

## LEHIGH TOWNSHIP BOARD OF SUPERVISORS

Conditional Use Hearing, March 17, 2022

The Lehigh Township Board of Supervisors held a special meeting on Thursday, March 17, 2022, at 6:00 p.m. The purpose of the meeting was to hold a conditional use hearing for Edgar Lorah of Lorah Farms. The meeting was held at the Lehigh Township Municipal Building, 1069 Municipal Road, Walnutport, Pa. 18088. A stenographic record of the conditional use hearing has also been made in addition to these minutes. Chairman Mike Jones called the meeting to order with the Pledge of Allegiance and roll call.

Present on behalf of the Board of Supervisors:      Cindy Miller  
   David Hess  
   Jerry Pritchard  
   Phil Gogel  
   Mike Jones  
   Attorney David Backenstoe  
   Alice Rehrig  
   Liz Amato

Present on behalf of the Applicant:                      Edgar Lorah, Lorah Farms  
   Attorney Susan Bucknum

Attorney Backenstoe explained the process for the conditional use hearing noting that a conditional use hearing is the only time in which a zoning matter will be before the Board of Supervisors and is a permitted use in which conditions may be attached. The applicant presents testimony and exhibits to demonstrate they meet the general criteria and specific criteria for a conditional use. If the Board finds that the evidentiary presentation generally meets the criteria, the conditional use will be granted. Conditions may also be attached. Once the Board feels that general standards have ostensibly been met, the burden shifts to an objector to come forward. It becomes the burden of the objector to demonstrate that this specific use is more detrimental and has a greater impact on our community than other uses like it in another community.

The conditional use Mr. Lorah is applying for is a Commercial Recreation Facility within the General Commercial Zoning District. The sections of the Zoning Ordinance which will need to be complied with are Sections 180-54, Standards for Special Exception and Conditional Uses generally, Section 180-69, Specific Criteria for Commercial Recreation Facilities, and Section 180-128, Conditional Uses, which set forth conditional uses and addresses conditions in the application which need to be met and general criteria.

Attorney Backenstoe questioned if the Zoning Officer advertised and posted the property in accordance with the requirements set forth in the zoning ordinance. The posting of the property was photographed by the Zoning Officer.

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Attorney Bucknum commented Mr. Lorah owns and operates an agricultural operation at 4739 South Cypress Road. His family has been farming for over 100 years. Mr. Lorah engages in agritainment activities in conjunction with direct commercial sales of the commodities that he produces through his farming operation. The property which this application pertains to is located in a General Commercial zoning District.

#### Testimony of Edgar Lorah

Mr. Lorah testified that his agricultural operation consists of 200 plus acres in which he produces poultry, beef, pork and ag commodities. They also farm some additional acreage. His property is enrolled in the Ag Security program for Lehigh Township and the Northampton County Clean and Green program. The majority of the farm acreage is permanently preserved through conservation easements. Mr. Lorah sells agricultural commodities that he produces from the farm in a farm store on his property.

In 2006, Mr. Lorah began holding truck and tractor pulls on the farm in conjunction with the direct commercial sales of ag commodities. He produces about 95 percent of the products he sells on the property. By 2012, he was holding about 12 truck and tractor pulls each year, depending upon what he was able to schedule. They never had a set number, just what they were able to schedule. Several years ago, he started having truck drags, junk car races, and a demolition derby in addition to the truck and tractor pulls. In 2021, he had about 17 of these types of events scheduled. The Township would have been aware of these activities because he is right there. They would have seen him do it. He submitted his application for a conditional use for a Commercial Recreation Facility at the Township's request.

The food that is sold during the events held on the farm is food that he produces on the farm. There are no outside vendors. The local Lions club assists with parking and admissions. They receive donations for providing these services. The Fire Company also receives donations at these events; the firefighters also receive free food for coming to help them. No alcohol is permitted at the events. He has signs as well as people policing it. If they find alcohol, they take it and return it to the individuals at the end of the night if they are over 21.

