporting calculations.

I. PLAN DRAWINGS

Refer to the attached E&S Control Plan Map.

J. MAINTENANCE PROGRAM

Until the site is finally stabilized, all erosion and sedimentation BMPs must be maintained properly. Maintenance must include inspections of all erosion and sediment BMPs after each runoff event and on a weekly basis.

All preventive and remedial maintenance work, including clean out, repair, replacement, regrading, reseeding and remulching must be performed immediately.

If erosion and sedimentation control BMPs fail to perform as expected, replacement BMPs or modifications of those installed will be required.

K. MEASURES FOR RECYCLING OR DISPOSAL OF MATERIALS FROM THE PROJECT SITE

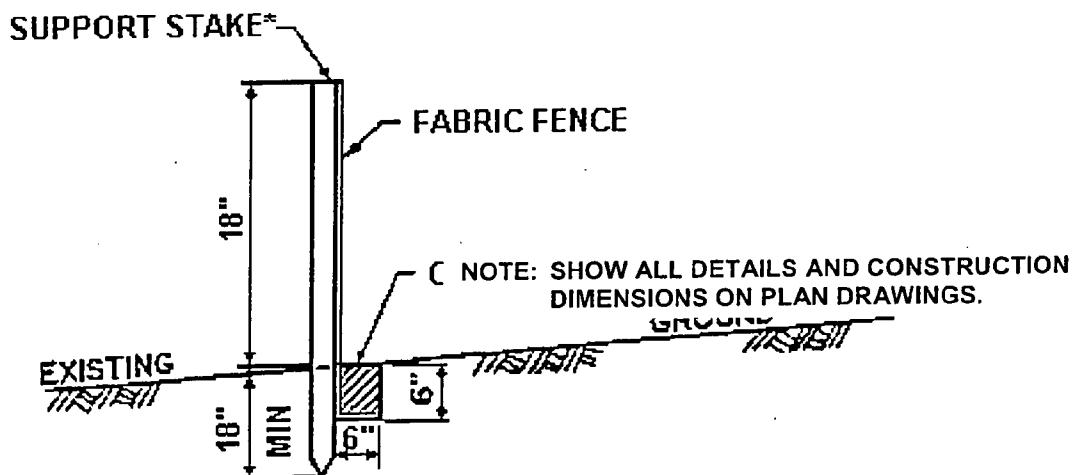
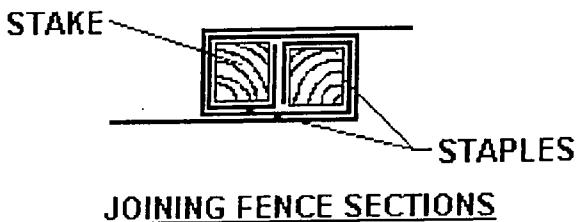
The developer will implement measures during the construction process to assure that control over construction waste is exercised. This includes excess soil material, excess building materials, concrete wastewater, sanitary waste, litter or any other materials that could adversely impact water quality. These materials will be properly addressed to assure that they do not create a pollution problem.

**STANDARD WORKSHEET #2**  
**Standard Filter Fabric Fence**

PROJECT NAME: David L. Piccoli, Sr.LOCATION: SR - 0879 Pike Township Clearfield Co.PREPARED BY: Kevin BloomDATE: 5/2/06CHECKED BY: Kevin BloomDATE: 5/2/06

## CONSTRUCTION DETAIL:

**\*STAKES SPACED @ 8' MAX.  
 USE 2" X 2" WOOD OR  
 EQUIVALENT STEEL STAKES**



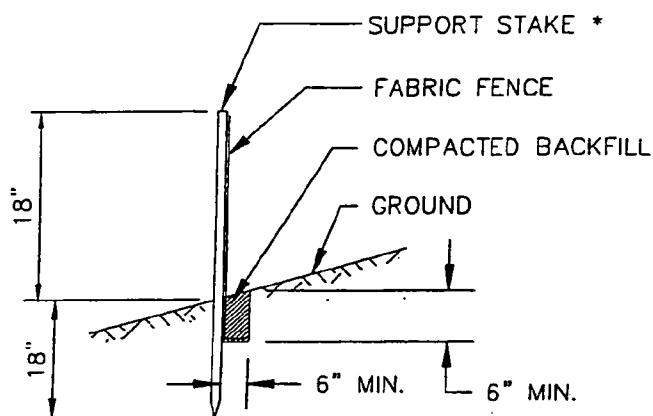
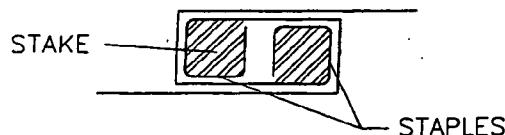
Filter fabric fence must be installed at existing level grade. Both ends of each fence section must be extended at least 8 feet upslope at 45 degrees to the main fence alignment.

Sediment must be removed where accumulations reach 1/2 the above ground height of the fence.

Any fence section which has been undermined or topped must be immediately replaced with a rock filter outlet. See Rock Filter Outlet Detail.

BARRIER NO.	LOCATION	SLOPE-PERCENT	SLOPE LENGTH ABOVE BARRIER (FT)
FFA	East of Construction South End	3	60
FFB	East of Construction South End	3	60

**STANDARD CONSTRUCTION DETAIL #19**  
**Standard Filter Fabric Fence (18" High)**



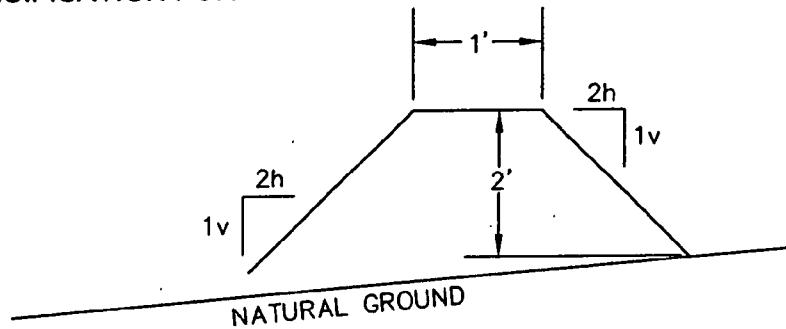
\*Stakes spaced @ 8' maximum. Use 2"x 2" wood or equivalent steel stakes.

Filter Fabric Fence must be placed at level existing grade. Both ends of the barrier must be extended at least 8 feet up slope at 45 degrees to the main barrier alignment.

