

**MINUTES
EXETER TOWNSHIP PLANNING COMMISSION MEETING
OCTOBER 4, 2005**

The Regular Meeting of the Exeter Township Planning Commission was held on Tuesday, October 4, 2005 at the Township Hall, 4975 DeMoss Road, Berks County, Pennsylvania. Donald R. Wilson, Chairman, called the meeting to order at 7:30 p.m. followed by the Pledge to the Flag.

COMMISSION MEMBERS: Donald R. Wilson, Chairman
John W. Bittig, Vice Chairman
John F. Ruff, Secretary
Richard Littlehales
Gary L. Shane

ABSENT: Dottie Geiger
Paul L. Schwartz

OTHERS IN ATTENDANCE: Craig Peifer, GVC Consulting Engineer
Cheryl Franckowiak, Zoning Officer
Linda Cusimano, Recording Secretary
Eric Gardecki, GIS Administrator

1. MINUTES

MOTION BY Mr. Bittig, seconded by Mr. Ruff, to approve the minutes of the September 6, 2005 Planning Commission Meeting as presented. The motion carried unanimously.

2. AGENDA

MOTION BY Mr. Ruff, seconded by Mr. Bittig, to approve the agenda of the October 4, 2005 Planning Commission meeting with the addition of discussing the Lighting Ordinance. The motion carried unanimously.

3. APPROVE APPLICATIONS FOR REVIEW

A. ROBERT E. & CAROLYN R. FRANCHETTI – SKETCH PLAN OF RECORD; WINDY WILLOWS/FKA FAUST TRACT - PRELIMINARY PLAN: MOTION BY Mr. Ruff, seconded by Mr. Bittig to accept the preceding plans for review. The motion carried unanimously.

The following business was discussed:

4. HUNTER – CONDITIONAL USE

Mrs. Franckowiak stated that Vitalia Hunter would like to open a daycare in her home at 225 West Neversink Road. Mrs. Hunter planned to be licensed by the State and would limit the number of children to four. Some of neighbors were concerned about the lack of a fence in the rear yard and the traffic, but Mrs. Hunter had addressed those issues. Mr. Bittig asked how she was addressing the issue of the rear yard? Mrs. Hunter replied that she would not allow the children outside until the yard was fenced which would be done in February. Mr. Bittig asked how many children there would be? Mrs. Hunter stated that the State allowed six, but she would only have four. Mr. Bittig asked how she would control the arrival of the four cars to drop the children off? Mrs. Hunter replied that she had a driveway for parking. Mr. Bittig stated that they would have to back up onto Neversink. If they all showed up at the same time, where would the other two cars park? Mrs. Hunter replied on Neversink. Mr. Bittig replied that was not allowed by the Ordinance. Mrs. Hunter stated that she would be starting out with watching just one child. Mrs. Franckowiak stated that no more than two parents could arrive at the same time. Mr. Ruff stated that he was concerned with the cars backing up onto West Neversink. Mrs. Franckowiak stated that they received the driveway permit for the house so it would be the same for anyone going to the home, they would need to be careful when exiting the driveway. Mr. Littlehales asked if she was aware how stringent the States requirements were and would she be able to meet them? Mrs. Hunter replied yes and that she was a certified nurse aid. Mrs. Franckowiak stated that the Board could place the condition of acquiring the state certification before issuing the zoning permit. Mr. Bittig stated that Ordinance only allowed three children for daycare. Mrs. Hunter stated that she would be ok with that.

MOTION BY Mr. Ruff, seconded by Mr. Littlehales to recommend the Board of Supervisors approve the conditional use for Mrs. Hunter and allow the zoning permit to be issued once she received certification from the State. The motion carried unanimously.

5. CLARK – CONDITIONAL USE

Mrs. Franckowiak stated that Kimberly Clark would like to open a beauty shop in her home at 5007 Farming Ridge Blvd. She would be converting her garage and was aware that she needed to obtain building permits to do so. She would not place signs and she would have a part-time assistant. Mr. Littlehales asked if she did not have signs how would they promote the business? Mrs. Clark replied that she would advertise and use word of mouth. Mr. Wilson asked if there was enough room in the driveway to accommodate the cars for her assistant and customers? Mrs. Clark replied yes, it was a four-car driveway. She would not allow walk-in customers; they would all be by appointment.