The track area is located on the eastern side of the Lorah Farms property which is only about 700 feet from Route 248. Bordered on the eastern side of the property is Erschens' Garage and Livengood Excavators. On the western side of the property is his farm buildings. Farm fields are located to the north, south and west of the track. The closest adjoining residential property is over 500 feet away from the track and the farm buildings are in between. The parking for the agritainment activity is located across South Cypress Road. Farm fencing is used to control the area where customers cross South Cypress Road to get to the track area. Customers are only able to cross the road in one area. There are lights which shine down on the track so the

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customers can see the events. Customers arrive and leave in a staggered fashion. Some people come early to the event and then leave after their friend is done pulling for the night.

They take steps to insure their events are done by 11:00 p.m. They try to control the number of hooks or pulls one person can have if there are a lot of individuals who signed up for the event. By limiting the number, it helps ensure that they can shut shown by 11:00 p.m. The events start at 6:00 p.m. so that they can be done by 11:00 p.m.

Announcements are made frequently throughout the evening to remind customers to keep their speeds down on South Cypress Road. They try to control the traffic by slowing them down when they are leaving. They do what they can to control the speeds and traffic.

Attorney Bucknum noted the Lorah Farms property is located within the General Commercial zoning district. This district includes the whole Route 248 corridor. There is an Office Business zoning district bordering the property. By zoning the area as General Commercial, the Township has planned for business commercial uses in the area and provided for that. One of the uses is a conditional use for Commercial Recreation Facilities. Under the General Commercial section in the zoning ordinance, it states the purpose of that zone. It states, "this zone provides for larger-scale retail, entertainment, and service uses within the Township. Uses within this zone are meant to draw upon a Township-wide and regional market. Furthermore, certain tourism-related uses are also permitted that cater to those visiting or passing through the Township. The types of uses permitted, and the accompanying design standards, reflect the scale of development desired within these areas. Areas designated for this zone are characterized by good vehicular access and/or existing large-scale commercial development". Mr. Lorah's property is located right off of Route 248. Commercial recreation facilities are a conditional use within this zoning district. The Zoning Ordinance further provides the following definition of a Commercial Recreation facility: An activity operated as a business, open to the public, for the purpose of public recreation or entertainment, including but not limited to bowling alleys, drive-in motion-picture facilities, swimming pools, health clubs, miniature golf courses, etc. Through the testimony they are offering, they will demonstrate that the activities that Mr. Lorah has meet the definition of a Commercial Recreation Facility.

Throughout the application that was submitted, they also refer to what the ag industry would consider agritainment. Farmers want to bring people into their properties. When you are engaging in direct commercial sales which is permitted by right under the right to farm act, you have to have a draw, marketing, a reason for people to want to come there. Get them to know your product, know farming, know where the food comes from, education, and all those things. When she uses this term, that is what Mr. Lorah's activities are, but what they are applying for is a Commercial Recreation use because that is what the ordinance permits, but the activities also fall under agritainment.

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Mr. Lorah's use is a business open to the public, and is for the purpose of public recreation and entertainment. Mr. Lorah's use does comply with the minimum lot acreage and setbacks in Section 180-20A. Section 180-69 sets forth the objective criteria for a conditional use approval for commercial recreation facilities. Their responses are as follows:

- If the subject property contains more than two acres, it shall front on an arterial or collector road. The property does contain over 200 acres and is 700 feet from Route 248
- Those uses involving extensive outdoor activities shall provide sufficient screening and/or landscaping measures to mitigate any visual and/or audible impacts on adjoining properties. They do not believe that Mr. Lorah's outdoor recreation activities are extensive because they only operate for a couple of hours at one time and are not daily or all day operations. They also note that the ordinance does not define extensive outdoor activities and the Municipalities Planning Code requires the Township to interpret the ordinance in favor of the land owner. Commercial businesses abut Mr. Lorah's property on the eastern and southern sides. The remaining area surrounding the track are Mr. Lorah's farm buildings and fields. If screening or landscaping were required, it would be detrimental to the crops and invite vectors. The screening would cause too much shade so the crops would not grow. He also feels that corn in the field will provide the same benefit as trees and shrubs. With the distance the track is from adjoining property owners, he doesn't feel screening would be needed. There are no residences to the north of the track. 180-33 of the Ordinance which addresses buffer yard requirements would not be triggered by the siting of this use based on the terms.
- Any structures exceeding the maximum permitted height may be permitted so long as they are set back from all property lines at least the horizontal distance equal to their height, plus an additional 50 feet. Furthermore, such structures shall not be used for occupancy. There are no structures that would exceed the maximum permitted height. The bleachers at the track are only five feet in height.
- The applicant shall furnish expert evidence that the proposed use will not be detrimental to the use of adjoining properties due to hours of operation, noise, light, litter, dust, and/or pollution. This criteria is not clear as to what the Township is looking for as far as expert evidence. Detrimental is usually more subjective and the burden would be placed on the objectors. They do note that this is a General Commercial zone and the adjoining properties are commercially zoned except for the one Rural Residential parcel which is located to the west, all the way across Mr. Lorah's farm field. Livengood Excavators also run trucks and equipment daily throughout the week. There are also other triaxles running throughout the Township daily. Since running these activities since 2006, he takes measures to address the various issues of noise, light, and hours of operation. They really try to shut down by 11:00 p.m. as required by the Township noise ordinance

whenever they operate. They also try to keep the lighting confined to the track area. They work very hard to keep everything in order. The track operates from spring through late fall and the events are scheduled in a staggered fashion. The truck and tractor pulls start around six so they can conclude by 11:00 p.m. They start wrapping things up between 9:00 p.m. and 10:00 p.m. so they can be finished by 11:00 p.m. With regard to noise, the track is 300 feet and most pullers only pull 250 to 275 feet. It's a short distance or spurt. The number of pulls is restricted by the number of people who show up to pull. A truck drag is a race of 200 feet and are street legal trucks. They must have a plate to drag or race. The noise they make would be similar to what they make on the road. The junk car races are four cylinder vehicles. Most vehicles have mufflers unless they get knocked off during the race. It is a 10 lap race so it only lasts three to five minutes. The sound that the cars make is a buzzing sound. There is usually one demolition derby held each year. This event is held in the afternoon and is completed by 5:00 p.m. The truck traffic along Route 248 starts as early as 4:00 p.m. and sometimes goes around the clock. There is also a quarter midget racing track in close proximity to the track and they hold races every Friday night between April and November. Erschen's garage which borders the property works on tractor trailer trucks. The lights are shining down on the track, towards the commercial properties. There is one pole light in the parking lot which shines over towards the track for people to walk out to their cars. At the end of each event or the next morning, his family comes out and picks up any litter and Berger Sanitation provides a dumpster for disposal. If there is any mud on the roadway, they (Lorah's) clean it up. There are also trash cans throughout the site. The parking area is grass and kept mowed. If it is dry and dusty, it is watered to keep the dust down. They routinely water down the track. Any smoke that comes from the trucks and tractors is part of the normal running of them.

- Required parking will be determined based upon a combination of the types of activities proposed and the schedule contained in Section 18-37 of the zoning ordinance. In addition, an unimproved grass overflow parking area to be provided for peak use periods may be required. Such overflow parking shall be accessible only from the interior driveways of the permanent parking lot. Overflow parking areas shall contain fencing to prevent vehicles from crossing adjoining properties or directly accessing adjoining roads. The parking for the events is in a designated field on South Cypress Road. Farm fencing is used to control the parking area and provide for a single area for customers to cross the road. There are two 53 foot trailers that are parked along the western side of the parking area to help provide a buffer to prevent vehicles from crossing the property lines.
- Any booths or other structures used for the collection of admission and/or parking fees shall be set back a sufficient distance and be arranged to prevent vehicle backups on adjoining roads during peak arrival periods. Any other collection of fees (e.g., roaming parking lot attendants) shall be conducted in a manner to prevent vehicle backups on