Sediment must be removed when accumulations reach 1/2 the above ground height of the fence.

Any section of Filter fabric fence which has been undermined or topped must be immediately replaced with a Rock Filter Outlet. See Standard Construction Detail # 18.

SPECIFICATION FOR VEGETATED SOIL BERM



- 1) BERM IS TO BE CREATED FROM ON SITE SOILS AND IS TO BE SEDED IMMEDIATELY

DAVID L. PICCOLI, Sr.  
Erosion & Sedimentation Control Plan

# HESS & FISHER ENGINEERS, INC.

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CLEARFIELD, PA 16830

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800-720-7541  
FAX 814-765-6488  
www.hessfishereng.com

MANAGEMENT OF STORMWATER DRAINAGE  
PER SECTION 811, CLEARFIELD COUNTY  
SUBDIVISION AND LAND DEVELOPMENT ORDINANCE  
DAVID L. PICCOLI, SR.

LAND DEVELOPMENT PLAN  
Pike Township, Clearfield County

Date: 5/9/06



*Kevin W. Bloom*

Kevin W. Bloom, P.E.  
Project Engineer

David L. Piccoli, Sr.  
Land Development Plan  
Stormwater Management

BACKGROUND

The Land Development Plan, as proposed, is to rebuild and expand upon the existing structure that was recently destroyed by fire. Background information that is relevant is as follows:

The David L. Piccoli, Sr. property consists of 4.34 acres which is bounded on the west by S.R. 0879. The eastern boundary is just east of and includes Kratzer Run. The property was initially developed in the early 1990's as a monument works. The current owner purchased the building in 2002 and modified the interior to provide for the current use.

The reconstruction will not result in any change to the parking area or earth disturbance beyond the confines of the building construction. There will be an upgrade to the driveway access to pave the area within the PennDOT right-of-way. This area is currently a compacted gravel surface. The paved area would consist of a 24-foot wide driveway with a 15-foot turning radius the width of the right-of-way from the edge of pavement (20 feet width). Areas upgradient of the site are intercepted by the S.R. 0879 drainage collection ditch and are conveyed around the site.

Based upon requirements of the Clearfield County Subdivision and Land Development Ordinance, an evaluation of the property pre-construction (prior to the fire), as compared to post-construction (after the rebuild) using the Rational Equation to compare the impacts of a 10-year storm event was completed.

David L. Piccoli, Sr.  
Land Development Plan  
Stormwater Management

Computations for the pre-construction property are as follows:

Rational Equation

$Q = CIA$

$Q = \text{Peak runoff in cfs}$

$C = \text{Runoff coefficient (dimensionless)}$

$I = \text{Rainfall Intensity (inches/hour)}$

$A = \text{Drainage Area (acres)}$

Computation of C

$C \text{ for Parking lot and building roofs} = .95$

$C \text{ for vegetated areas of property} = .45$

Area of Parking Lot  $18,560 \text{ ft}^2$

Area of Building  $1,456 \text{ ft}^2$

$20,016 \text{ ft}^2 = .46 \text{ acres}$

Area of vegetation  $= 4.34 - .46 = 3.88$

Weighted runoff curve:

$$C = \frac{(.46 \times .95) + (3.88 \times .45)}{4.34} = .503$$

Time of Concentration Computation

A. Sheet flow

Sheet flow length  $= 150 \text{ feet}$

Slope  $= .02 \text{ ft/ft}$

Roughness coefficient  $= .05$

$$T_c \text{ Sheet flow} = \frac{[2 L n]}{[3 (s)]}^{.4673}$$

$$= \frac{[2 \times 150 \times .05]}{[3 (.02)]}^{.4673}$$

David L. Piccoli, Sr.  
Land Development Plan  
Stormwater Management

Tc sheet flow = 5.3 minutes

B. Tc Shallow concentrated flow

300 feet at 3% at 3.5 ft/s = 1.4 minutes

140 feet at 3% at 1.3 ft/s = 1.8 minutes

Tc Shallow Concentrated Flow - 3.2 minutes

Total Time of Concentration - 5.3 minutes

1.4 minutes

1.8 minutes

8.5 minutes

Rainfall Intensity - I

10-year storm rainfall intensity

Use Rainfall Intensity Frequency Tables for Pennsylvania,  
Clearfield County

10-year storm and Time of Concentration of 8.5 minutes

= .142 hours

Intensity I = 4.4 inches/hour

Q = CIA

= .503 x 4.4 x 4.34 = 9.6 cfs

Computations for the Post-Construction Property have been completed with the design of a roof sump for the storm gutters from the newly constructed building. As a result, the new building surface area will not be accounted for as surface runoff since this area will contribute as groundwater infiltration.

David L. Piccoli, Sr.  
Land Development Plan  
Stormwater Management

Rational Equation

$Q = CIA$

$Q$  = Peak runoff in cfs

$C$  = Runoff coefficient (dimensionless)

$I$  = Rainfall Intensity (inches/hour)

$A$  = Drainage Area (acres)

Computations of  $C$

$C$  for Parking lot and building roofs - .95

$C$  for vegetated areas of property - .45

$C$  for new paved areas - .98

Area of Parking Lot 17,820 ft<sup>2</sup>

Area of Paved Access 740 ft<sup>2</sup>

Area of Building 2,880 ft<sup>2</sup> (Removed from computation due to use of roof sump)

Total 21,440 ft<sup>2</sup>

Or .492 acres

Area of vegetation = 4.34 - .492 = 3.848

Weighted runoff curve:

$$C = \frac{(.409 \times .95) + (0.17 \times .98) + (3.848 \times .45)}{4.274}$$

$$C = .500$$

Time of Concentration Computation

$T_c$  post-construction is not changed from  $T_c$  pre-construction

$T_c$  total = 8.5 minutes

David L. Piccoli, Sr.  
Land Development Plan  
Stormwater Management

Rainfall Intensity - I

10-year storm rainfall intensity

Use Rainfall Intensity Frequency Tables for Pennsylvania,  
Clearfield County

10-year storm and Time of Concentration of 8.5 minutes

= .142 hours

Intensity I = 4.4 inches/hour

Q = CIA

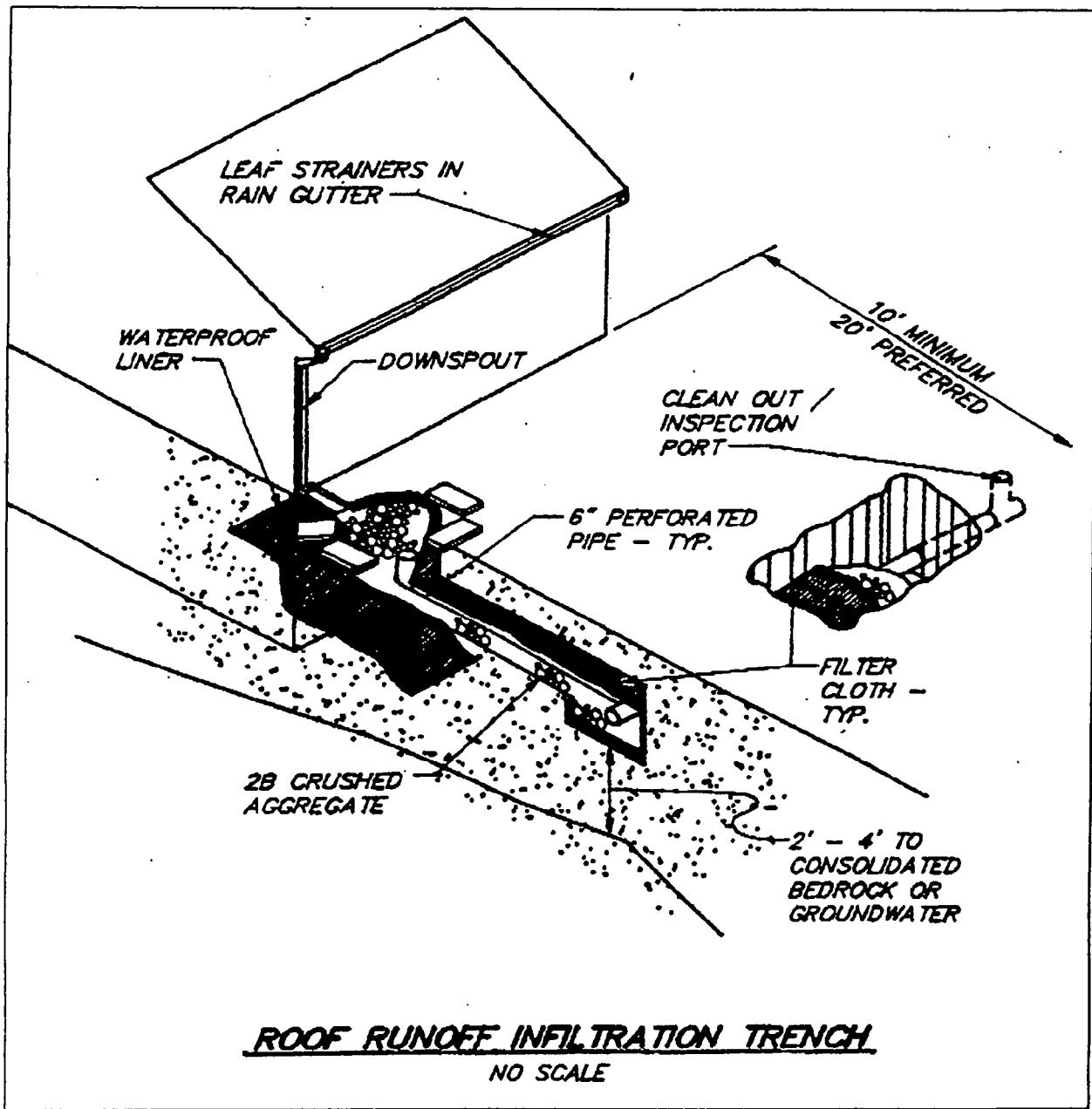
= .500 x 4.4 x 4.274 = 9.40 cfs

CONCLUSION

The post-construction peak discharge for a 10-year storm with the implementation of the roof sump for the building is less than the pre-construction discharge:

Pre-construction = 9.60 cfs

Post-construction = 9.40 cfs



**ROOF SUMP SPECIFICATIONS:**

1. The roof sump dimensions: 167 sq. ft. This could include a single sump totaling 167 sq. ft. or a combination of multiple sumps totaling the same surface area. If multiple sumps are used, the roof surface area should be divided equally as possible between sumps.
2. Depth: 3 feet
3. Aggregate: AASHTO #3
4. Building foundation shall be at least 10 ft up-slope of the sump to prevent possible foundation flooding. The sump should be placed on slopes not exceeding 5% and should be constructed in natural soils (not on fill area).

# HESS & FISHER ENGINEERS, INC.

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CLEARFIELD, PA 16830

May 31, 2006

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FAX 814-765-6488  
www.hessfishereng.com

Ms. Jodi Brennan, Director  
Clearfield County Planning Commission  
650 Leonard Street, Suite 110  
Clearfield, PA 16830

Re: David L. Piccoli, Sr.  
Land Development  
CCPC File 14306-4  
Pike Township  
Clearfield County

Dear Jodi:

Please find enclosed a copy of the approved Highway Occupancy  
Permit for the above referenced site.

Should you have any questions regarding this, please feel free to  
contact me.

Very truly yours,



Kevin W. Bloom, P.E.  
Project Engineer

KWB:tlc  
Cc: David L. Piccoli, Sr.  
Patricia C. Shea  
Jim Norris, Pike Twp.  
Secretary  
Ken Tressler  
File/Mydoc/DiscoveryHouse



## HIGHWAY OCCUPANCY PERMIT

PERMIT NO.	02018108
ORGANIZATION	022
DATE ISSUED	06/25/06
PERMIT FEES	\$0.00
ACCOUNT NO.	
COUNTY	17
TOWNSHIP/BORO	226

PERMITTEE	DAVID L PICCOLI	
ADDRESS	3999 CUSHENSVILLE-GRAMPIAN HWY	
POST OFFICE	CUSHENSVILLE	PA 16022
ZIP CODE	16022	
COUNTY	CLEARFIELD	
TOWNSHIP/BORO	PIKE	

BOND/AGREEMENT NUMBER \_\_\_\_\_

ALL WORK UNDER THIS PERMIT MAY BE STARTED ON 05/25/06AND SHALL BE COMPLETED ON OR BEFORE 05/25/07

Immediately upon completion of the work, Permittee shall notify the permit office where application was made. Subject to all the conditions, restrictions, and regulations prescribed by the Pennsylvania Department of Transportation, (see in particular 67 Pa. Code, Chapter 203, 441 and 459) and subject to the plans, special conditions, or restrictions herein set forth or attached hereto. This permit shall be located at the work site and shall be available for inspection by any police officer or department representative.