MOTION BY Mr. Littlehales, seconded by Mr. Bittig to recommend the Board of Supervisors approve the conditional use for Mrs. Clark. The motion carried unanimously.

6. ROBERT E. & CAROLYN R. FRANCHETTI – SKETCH PLAN OF RECORD – Andy Kent

GVC reviewed the Robert E. & Carolyn R. Franchetti Sketch Plan of Record (reference letter dated September 30, 2005).

Franchetti Sketch Plan of Record continued

Mr. Kent stated that the Franchettis' lived next door to the Smiths and the Smiths landscaping was placed on the Franchettis' property. They would like to give that strip of land to the Smiths so the landscaping was entirely on the Smith's property. The zoning data on the plan would need to be changed to match the new zoning. Mr. Ruff stated that he agreed with comment #2 that the annexation was diminimus in nature and the Zoning Hearing Board would not need to be involved with something so small and logical.

MOTION BY Mr. Ruff, seconded by Mr. Bittig to recommend the Board of Supervisors consider the annexation diminimus and not require an application to the Zoning Hearing Board for relief and to approve the Robert E. & Carolyn R. Franchetti Sketch Plan of Record. The motion carried unanimously.

7. WELCOME NEW PLANNING COMMISSION MEMBER

Mr. Wilson apologized for not welcoming the new Planning Commission member at the beginning of the meeting. Mr. Wilson introduced and welcomed Mr. Gary L. Shane, who was appointed by the Board of Supervisors.

8. PATHFINDER MEADOWS SECTION 2 – FINAL PLAN – Daniel Laudenslayer

GVC reviewed the Pathfinder Meadows Section 2 Final Plan (reference letter dated September 30, 2005).

Mr. Laudenslayer stated that they received the approval letter from Pa American Water Company and they would submit items to them for their Improvements Agreement. They would correct the errors on the plan and the Improvements Agreement. They have not yet received the federal permits. The Army Corps was to review the permits, but with the problems in Louisiana, Alabama, and Mississippi they were short handed and they did not know when the permits would be forthcoming. Mr. Wilson asked if the sound wall/child barrier was taken care of since the last meeting? Mr. Laudenslayer replied that they would be extending the wall by the stream and along the right-of-way so it would not have any opening. Mr. Bittig asked if the proposed deed restrictions were reviewed? Mrs. Franckowiak replied that they would be forwarded to the Solicitor for approval. Mr. Bittig stated that everything seemed to be in place other than the Federal Permits. Mr. Laudenslayer asked if they could get conditional plan approval?

MOTION BY Mr. Ruff, seconded by Mr. Bittig to recommend the Board of Supervisors grant conditional approval for the Pathfinder Meadows Section 2 Final Plan subject to review and approval of the deed restrictions by the Township Solicitor and the receipt of the proper federal permits for the culvert extensions on Schoffers Road. The motion carried with Mr. Littlehales, Mr. Bittig, Mr. Ruff, Mr. Shane voting in favor and Mr. Wilson voting opposed.

9. RUBY TUESDAY – FINAL PLAN

No one was in attendance to discuss the Ruby Tuesday plan.