adjoining roads. If at any time after the opening of the commercial recreation facility the Township determines that traffic backups are occurring on adjoining property, the Township can require the applicant to revise the means of access to relieve the undue congestion. The parking is handled by the local Lions Club. They also collect the admission fees. They have a system of parking the cars and there is not any backup along the public road.

- Any outside pedestrian waiting lines shall be provided with a means of shade. The activities are scheduled to start in the late afternoon. People are free to mill around and find shade if they want to.

#### Testimony of Dan Lombardo

Mr. Lombardo runs an insurance agency in the Township for 36 years. He is a member of the Lions Club for close to 20 years. He also served as past District Governor who would oversee several counties. His area was Lehigh and Northampton Counties, 30 different clubs. He helped to make sure the different clubs ran properly.

The Lions assist with parking at the Lorah Farms Truck and Tractor Pulls. They have one group that does the parking and another group that does the admissions. There are usually four to six Lions lined along each side of the road. They have people enter and exit the parking lot in one spot. About two or three hours before each event is started, they are there to make sure everything is set up. They put up pylons to establish the different parking areas. They direct the customers into each area until it is filled. The Lions receive a donation for helping with the parking.

The Lions have been assisting with the parking ever since the events began at the farm. The parking area is fenced and roped in with only one entrance and exit to it. They have signs directing the people into the parking area. Once they enter the area, they direct them back to other people so they can start filling the marked rows. They start one car in each row and then fill them one after another. They also assist in making sure patrons cross at the designated areas.

With regard to checking for people bringing alcohol into the site, they cannot check inside the vehicles, but there are signs posted indicating no alcohol or coolers are permitted inside the admission area. They do check to make sure there are no coolers being brought in. Occasionally, even though it is discouraged, people will go down to Duncin Donuts and bring in a cup of coffee or get a drink from the mini-mart. These containers are clearly marked at Duncin Donuts or the specific beverage. Tailgating is not permitted in the parking area.

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Patrons will arrive and leave in a staggered fashion. Some people begin to arrive around 3:00 p.m., and the majority of the people will arrive between 5:00 p.m. and 6:30 p.m. They also leave in a staggered fashion as well. Some start leaving around 7:00 p.m. or 7:30 p.m. and it will continue until 9:00 p.m. or 9:30 p.m. Anyone left after that time leaves on their own.

There have not been any issues with backups on the road. He is there almost every Friday night which is the busier night. He hasn't ever really noticed any issues. Depending upon the cycle of the traffic light and the amount of patrons and pullers needing to make the left, there may be a slight backup, but for the most part, there is ample room to prevent this from happening.

There is a light standard in the parking lot that goes on when it gets dark so people can see in the lot. They also park the vehicles in a fashion so that there is enough space between rows so there is not an issue with people backing out of their spaces. He doesn't remember there ever being an accident with someone backing out of their parking space in the entire time they have done this. The light standard is in the middle of the parking area. It is the type of standard where there are several lights aimed in different areas of the parking lot.

Vehicles are not parked close to the residence on the western side of the parking area. They only go down so far with parking the cars because they want to keep a good gap in between the neighbors property and the Lorah property. They usually stop 20 or 30 feet before the trailers that are parked there. There is a downhill grade towards the neighboring property and Route 248 so they avoid parking people in these areas because they don't want people to get stuck if it rains.

The truck and tractor pulls are a family friendly environment. They really haven't had any problems there. Over the years people have gotten used to seeing the Lions parking the cars and will engage in conversation with them when they see them in other areas of the community. He has found them to be nice young people. It's a nice time and he looks forward to it. It is also a good exposure for the Lions and hopefully they get to know them and at some point, would consider joining them.