DESCRIPTION	521	1
STATE ROUTE NO.	0879	
SEGMENTS	0080 0080	
OFFSET TO OFFSET	0445 0445	

DESCRIPTION		2
STATE ROUTE NO.		
SEGMENT(S)		
OFFSET TO OFFSET		

DESCRIPTION		3
STATE ROUTE NO.		
SEGMENT(S)		
OFFSET TO OFFSET		

TOWNSHIP/BORO		4
DESCRIPTION		
STATE ROUTE NO.		
SEGMENT(S)		
OFFSET TO OFFSET		

**DESCRIPTION OF WORK**

INSTALL LOW VOLUME DRIVEWAY AT SR 0879, SEG 0080 OFFSET 0445 TO SEG 0080 OFFSET 0445 THIS PERMIT AUTHORIZES WORK ONLY IN DEPARTMENT HIGHWAY RIGHT OF WAY.

PERMITTEE MUST MAINTAIN EXISTING SHOULDER DURING CONSTRUCTION.

ACCESS SIGNING AND PAVEMENT MARKINGS MUST BE MAINTAINED BY PERMITTEE.

MINIMUM WORK ZONE TRAFFIC CONTROL TO BE IN ACCORDANCE WITH PUB. 213, FIGURE(S): 5, 7.

IT IS THE PERMITTEE'S RESPONSIBILITY TO KEEP VEGETATION TRIMMED IN ORDER TO MAINTAIN MINIMUM SIGHT DISTANCE. NO OBJECTS MAY BE PLACED WITHIN THE LINE OF SIGHT.

DEPARTMENT MUST BE NOTIFIED IN WRITING UPON COMPLETION OF WORK.

ALL DISTURBED AREAS OUTSIDE THE PAVEMENT OR SHOULDER SHALL BE RESTORED TO A CONDITION AT LEAST EQUAL TO THAT WHICH EXISTED BEFORE THE START OF WORK.

PERMITTEE IS RESPONSIBLE FOR ENSURING THAT MUD, SILT AND OTHER DEBRIS IS REMOVED FROM VEHICLES AND TIRES (BY POWER WASH, ETC.) BEFORE ENTERING ONTO THE HIGHWAY.

X

X

X

THIS PERMIT IS NOT VALID UNTIL SIGNED BY THE DISTRICT ENGINEER OR HIS AUTHORIZED REPRESENTATIVE

## Acknowledgement of Completion

Permitted work has been completed.

Date \_\_\_\_\_ By \_\_\_\_\_

ALLEN D. BIEHLER, P.E.

Secretary of Transportation

For KEVIN R. KLINE, P.E.

District Engineer/Administrator

PERMITTEE



Pennsylvania Department of Environmental Protection

208 West Third Street, Suite 101  
Williamsport, PA 17701-6448  
June 16, 2006

Northcentral Regional Office

Fax 570-327-3565

Pike Township Supervisors  
c/o Olen J. Norris, Jr., Secretary  
P.O. Box 219  
Curwensville, PA 16833

Re: Sewage  
Pike Township, Clearfield County

Dear Supervisors:

In the past few weeks our office has had several contacts from concerned citizens and legislators regarding the Discovery House. These contacts have been initiated by recent published newspaper articles reporting that the number of clients treated at this facility may increase substantially. Specifically, the concerns center of the ability of the existing on-lot sewage system to adequately handle the increase in sewage flow that may be generated by the increased numbers of clients visiting the facility.

I have discussed this matter with your Sewage Enforcement Officer, Jim Wischuck and I have reviewed historic water consumption records and the on-lot sewage permit issued to the facility. While I agree with Mr. Wischuck's determination that the system has the capacity to handle additional sewage, I believe that the township should put into practice a plan to monitor future water consumption to assure there won't be a problem in the future. I suggest that you compare the water consumption records with the historical use of the facility in terms of the numbers of clients visiting the facility. By making that comparison the township can establish a limit on the number of clients that the sewage system can adequately handle. I also suggest that perhaps you could discuss this at one of your regular scheduled township meetings so that the public is aware that the township is addressing their concerns.

If you have any questions regarding this matter, please feel free to call me at 570-327-3690.

Sincerely,

A handwritten signature in cursive script that reads 'Curt White'.

Curt White  
Sewage Planning Supervisor  
Water Management

cc: James Wischuck, SEO  
Daniel Alters  
Clearfield County Planning Commission  
Representative Camille George  
Gary Byron  
Stephanie Wharton  
File

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KIM C. KESNER

23 NORTH SECOND STREET, CLEARFIELD, PA 16830

ATTORNEY AT LAW  
attykesner@atlanticbbn.net

(814) 765-1706  
FAX (814) 765-7006

April 6, 2006

Jodi Brennan, Director  
Clearfield County Planning Department  
650 Leonard Street, Suite 101  
Clearfield, PA 16830

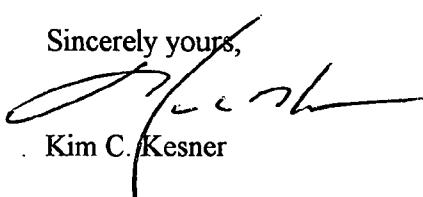
RE: Application of Kenneth Tressler for consideration of  
Preliminary/Final Land Development Plan regarding land  
in Pike Township owned by David L. Piccoli, Sr.,  
Identified by Clearfield County Tax Assessment  
Map No. 1110-63.2

Dear Jodi:

To be delivered to you with this is the comments letter of the Board of Supervisors of Pike Township with regard to the above described land development plan. It is my understanding that the plan will be separately by Mr. Piccoli/Discovery House. With regard to the first concern, I also enclose a copy of correspondence from Discovery House's counsel Patricia C. Shea of Kirkpatrick & Lockhart with a copy of her reference letter from David L. Piccoli, Sr., confirming the authority of Kenneth Tressler to execute the Application and Plan.

Should you require anything further from the Pike Township Supervisors, kindly advise.