10. FAIRVIEW PARK II – PRELIMINARY PLAN – Stephen Bensinger

Mr. Bensinger stated that he wanted to revisit the request for waivers of SALDO Section 5.2373, which required parking on both sides of the street with the street width of 40 feet. Within the area of 39 lots, they could provide 80 on-street parking spaces. Within the area of 10 lots they could provide 13 on-street parking spaces. They were also requesting waivers of two other Sections 5.2352; traffic lane widths of 10-ft instead of 12-ft and Section 5.2372; parking lane width of 7-ft instead of 8-ft. They would like the Planning Commission to allow parking on both sides of the street with 34-foot wide streets. Most of the streets in Farming Ridge were 34-feet wide with parking on both sides as were Pheasant Run. Mr. Bensinger provided pictures to show what he felt was adequate room for the parking and for traffic on those streets. Mr. Bittig stated that 10-foot wide travel lanes were allowed in low-density areas. Low-density was defined as 2 acres or more per dwelling unit. Fairview Park II was not 2 acres or more. Mr. Bensinger stated that Ordinance #591 recommended reducing street widths in order to reduce impervious surfaces. That Ordinance stated, "Municipal planners and traffic designers should encourage narrower neighborhood streets which ultimately could lower maintenance costs." In the new PA DEP "Best Management Practice" draft Ordinance 2005, which had not yet been adopted, it recommended street widths be reduced. It stated, "Coupled with the perceived need to provide both on-street parking and emergency vehicle access, the end result of these requirements were residential streets that may be 36-feet or greater in width. The American Society of Civil Engineers and American Association of State Highway Transportation Officials recommend that low traffic volume roads less than 50 homes or 500 daily trips be as narrow as 22-feet. Some municipalities have reduced the width to 18-feet. Snow removal on the narrower streets were readily accomplished with narrow 8-foot wide snow plows, restricting parking to one side of the street allowed accumulated snow to be piled on the other side. Increased vehicle/pedestrian accidents on narrower streets were not supported by research. Mr. Bensinger provided documents showing street widths in other states and in other counties in Pennsylvania. The documents also showed the reduced costs for paving. Mr. Bensinger stated that based on the fact that most streets in developments in Exeter were 34-feet wide with parking on both sides he was requesting a waiver of reduced width with parking on both sides, or reduced width with parking on one side. Mr. Peifer asked about the parking shown on one side, how did that compare to what was done with the stormwater reports because there were issues with the gutter spread. Mr. Bensinger stated that they could add catch basins if they were needed. Mr. Wilson asked if there would be sidewalks on both sides of the street? Mr. Bensinger replied yes.

MOTION BY Mr. Wilson, seconded by Mr. Ruff to recommend the Board of Supervisors grant a waiver of SALDO Section 5.2373, and allow a 34-foot width street with parking on one side. The motion failed to carry with all members voting opposed.

Mr. Bensinger stated that the cul-de-sac had never been an issue previously and the plan was before the Planning Commission for well over a year. There were 23 houses in addition to the 10 houses they were proposing bringing the total to 33 houses. The definition of a cul-de-sac was "a local road intersecting another street at one end and terminating in a vehicular turn-around at the other end". That area did not intersect another street; it intersected another intersection so there were two means of access. Mr. Bittig stated that it was for emergency and convenience of the residents. They should punch that street through to Fairview Chapel Road. Mr. Bensinger stated that DEP allowed them to pipe the one area, but not in the other location. Mr. Bittig stated that they could bridge over that one. It would take care of the odd shape lot configurations, the public safety issue and the access issue.

Fairview Park II continued

MOTION BY Mr. Ruff, seconded by Mr. Littlehales to recommend the Board of Supervisors not grant a waiver of SALDO Section 5.303; which stated: cul-de-sacs shall not furnish access to more than twenty (20) dwelling units and to not allow Fairview Park II to have 13 houses be built in addition to 23 existing houses bringing the total of 33 houses on one access. It was a safety issue and it already exceeded the allowable amount of houses on one access onto roads that were already substandard and would make the condition worse. The motion carried unanimously.

**11. WINDY WILLOWS/FKA FAUST TRACT – Michael Sodl
- Brian Kobularcik**

GVC reviewed the Windy Willows Preliminary Plan (reference letter dated September 30, 2005).

Mr. Sodl stated that they would comply with most of the items in the GVC review letter. Under Zoning for an Environmental Assessment Statement, they would include that with the next submission if needed. Since that was under Zoning they did not think they could request a waiver from zoning. Mr. Peifer stated that there was a Section in SALDO that did allow for a waiver of that. Mr. Kobularcik stated that they received the EAC review letter and the EAC was concerned that there were Bog turtles on the site. They hired a consultant to do an environmental study to see if plant life was there to support bog turtles and found that the habitat was not there. They forwarded that information to the agency and were waiting for the reply. Mr. Bittig stated that they needed a sign off letter from the agencies concerning that.

Mr. Kobularcik stated that they would like to place a hold on that waiver request until they received the response from the federal agency. Mr. Bittig stated that no action would be taken on that request until needed. Mr. Sodl stated that concerning item #8, all the lots in Exeter and lot 27 in Lower Alsace would be public sewer. The remaining lots would be on-lot septic. All the lots in the development would be on-lot wells. Mr. Wilson stated that all the lots were uphill from the water company, would putting in all those wells have any affect on the water company well system? Mr. Kobularcik replied that they would do a Water Resource Study and they would withdraw their request for a waiver of that requirement. The water table was very high in that area and the water company had not voiced any concern with a problem there.