The Lions Club helps set up and run the parking at Becky's Drive In when they hold the Dream Come True benefit. They also donate \$100 to the food bank each month, donate \$500 to a family who have a house fire to cover their deductible, they regularly donate to the Lehigh Township Fire Company. Last month they donated \$2,000 to them, they do eye exams and glasses for people who can't afford those services, provide scholarships to Northampton High School graduates for collage, food baskets to the elderly, and involved with various foundations to help fund projects. They also contribute to the maintenance of Bryfogle Park. They are currently working with the Township Recreation Board to do park improvements to Bryfogle Park. Because of the number of events and the donations from Mr. Lorah, they are able to provide more services for the community. These donations make up a significant amount of the

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funding they receive. They were more fortunate than most other Lions Clubs during COVID because they were able to continue to receive the donations from the events that Mr. Lorah was able to hold. Service clubs in general are diminishing, and the Township club has been able to flourish. Lions Clubs do a lot for a lot of people and the community, but do not publish all the things they do.

Attorney Bucknum commented they were before the Planning Commission and they issued a letter dated January 20, 2022, recommending the approval of the conditional use with a few conditions. The first condition was all events should end by 11:00 p.m., which already has been happening. The second condition was that the Police Department should be notified in advance of an event; they do not have an issue with the condition. The last three conditions were that events should be restricted seasonally from April 1 through October 31 and that the Board shall determine whether they should limit the maximum number of events and the specific days the events are held. They do not agree with placing these limitations on this use. Although this is a conditional use, it is a permitted use as long as you meet the criteria. It is a principal use, principal commercial use in a commercial zone. It's a business. The Board of Supervisors are absolutely within their authority to place conditions on approval of a conditional use application for hours of operation, lighting, and parking, but to actually control when a business can be in business is going beyond zoning authority and into the details of a business which is not zoning. There are case laws that clearly establishes that is where a township goes too far. You don't allow a business and then say we are only going to allow you to operate so many times per year. For a principal use, it doesn't make sense. It is in the zone that is planning for this type of development. The Planning Commission's letter says the Board should consider whether to make a determination, they did not suggest what limitations would be appropriate or not. Attorney Bucknum and Mr. Lorah are saying it is not appropriate to be controlling a business this way. Generally speaking, these things are seasons, but these events bring people to the farm and they engage in sales. It all goes together. This suggestion by the Planning Commission is contrary to the Township's ordinance that describes what the General Commercial District is for. It says right in the ordinance "for larger scale retail, entertainment, and service uses. It is meant to draw people township wide and regional wide. The Township enacted the uses in the ordinance because they believed it was an appropriate match to the zone. She believes it is inappropriate to limit when it can be open and when they can engage in these activities.

In their conditional use application, Attorney Bucknum also included discussion about state laws that protect agriculture. She stated earlier about agritainment and the right to farm act protect direct commercial sales of ag commodities as a by right use regardless of any attempt by a Township to restrict that. She laid that law out in there because she thought it was worth to mention that the State Legislature amended the Clean and Green Act in 2005 to specifically provide that property farms that are enrolled in the Clean and Green program can engage in agritainment and not lose their enrollment in the preferential tax program. That informs the Board the way it is defined under the Clean and Green Act is agritainment activities are farm



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related tourism and farm related entertainment activities which are permitted and authorized by the land owner in return for a fee on agricultural land for recreational or educational purposes. This informs the Board that the State recognizes this type of use and what Mr. Lorah is doing is what agricultural operators across the State of Pennsylvania and the United States are doing.