Sincerely yours,



Kim C. Kesner

KCK/lao  
Enclosures  
cc: Pike Township Supervisors  
Patricia C. Shea, Esquire

**PIKE TOWNSHIP SUPERVISORS**  
**P.O. BOX 219**  
**CURWENSVILLE, PA 16833**  
**TELEPHONE 814-236-0834**  
**FAX 814-236-7414**

April 5, 2006

Jodi Brennan, Director  
Clearfield County Planning Department  
650 Leonard Street, Suite 101  
Clearfield, PA 16830

**RE: Application of Kenneth Tressler for consideration of  
Preliminary/Final Land Development Plan regarding land in Pike  
Township owned by David L. Piccoli, Sr., identified by Clearfield  
County Tax Assessment Map No. 1110-63.2**

Dear Mrs. Brennan:

This will confirm that the Board of Supervisors of Pike Township has conducted its review of the above described land development plan in accordance with §301 of the Clearfield County Subdivision and Land Development Ordinance. Upon review, the Board submits the following comments:

1. The Application identifies the owner of the property being its subject to be David L. Piccoli, Sr. of Providence, Rhode Island, whereas the Application and the Plan itself have been signed by Kenneth Tressler. The Board believes that Mr. Tressler is a regional director of Discovery House of Cranberry Township, Pennsylvania which the Board believes is a for profit corporation. Therefore, it would appear that the Applicant is other than the owner of the property, even though Paragraph 7 of the Application has not been completed. In any event, there is nothing included in the Application or Plan that confirms Mr. Tressler's authority to pursue the Application on behalf of the land owner.

2. Residents of Pike Township opposing rebuilding of the Discovery House facility allege that any new construction would be within 500 feet of an existing residence (or residential housing area) as well as the recreational trail owned and operated by Clearfield County Rails to Trails, which it is alleged would violate Act 10 of 1999 amending the Pennsylvania Municipalities Planning Code which states that "...a methadone treatment facility shall not be established or operated within 500 feet of an existing ...public playground, public park (or) residential housing area..." 53 P.S. §10621. The Board of Supervisors believe that the Clearfield County Planning Commission, as a part of its consideration of this Land Development Plan will pass on whether or not the statutory prohibition applies to this case. Your advice in this regard is respectfully requested.

Respectfully submitted,

Olen J. Norris Secretary  
for the Board of Supervisors

Pike Township Supervisors:

P.J. My, Chairman

Donald L. Gephart, Vice Chairman

Stan J. Smith, Roadmaster



Kirkpatrick & Lockhart Nicholson Graham LLP

17 North Second Street, 18th Floor  
Harrisburg, PA 17101-1507  
717.231.4500  
Fax 717.231.4501  
www.klng.com

RECEIVED  
MAR 23 2006

March 21, 2006

BY: -----  
Patricia C. Shea

717.231.5870  
Fax: 717.231.4501  
pshea@klng.com

Kim C. Kessner, Esq.  
23 North 2nd Street  
Clearfield, PA 16830

Re: Application for Consideration of Subdivision Land Development Plan, Tax Map Parcel #H10-63.2

Dear Mr. Kessner:

I am enclosing a letter from David L. Piccoli, Sr., who is the owner of Tax Map Parcel #H10-63.2. Mr. Piccoli states in his letter that Kenneth Tressler, who signed the application identified above, is Mr. Piccoli's authorized agent for the purposes of pursuing all permits and licenses associated with developing this land in accordance with the plans accompanying the application.

If you need anything addition in this regard, please give me a call.

Sincerely,

Patricia C. Shea

Enclosure

cc: Ruth E. Granfors, Esq.

David L. Piccoli, Sr.  
66 Pavilion Avenue  
Providence, RI 20090-9399

March 20, 2006

Kim C. Kessner, Esq.  
23 North 2nd Street  
Clearfield, PA 16830

Re: Application for Consideration of Subdivision Land Development Plan, Tax Map Parcel  
#H10-63.2

Dear Mr. Kessner:

As you are aware, on March 2, 2006 the above application was submitted for consideration by the Pike Township Board of Supervisors on my behalf. The application includes the signature of Kenneth Tressler as the "landowner or applicant" rather than my signature. Please be advised that Mr. Tressler is my authorized agent for the purposes of pursuing all permits and licenses associated with developing this land in accordance with the plans accompanying the application.

You may contact me at the above address if you have any questions regarding this delegation of authority. Alternatively, you may also contact Patricia Shea, Esq., at the law firm of Kirkpatrick & Lockhart Nicholson Graham LLP.