Mr. Kobularcik stated that concerning the municipal boundaries, they had provided a substantial document with respect to neighboring properties and deeds. They had an agreement from the Board of Supervisors that they agreed with the location of the boundaries as shown. Mr. Peifer asked about the other two municipalities? Mr. Kobularcik replied that they haven't heard from them but they did have the letter from the Board. Mr. Wilson stated that they would need to provide a letter from the other municipalities that they agreed with the boundaries also. Mr. Kobularcik stated that they would do that.

Mr. Sodl stated that they were looking for a waiver of SALDO Section 5.514, lot depth to width ratio for lots 13, 15 and 16. Mr. Wilson stated that we would need the request in writing to address that.

Mr. Kobularcik stated that they saved the farmhouse and they did have someone interested in purchasing that. They would not tear down the farmhouse. The barn and the other out buildings would be taken down. Mr. Wilson stated that he appreciated that they saved the farmhouse, but he would have preferred a larger

Windy Willows continued

size lot. Mr. Bittig asked about the plan stating that it was a historic farmhouse. Mr. Kobularcik stated that he did not know why that was on the plan but it would be corrected.

Mr. Sodl stated that they would do the Water Resource Study. Sidewalks and curbs would be provided. Mr. Kobularcik asked if they would need to provide sidewalks on both sides? Mr. Wilson replied that it should be provided on both sides.

Mr. Sodl stated that they would see the Fire Marshal concerning the issues with the cistern and they would contact the EAC to walk the site concerning the trees located there. They were looking for a waiver of SALDO Section 4.278, to show the location of school bus shelters.

MOTION BY Mr. Ruff, seconded by Mr. Bittig to recommend the Board of Supervisors grant a waiver for the requirement of SALDO Section 4.278, to show the location of school bus shelters. The motion carried unanimously.

Mr. Sodl stated that they were requesting a waiver of SALDO Section 4.282 for a Traffic Impact Study.

MOTION BY Mr. Ruff, seconded by Mr. Littlehales to not recommend the Board of Supervisors waive the requirement of SALDO Section 4.282 for a Traffic Impact Study. The motion carried unanimously.

Mr. Kobularcik stated that they would like to put a hold on the request for Environmental Hazard Report until such time they received some reports from the appropriate parties. Mr. Wilson stated that we were concerned with what was used on the farm as weed killer and so forth. Mr. Ruff stated that there also might be a dumpsite. Mr. Kobularcik stated that they could do a Phase 1 Environmental Report. He then asked about the Environmental Assessment Statement, would that be the same? Mr. Peifer replied that the criteria for that was in the Ordinance. Mr. Sodl stated that items #28 & 29 go together. Alsace Township required a 20-ft wide road; Exeter required a 24-ft wide road. They configured lots 21 & 22 to front on road A; they would not front on road B. They meet the setbacks for frontage on both roads. They continued the road width required in Alsace to meet the road located in Exeter. They felt it was logical to do it that way.

Mr. Peifer stated that they were requesting the lane width for road A be a 10-ft travel lane for each lane. The Planning Commission agreed that they would hold off on the waiver until Alsace approved the travel lane width. Mr. Sodl stated that they would provide the additional right-of-way on Old Friedensburg Road. Mr. Bittig stated that they would need to do a study on the west side entrance of Road B onto Old Friedensburg Road because there was a downhill curve in that location. Mr. Kobularcik stated that they would do sight distance calculations there to be sure that the intersections work. He then asked if they should eliminate the second access onto Old Friedensburg and make it into a cul-de-sac? Mr. Ruff replied that they would need to make the road wider than 20-ft. Mr. Sodl stated that they would comply with items #31 & 32.

Mr. Kobularcik asked if the existing driveway onto Old Friedensburg could remain or would they need to put a note in the plan that stated that would need to be removed. Mr. Ruff replied that it would need to exit onto the new street. Mr. Sodl stated that concerning sidewalk being required along Road A, Alsace did not require sidewalks so they would like to continue that onto the Exeter section. Mr. Bittig stated that we would prefer to wait until Alsace made their decision and address that at a later date. Mr. Sodl stated that they would comply with item #17 under Stormwater. Mr. Kobularcik stated that with item #18 under Stormwater, they would look at adding a swale to pick up the water that discharged onto the street.