Jerry Pritchard questioned if there was a need to show if there will be a negative impact with this proposed use. Attorney Backenstoe commented the applicant has the burden to go first and show they meet the general criteria of the conditional use. Based on what their presentation was, he believes they are trying to submit to the Board that they will not have a negative impact. They talked about the lights, noise, traffic and hours of operation. If the Board believes the applicant has met the initial burden of showing they meet the general and specific criteria of the ordinance, then the burden shifts to any objectors to show that this use that was presented tonight has a more detrimental impact on this community than it would in another community under normal circumstances. With this being a conditional use application, the Board of Supervisors are sitting as a quasi-judicial body to rule on a conditional use zoning application. This is the only time a Board of Supervisors becomes involved in zoning. Every other time, applicants would go to the Zoning Hearing Board.

Attorney Bucknum commented conditional uses and special exception uses essentially follow the same process, but are heard by different boards. Conditional uses go to the Board of Supervisors and Special Exception uses go to the Zoning Hearing Board. Under the law, you need to have criteria in the ordinance for a conditional use because the applicant needs to know what and the Board needs to know what they want that use to conform with. Once the applicant satisfies the burden of proving that criteria, specifically Section 180-69 and 180-128, then Mr. Lorah, the applicant, would be entitled to the approval of the conditional use. An objector would have the burden of showing that this use would impact health, safety, and welfare of this community more than the same exact thing Mr. Lorah would be doing in another area normally. It is a very high standard that needs to be met. It can't be proven with personal opinions and speculative statements. There needs to be substantive evidence.

This concluded the testimony of the applicant and they believe the applicant has met the burden of complying with the Township ordinances to obtain the approval for this Commercial Recreation Use.

Jerry Pritchard questioned if the Township believes this is a positive or negative for the community. Attorney Backenstoe commented the standard is whether or not the applicant demonstrated they comply with the criteria for the conditional use application. A conditional use is ostensibly a permitted use as long as the applicant meet the initial burden of meeting the criteria that is listed for the use. The applicant has presented testimony to the Board regarding how they believe they have met the spirit of the ordinance. As long as the Board finds that they

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did in fact meet these criteria, the Board must grant them the approval of the conditional use. The Board may also attach conditions to the approval; that is clear under the law. 180-128 also states that the Board may attach reasonable conditions. Reasonable conditions are not unlike the items that Attorney Bucknum discussed: lighting, hours of operation, different things which the Board feels will properly impact the health, safety, and welfare of the community. When you ask the question of is this a good thing or a bad thing for the community, the ordinance already allow for this kind of use. A Commercial Recreation use is defined as an activity operated as a business, open to the public, for the purpose of public recreation or entertainment, including but not limited to bowling alleys, drive-in motion-picture facilities, swimming pools, health clubs, miniature golf courses, etc. This definition does not include adult-related uses, shooting ranges, amusement arcades, or off-track betting parlors. The first decision the Board would have to make is if what they are proposing falls within the definition of Commercial Recreation. The applicant presented this to the Board and believes that it does fall within this. If the Board agrees, then they Board needs to determine if they meet the other criteria or at least offered plausible evidence associated with that in 180-69.

Cindy Miller questioned how many people attend the events? Mr. Lorah commented there usually is between 600 and 800 people. She also questioned the parking that Mr. Lorah has meets the off street parking requirements in the ordinance. Does he know how many vehicles are parking at an event. Mr. Lorah commented the parking is in a 10 acre field. They will not run out of room. He was not certain if the parking for agritainment would fall within the parking requirements of the ordinance, but he definitely has more than enough room. Cindy Miller noted the ordinance requires one space for every three people at the designated capacity plus one per employee. Attorney Bucknum commented she did look at the parking requirements, but there is a 10 acre field available for parking; it didn't seem like it was something that they really matched to the events they have. Cindy Miller questioned if there is overflow parking. Mr. Lorah commented there is overflow parking in the back of his property and they can also park in the field across from Route 248. They have never had a problem with having enough parking for an event.

David Hess questioned how they handle things if they believe someone is under the influence. If they are underage, they contact their parents. If they are over 21, they contact the police. They do not let anyone leave whom they believe to be under the influence.