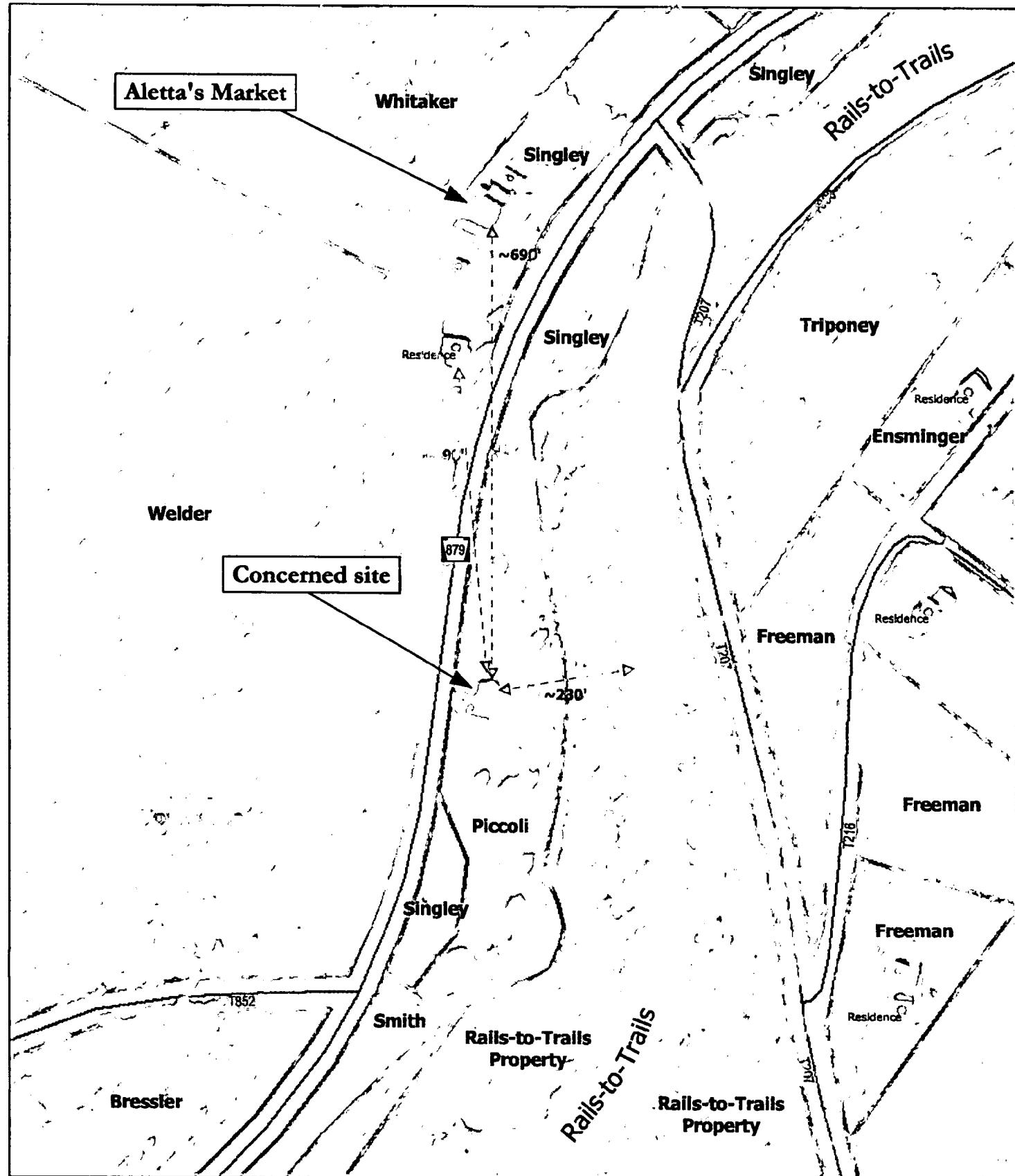
Sincerely,



David L. Piccoli, Sr.

cc: Patricia C. Shea, Esq.  
Ruth E. Granfors, Esq.

HA-172428 v1



5/5/06

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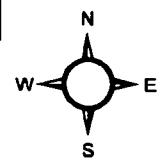
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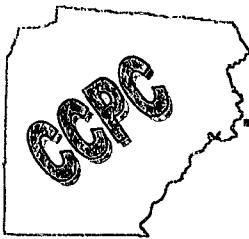
800 Feet

- Addressable Bldg.
- Unaddressable Bldg.
- Road
- Parcel Lines

This map was produced by the Clearfield County GIS Department.

Please contact the GIS Department with questions or comments about the production of this map.  
(Aerial Photography 1997)





# Clearfield County Planning Commission

650 Leonard Street • Suite 110 • Clearfield, PA 16830-3243  
(814) 765-5149 • FAX (814) 765-6056

June 20, 2006

Wilson Fisher, Jr., PLS  
Hess & Fisher Engineers, Inc.  
36 North Second Street  
Clearfield, PA 16830

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

**RE: David L. Piccoli, Sr. Land Development  
Pike Township  
CCPC File No.: 14306-4**

Dear Wilson:

This is to inform you that at their June 19, 2006 monthly meeting, the Clearfield County Planning Commission voted to **DISAPPROVE THE APPLICATION FOR LAND DEVELOPMENT because approval would violate §621(a)(1) of the Pennsylvania Municipalities Planning Code due to the proximity of the proposed land development to a residential housing area as well as a public recreational trail owned by Clearfield County Rails to Trails.**

Please refer to the Pennsylvania Municipalities Planning Code for the following consideration:

**621(a)(1) Notwithstanding any other provision of law to the contrary and except as provided in subsection (b), a methadone treatment facility shall not be established or operated within 500 feet of an existing school, public playground, public park, residential housing area, child-care facility, church, meetinghouse, or other actual place of regularly stated religious worship established prior to the proposed methadone treatment facility.**

If this office can be of further assistance, please call at the above number.

Sincerely,

Jodi Brennan  
Director

JB/mbb

pc: Pike Township  
David L. Piccoli, Sr.

**FILED**

**SEP 11 2006**

*William A. Shaw*  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

DAVID L. PICCOLI, SR.,  
Appellant : No. 2006-1144-CD  
vs. : Type of Pleading: Land Use Appeal  
CLEARFIELD COUNTY acting through  
The CLEARFIELD COUNTY PLANNING  
COMMISSION : Type of Pleading: Stipulation and  
Appellee : Filed on behalf of: Appellee  
: Counsel of Record:  
: *For Appellant:*  
: Carleton O. Strouss, Esquire  
: Ruth E. Granfors, Esquire  
: Kirkpatrick & Lockhart  
: Nicholson Graham LLP  
: 17 North Second Street, 18<sup>th</sup> Floor  
: Harrisburg, PA 17101-1507  
: 717-231-4500 – phone  
: 717-231-4501 – facsimile  
: *For Appellee:*  
: Kim C. Kesner, Esquire  
: Supreme Ct. I.D. #28307  
: 23 North Second Street  
: Clearfield, PA 16830  
: 814-765-1706 – phone  
: 814-765-7006 – facsimile

**IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY**

DAVID L. PICCOLI, SR.,	:	
Appellant,	:	
v.	:	
	:	Docket No. 2006-1144-CD
CLEARFIELD COUNTY, acting through	:	
the CLEARFIELD COUNTY PLANNING	:	
COMMISSION,	:	
Appellee.	:	

**STIPULATION AND ORDER**

The parties, by and through their undersigned counsel, hereby stipulate and agree to the entry of an Order staying the above-captioned proceedings and in support thereof, respectfully represent:

WHEREAS, David L. Piccoli, Sr. is the owner of certain property in Pike Township, Clearfield County ("Appellant");

WHEREAS, on July 17, 2006, Appellant filed a Land Use Appeal Notice with this Court ("Land Use Appeal") seeking relief from a disapproval by the Clearfield County Planning Commission of a land development plan;

WHEREAS, no proceedings have thus far been conducted by the Court with respect to the Land Use Appeal;

WHEREAS, the property owner is endeavoring to secure an alternative site for the proposed use of the property which might have the effect of obviating the need for the Land Use Appeal before this Court; and

WHEREAS, because of the possibility that these proceedings could be obviated, the parties believe that it is appropriate to stay these proceedings in order to relieve the Court and the parties from the time and expense associated with the Land Use Appeal.