12. INFORMAL DISCUSSION – WOODGATE III A & B - David Shafkowitz

Mr. Shafkowitz stated that while preparing the site for the improvements they have encountered problems with the amount of rock located there. Because of the amount of blasting that would be needed for basements, they were planning on changing those units to have garages instead. They needed to change the grading plan for the development. They reduced the amount of impervious cover. Mr. Peifer stated that the impervious surface on the old plan was 2.39 acres, the new plan showed 1.8 acres. Mr. Shafkowitz stated that they moved the utilities to run along the cartway. He also stated that they reduced the amount of parking compounds. Mr. Peifer stated that the original plan showed 182 spaces, the new plan showed 162 spaces, 48 on the south side of Orchard View and 83 on the north side. The benefit of the parking compounds was during the holidays there would be enough parking for the guests. A lot of people use the garages for “stuff” instead of parking a car. Mr. Shafkowitz stated that one of the deed restrictions would be that the garage must be used for parking and could not be turned into living space, and then the Zoning Officer could enforce that. Mrs. Franckowiak stated that we did not enforce private deed restrictions. The Planning Commission agreed that they would need to show how they would provide additional parking spaces in order for the grading plan to be approved.

13. INFORMAL DISCUSSION – 30 BEECHAM ROAD - Thomas Ludgate

Mr. Ludgate stated that they had a plan to subdivide the property located at Glen Oley Farms into 4 lots. There currently were five structures on the lot. The main house with a pool, a smaller house, an existing barn, and two sheds. Mr. Kennington, the owner, rented out the second house and would like to have that on its own lot in order to sell it. He would like to have his house on one lot, the second house on one lot, the barn on one lot to be converted into a house and an additional building lot. The original plan did not restrict them from additional subdivision. Lot 1 would use the existing driveway, Lot 2 would use the driveway that they currently used, Lot 3 would use their current driveway and Lot 4 would need a new driveway. No public improvements would be needed. The lots would have access to public sewer. Lots 2 & 3 have separate on-lot systems but would be able to hook up to public sewer when needed. Mr. Bittig asked why the house on lot 3 had not been connected to the new sewer line since the house was within 150 feet of the new sewer? Mrs. Franckowiak replied that the sewer lines had not been taken over by the Township. Mr. Ludgate stated that they had a zoning problem on Lot 3 with the building setback width. Mr. Bittig stated that they had lot depth to width ratio problems with all the lots. The Planning Commission agreed that two lots would work better than trying to split the parcel into 4 lots that would not meet the lot depth to width ratio.

**14. INFORMAL DISCUSSION – FORTUNE DEVELOPMENT – Ellie Politz-Butto - Mike Butto
- Peter Gable**

Mrs. Butto stated that they had Charcoal Chef under agreement of sale and they would like to renovate it into a family restaurant that would serve fresh Italian food, have impeccable service, and be a nice place for the community to bring their families to eat so they would not have to go to the other side of town. They also planned to get a liquor license so they could offer a full service bar located at the rear of the facility.

Mr. Gable stated that he would be the operations man. He had personally opened 12 restaurants, the latest one being Viva in Wyomissing. Exeter had a need for restaurants. They would be putting a different twist on their restaurant. It would be Italian and seafood. Mr. Butto stated that the ordinance required 1 parking space per 7 seats, Charcoal Chef currently had 80 seats and they wanted to expand to 160.

Fortune Development continued

They did not want to tear down the existing building because then they would need to follow the current zoning setbacks. Mrs. Franckowiak stated that the current setbacks were 30-ft. Mr. Butto stated that then they could tear it down. He had a liquor license available and asked if that would be a problem to transfer? Mrs. Franckowiak stated that the Board would need to hold a hearing for the transfer. Mr. Wilson stated that they should eliminate the parking in front of the building. Mr. Butto asked if they could submit Preliminary/Final in order to help save time. Mr. Ruff stated that they should come in with a Sketch Plan.

15. MICHAEL G. MILLER – ZHB - VARIANCE

Mrs. Franckowiak stated that Mr. Miller wanted to put up a detached garage that was larger than allowed by Ordinance, 30-ft by 60-ft. Mr. Bittig stated that the sketch showed that they wanted to place it within 10-ft of the property line. Mrs. Franckowiak replied that was the setback for accessory structures.