Phil Gogel questioned how many events they currently have. Mr. Lorah commented it is based on the availability of the people who help him with it because all his help is volunteer. It is also dependent upon when he can get the sleds. They stagger the events out. Right now, he possibly has 18 to 20 planned this year, if it will be that many; he doesn't have his schedule completely worked out yet. He doesn't want to be limited to events or days; what if he would want to place a plastic tarp on the track and flood it and create an ice skating rink in the winter. It would be great for the Township. He believes they fit the criteria for this very well.

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Attorney Bucknum commented that the Township, by enacting the Zoning Ordinance and setting the criteria, determined it was something compatible with the General Commercial zone. By including something as a conditional use or any other permitted use, you have already made that determination. When you come before the Board for a conditional use for Outdoor Recreation, it is a business. People come up with other ideas or things they can do which is their reason for not wanting to be limited to days or events. You don't want to tie the hands of a businesses owner if they come up with something that is workable and can be a draw. Testimony has also been offered to show Mr. Lorah does what he can to control the traffic and all the things that pertain to health, safety, and welfare.

Mike Jones questioned how many heats are held on one night. Mr. Lorah commented it depends upon how many people enter the event. If 50 cars were to attend, they would have 5 heats with 10 cars in each, plus a feature race. When you are only running ten or twelve laps, it goes fast because their track is not very big; that is what makes their track unique. It is more fun. The circle is about 250 feet.

Attorney Bucknum commented it wasn't brought out during Mr. Lorah's testimony, but the races that go in one direction are going towards the commercial properties, from the west to the east.

Mike Jones questioned if the Board is able to grant the conditional use if they do not meet the criteria. Attorney Backenstoe commented if the Board does not believe they meet the criteria, then they would have to deny the application. Attorney Backenstoe commented if you generally believe they met the requirements through their testimony, then you can grant the application. Mike Jones commented he was concerned with the noise. He does not believe they meet the criteria for noise levels that are established in the General Commercial Zoning District. Jerry Pritchard questioned what the levels are. Liz Amato commented the level is listed in the Zoning ordinance, and is 64 dba at the property line at all times. Attorney Bucknum commented the nearest home is 500 feet away with the ag buildings in between. Mike Jones commented the lot line would also be at the roadway. Mr. Lorah noted he owns the property on both sides of the road. Mike Jones commented he doesn't believe the noise levels will meet the requirements. Mr. Lorah commented he doesn't believe anyone has ever measured the decibel level. Attorney Backenstoe commented the applicant believes they meet the noise ordinance. The Board would either find that they reasonably met that condition, or if there is an objector to show they didn't, then that would be a different story. If the Board believes they generally met the criteria, then you would grant the conditional use. Attorney Bucknum commented Section A under the noise section, it talks about a source of continuous sound in such a matter than exceeds the limits stated in the section. She wanted to point out the ordinance states continuous sound.

Mike Jones questioned what the Fire Company receives for being at all the events. Mr. Lorah commented there is a donation bucket for people to make donations and they are usually

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generous. He also does donate to the Fire Company and works well with them and the fire company works well with them. The Fire Company is there on standby. There very seldom is any problems there. He also donated to the tool raffle that is coming up.

Dennis Hock, 1043 Bitternut Road, commented these events have been going on as long as Mr. Lorah has stated and every year, they seem to grow. His question is if Mr. Lorah sees the business continuing to grow in the future. Mr. Lorah commented the track has not grown. They have added some additional events; some of them were because of COVID. This year they are back to their normal amount. Mr. Hock questioned if there were any plans to potentially enlarge the track. That would be a concern. Mr. Lorah commented he tries to be a good neighbor. He has no plans to make the track bigger or grow the facility bigger. People will not see a Nascar event there. Mr. Hock commented he would hate to see a drag strip. Mr. Lorah confirmed he wouldn't be growing the track.

This closed the presentation of the applicant's case.

There were no objectors present.