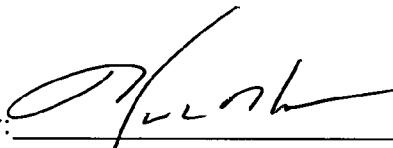
THEREFORE, the Appellant and Appellee stipulate and agree, as follows:

1. That the proceedings on the above-captioned Land Use Appeal be stayed pending further order of court or Praeclipe of either party as set forth in paragraph 2, and
2. that either party, by Praeclipe filed with the Court and served on the other, may cause the stay of these proceedings to be lifted, and
3. that the parties request the Court to approve this Stipulation by the entry of the attached Order.

Respectfully submitted,

KIRKPATRICK & LOCKHART  
NICHOLSON GRAHAM LLP

By:   
Carleton O. Strauss, Esquire  
PA I.D. #25994  
17 North Second Street, 18<sup>th</sup> Floor  
Harrisburg, PA 17101-1507  
T: 717-231-4500  
F: 717-231-4501

By:   
Kim C. Kesner, Esquire  
PA I.D. #28307  
23 North Second Street  
Clearfield, PA 16830  
T: 814-765-1706  
F: 814-765-7006

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY

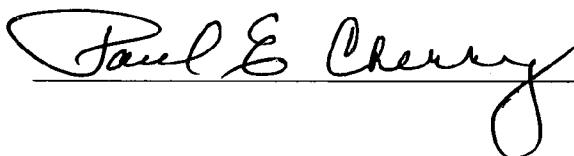
DAVID L. PICCOLI, SR., :  
Appellant, :  
v. :  
: :  
CLEARFIELD COUNTY, acting through :  
the CLEARFIELD COUNTY PLANNING :  
COMMISSION, :  
Appellee. :  
: :  
Docket No. 2006-1144-CD

**ORDER**

Upon consideration of the foregoing stipulation of the parties, it is hereby Ordered that the said stipulation is Approved. It is further Ordered that the proceedings in the above-referenced Land Use Appeal are stayed pending further Order of Court; subject however, to the ability of either party to cause the stay to be lifted by the filing and serving of a Praeclipe requesting same.

SO ORDERED:

BY THE COURT,

  
\_\_\_\_\_  
J.

FILED *acc atty* STRAUSS  
9/11/06  
OCT 05 2006  
C.P.

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 10-5-2006

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

Plaintiff(s)  Plaintiff(s) Attorney  Other

Defendant(s)  Defendant(s) Attorney

Special Instructions:

**FILED**

OCT 05 2006

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

DAVID L. PICCOLI, SR.,

Appellant,

v.

CLEARFIELD COUNTY, acting through  
the CLEARFIELD COUNTY PLANNING  
COMMISSION,

Appellee.

: No. 2006-1144-CD  
:  
: Type of Case: Civil  
:  
: Type of Pleading: **Certificate of Service**  
:  
: Filed on behalf of:  
: Appellant David L. Piccoli, Sr.  
:  
: Counsel of Record for David L. Piccoli, Sr.  
:  
: Carleton O. Strouss, Esquire  
: PA Attorney I.D. No. 25994  
: Ruth E. Granfors, Esquire  
: PA Attorney I.D. No. 39508  
: KIRKPATRICK & LOCKHART  
: NICHOLSON GRAHAM LLP  
: 17 North Second Street, 18th Floor  
: Harrisburg, PA 17101-1507  
:  
:  
: Other Counsel of Record:  
:  
: Kim C. Kesner, Esquire  
: 23 N. Second Street  
: Clearfield, PA 16830-2438  
: *Counsel for Clearfield County, Clearfield  
County Planning Commission, and  
Pike Township*

FILED

OCT 11 2006

W. A. Shaw

Prothonotary/Clerk of Courts

1 cent to Ann

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY

DAVID L. PICCOLI, SR. :  
Appellant, :  
v. :  
CLEARFIELD COUNTY, acting through :  
the CLEARFIELD COUNTY PLANNING :  
COMMISSION, :  
Appellee. :  
: Docket No. 2006-1144-CD

**CERTIFICATE OF SERVICE**

On October 10, 2006, I caused a copy of the attached Stipulation and Order, together with a copy of this Certificate of Service, to be served by first class mail upon the following person:

Kim C. Kesner, Esq.  
23 N. Second Street  
Clearfield, PA 16830-2438

Respectfully submitted,



Carleton O. Strouss  
PA 25994  
Kirkpatrick & Lockhart Nicholson Graham LLP  
17 N. Second St., 18<sup>th</sup> Floor  
Harrisburg, PA 17101  
717.231.4500  
717.231.4501 (fax)  
Counsel for Plaintiff David L. Piccoli, Sr

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

DAVID L. PICCOLI, SR., Appellant	:	No. 2006-1144-CD
vs.	:	Type of Pleading: Land Use Appeal
CLEARFIELD COUNTY acting through The CLEARFIELD COUNTY PLANNING COMMISSION	:	Type of Pleading: Stipulation and Order
Appellee	:	Filed on behalf of: Appellee
	:	Counsel of Record:
	:	<i>For Appellant:</i> Carleton O. Strouss, Esquire Ruth E. Granfors, Esquire Kirkpatrick & Lockhart Nicholson Graham LLP 17 North Second Street, 18 <sup>th</sup> Floor Harrisburg, PA 17101-1507 717-231-4500 – phone 717-231-4501 – facsimile
	:	<i>For Appellee:</i> Kim C. Kesner, Esquire Supreme Ct. I.D. #28307
	:	23 North Second Street Clearfield, PA 16830 814-765-1706 – phone 814-765-7006 – facsimile

**IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY**

DAVID L. PICCOLI, SR., :  
Appellant, :  
v. :  
CLEARFIELD COUNTY, acting through :  
the CLEARFIELD COUNTY PLANNING :  
COMMISSION, :  
Appellee. :  
: Docket No. 2006-1144-CD

**STIPULATION AND ORDER**

The parties, by and through their undersigned counsel, hereby stipulate and agree to the entry of an Order staying the above-captioned proceedings and in support thereof, respectfully represent:

WHEREAS, David L. Piccoli, Sr. is the owner of certain property in Pike Township, Clearfield County (“Appellant”);

WHEREAS, on July 17, 2006, Appellant filed a Land Use Appeal Notice with this Court (“Land Use Appeal”) seeking relief from a disapproval by the Clearfield County Planning Commission of a land development plan;

WHEREAS, no proceedings have thus far been conducted by the Court with respect to the Land Use Appeal;

WHEREAS, the property owner is endeavoring to secure an alternative site for the proposed use of the property which might have the effect of obviating the need for the Land Use Appeal before this Court; and

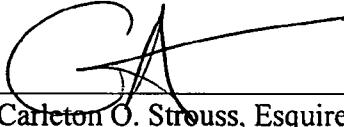
WHEREAS, because of the possibility that these proceedings could be obviated, the parties believe that it is appropriate to stay these proceedings in order to relieve the Court and the parties from the time and expense associated with the Land Use Appeal.