MOTION BY Mr. Ruff, seconded by Mr. Bittig to recommend the Zoning Hearing Board deny the variance for the size of the garage because there was no hardship. The motion carried unanimously.

16. PA AMERICAN WATER – ZHB - VARIANCE

Mrs. Franckowiak stated that the piece of land where PA American Water Company wanted to place the booster pump could be looked at as a natural subdivision because it was divided by Township roads, but they still needed to go to the Zoning Hearing Board for a variance for lot size.

MOTION BY Mr. Ruff, seconded by Mr. Littlehales to recommend the Zoning Hearing Board approve the variance for the PA American Water Company because they have a true hardship. The motion carried unanimously.

17. CRUISE ONE – RHOADS – ZHB - VARIANCE

Mrs. Franckowiak stated that they were requesting sign relief as they were looking for more signage than allowed by our Ordinance. Mr. Bittig stated that the building was a multiple occupant building and the sign permit was rejected as a single occupant building.

MOTION BY Mr. Bittig, seconded by Mr. Shane to recommend the Zoning Hearing Board grant relief for the sign as it meets the general use in that area. The motion carried with Mr. Bittig, Mr. Ruff, Mr. Shane voting in favor and Mr. Littlehales and Mr. Wilson voting opposed.

18. LAMAR ADVERTISING – ZHB – APPEAL PETITION

Mrs. Franckowiak stated that these were petitions for billboards from Lamar Advertising.

(a) Greth

MOTION BY Mr. Bittig, seconded by Mr. Littlehales to recommend the Zoning Hearing Board reject the appeal petition since there was no hardship. The motion carried unanimously.

Lamar Advertising continued

(b) Egolf

MOTION BY Mr. Bittig, seconded by Mr. Ruff to recommend the Zoning Hearing Board reject the appeal petition since there was no hardship. The motion carried unanimously.

(c) Lamar

MOTION BY Mr. Bittig, seconded by Mr. Ruff to recommend the Zoning Hearing Board reject the appeal petition since there was no hardship. The motion carried unanimously.

19. LITTLE VIEW HILL – SIGN PLANNING MODULE

MOTION BY Mr. Ruff, seconded by Mr. Littlehales to approve the signing of the Little View Hill planning module. The motion carried unanimously.

20. PROPOSED AMENDMENT TO ORDINANCE NO. 452 (“FLOODPLAIN”)

Mr. Bittig stated that he crafted a change for the Floodplain Ordinance, as the current Ordinance did not include the lightly shaded Zone X areas as being in the flood areas.

MOTION BY Mr. Bittig seconded by Mr. Littlehales to send the change to the Board of Supervisors to update the definition of general floodplain area to pick up the Zone X shaded areas. The motion carried unanimously.

21. STREET CLASSIFICATIONS

Mr. Bittig stated that Joint Comprehensive Plan listed highways and streets that were arteries or collectors. Some of the streets would need to be corrected. The Planning Commission agreed to have Eric Gardecki work with Tony Maize and Mr. Bittig on correcting that. They would work on the list and bring it back to be discussed.

22. GENERAL DISCUSSION

Mr. Littlehales stated that Stan Stubbe, the lighting consultant who reviews lighting plans, agreed to come into the Township to help us update our Lighting Ordinance pro bono.

The Planning Commission agreed to meet on November 10th at 7pm to discuss the Lighting Ordinance, Zoning Ordinance and Street Classifications.

ADJOURNMENT

MOTION BY Mr. Ruff, seconded by Mr. Bittig, to adjourn the October 4, 2005 meeting of the Exeter Township Planning Commission at 10:51 pm. The motion carried unanimously.

Respectfully Submitted,

John F. Ruff, Jr., PE
Planning Commission Secretary

lrc

Correspondence to:

BOS: Hunter - Conditional Use
BOS: Clark - Conditional Use
BOS: Franchetti Annexation – Sketch Plan of Record
BOS: Pathfinder Meadows Section 2 – Final Plan
BOS: Fairview Park II – waiver requests
BOS: Windy Willows – waiver requests
ZHB: Miller – Variance
ZHB: Pa American Water Co – Variance
ZHB: Cruise One – Rhoads – Variance
ZHB: Lamar Advertising – Greth – Egolf – Lamar – Appeal Petition