THEREFORE, the Appellant and Appellee stipulate and agree, as follows:

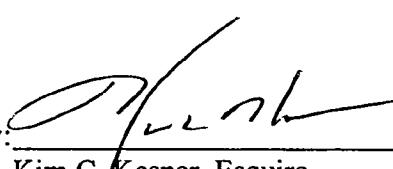
1. That the proceedings on the above-captioned Land Use Appeal be stayed pending further order of court or Praeclipe of either party as set forth in paragraph 2, and
2. that either party, by Praeclipe filed with the Court and served on the other, may cause the stay of these proceedings to be lifted, and
3. that the parties request the Court to approve this Stipulation by the entry of the attached Order.

Respectfully submitted,

KIRKPATRICK & LOCKHART  
NICHOLSON GRAHAM LLP

By: 

Carleton O. Strauss, Esquire  
PA I.D. #25994  
17 North Second Street, 18<sup>th</sup> Floor  
Harrisburg, PA 17101-1507  
T: 717-231-4500  
F: 717-231-4501

By: 

Kim C. Kesner, Esquire  
PA I.D. #28307  
23 North Second Street  
Clearfield, PA 16830  
T: 814-765-1706  
F: 814-765-7006

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY

DAVID L. PICCOLI, SR., :  
Appellant, :  
v. :  
CLEARFIELD COUNTY, acting through :  
the CLEARFIELD COUNTY PLANNING :  
COMMISSION, :  
Appellee. :  
: Docket No. 2006-1144-CD

**ORDER**

Upon consideration of the foregoing stipulation of the parties, it is hereby Ordered that the said stipulation is Approved. It is further Ordered that the proceedings in the above-referenced Land Use Appeal are stayed pending further Order of Court; subject however, to the ability of either party to cause the stay to be lifted by the filing and serving of a Praeclipe requesting same.

SO ORDERED:

BY THE COURT,

*/s/ Paul E. Cherry*

\_\_\_\_\_  
J.

I hereby certify this to be a true  
and attested copy of the original  
statement filed in this case.

OCT 05 2006

Attest.

*William L. Cherry*  
Prothonotary/  
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

DAVID L. PICCOLI, SR.,

Appellant,

v.

CLEARFIELD COUNTY, acting through  
the CLEARFIELD COUNTY PLANNING  
COMMISSION,

Appellee.

: No. 2006-1144-CD  
:  
: Type of Case: Civil – Land Use Appeal  
:  
: Type of Pleading: **Praeclipe to Discontinue**  
:  
: Filed on behalf of:  
: Appellant David L. Piccoli, Sr.  
:  
: Counsel of Record for David L. Piccoli, Sr.  
:  
: Carleton O. Strouss, Esquire  
: PA Attorney I.D. No. 25994  
: Ruth E. Granfors, Esquire  
: PA Attorney I.D. No. 39508  
: KIRKPATRICK & LOCKHART  
: PRESTON GATES ELLIS LLP  
: 17 North Second Street, 18th Floor  
: Harrisburg, PA 17101-1507  
:  
:  
: Other Counsel of Record:  
:  
: Kim C. Kesner, Esquire  
: 23 N. Second Street  
: Clearfield, PA 16830-2438  
: *Counsel for Clearfield County, Clearfield  
County Planning Commission, and  
Pike Township*

FILED *2nd Cert*  
*m/11/17 cm of disc issued*  
*JUN 27 2007 to A.H. Strauss*  
*W.A. Shaw* *Copy of disc to*  
*Prothonotary/Clerk of Courts*  
*corfob CIA*

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY

DAVID L. PICCOLI, SR., :  
Appellant, :  
v. :  
CLEARFIELD COUNTY, acting through :  
the CLEARFIELD COUNTY PLANNING :  
COMMISSION, :  
Appellee. :  
: Docket No. 2006-1144-CD

PRAECIPE TO DISCONTINUE

TO THE PROTHONOTARY:

WHEREAS, on July 17, 2006, Appellant David L. Piccoli, Sr. filed a Land Use Appeal Notice with this Court ("Land Use Appeal") seeking relief from a disapproval by the Clearfield County Planning Commission of a land development plan; and

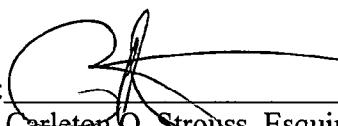
WHEREAS, the property owner has secured an alternative site for the proposed use of the property which has obviated the need for the Land Use Appeal before the Court;

THEREFORE, Appellant by his undersigned counsel requests that the Land Use Appeal be marked discontinued.

Respectfully submitted,

KIRKPATRICK & LOCKHART  
PRESTON GATES ELLIS LLP

By:

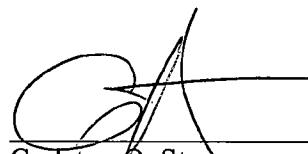
  
\_\_\_\_\_  
Carleton O. Strauss, Esquire  
PA I.D. #25994  
17 North Second Street, 18<sup>th</sup> Floor  
Harrisburg, PA 17101-1507  
T: 717-231-4500  
F: 717-231-4501

*Counsel for David L. Piccoli, Sr.*

**CERTIFICATE OF SERVICE**

On June 26, 2007, I caused a copy of the Praeclipe to Discontinue to be served by overnight delivery upon the following person:

Kim C. Kesner, Esq.  
23 N. Second Street  
Clearfield, PA 16830-2438



Carleton O. Strauss

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

*COPY*

CIVIL DIVISION

**David L. Piccoli Sr.**

vs. **No. 2006-01144-CD**  
**Clearfield County**  
**Clearfield County Planning Commission**

**CERTIFICATE OF DISCONTINUATION**

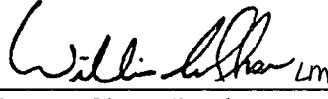
Commonwealth of PA  
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on June 27, 2007, marked:

Discontinued

Record costs in the sum of \$85.00 have been paid in full by Carleton O. Strouss Esq. .

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 27th day of June A.D. 2007.

  
\_\_\_\_\_  
William A. Shaw, Prothonotary