General Public Comment:

Kristin Soldridge, 3874 Holly Drive, commented she looked at a sound proof guide that has decibel readings. According to the guide, heavy traffic, window air conditioners, noisy restaurants, and power lawn mowers range from 80 to 89 decibels. There is significant truck traffic that comes on Route 248 which is probably louder than this and louder than the events at the farm. Unless you are going to stop traffic on Route 248 because of the noise, you really can't apply the noise ordinance to them. The traffic is already louder than what their facility is.

Mark Scheirer, 1131 Pecan Drive, has lived here for 35 years. It all depends upon how the wind blows around here. Mr. Lorah can have his events and all of a sudden, he will hear it. No one cries about the Quarter Midge track and they run every Friday night and he can hear them at his house, but he doesn't cry about it. Every Sunday morning, he hears Blue Ridge shooting their guns first thing in the morning and he doesn't cry about that. It all depends upon where you want to live and what you want to listen to. You don't buy a house next to the airport and not know it's there.

Cody Henninger, Lieutenant for Lehigh Township Fire Company, commented there is very limited times that something happens at an event and they use very little product there. The biggest thing they gain out of attending the events is training. As long as anything that would happen there is not of an immediate danger to the life of the driver and the public, it is a fantastic training benefit for any of the members that are there. You can't get that type of training at a facility or school.

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Paul Nikisher, Long Lane Road, questioned what is trying to be changed. During the COVID situation, this was one place people could actually go to. He found it to be very rewarding. What is trying to be accomplished? Attorney Bucknum commented Mr. Lorah was contacted by the Township and asked to come to a meeting in September, then directed to apply for the conditional use. Attorney Backenstoe commented a conditional use is something that is permitted in the zoning ordinance. This application will legitimize the use and establish that they comply with the ordinance so there will not be any issues in the future.

Phil Gogel questioned if Mr. Lorah was good with ending his events by 11:00 p.m. and contacting the Police Department when he has an event. Mr. Lorah indicated that he was.

Lee Snover, 3979 Lehigh Drive, was present on behalf of small business. She believes this is something that should be embraced. Although she is not a truck and tractor pull person, she has attended this one time. When she was there, she saw families and hardworking Township residents. She also saw police, firefighters, and farmers. She also thinks the Township should not be limiting the months, seasons, and the number of events. That would be like telling her business how many jobs they can do in a year. That would be wrong. She actually think Mr. Lorah should consider something at Easter and Christmas, perhaps Christmas Lights. She thinks the Township doesn't realize what they have and commends them for what they do.

Attorney Bucknum commented that Mr. Lorah had also told her that this gives the young people something to do. Mr. Lorah commented it keeps them busy instead of going out drinking or doing drugs. It keeps them in the garage stripping a car down to come to the junk car race instead of getting in trouble. Kids come home and sit in front of the tv or play on phone. It gives them something to do, life skills. He does believe it helps the community.

Kristin Soldridge commented this has been generational for her family. Her grandparents lived here; her uncle has the farm. She and her kids are at the farm daily to help with feeding. Her kids are six and eight years old and know how to move a pig. When it comes to family generational support of young people and giving them the life skills they need to survive, it should really be taken into consideration. What happens if Jaendl or another huge developer decides to come in and wants to put up housing? We will lose something that we will never get back. No one wants the warehousing; they want to stop it, so why do something to impede growing a farming business when farming is on the cusp of losing because younger generations do not want to take that burden on.

This closed the evidentiary phase of the hearing.

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Deliberations:

Attorney Backenstoe commented the Board can deliberate tonight, make a decision tonight, and if a decision is made tonight, then the Board would authorize him to render a written decision in support of the decision. A written decision must be made within 45 days. The Board does not need to make a decision tonight; it can be made at a subsequent meeting.

Mike Jones questioned if consideration would be given to only permit the events to be held every other weekend. The biggest complaint the Board gets is that it is every weekend and people can't enjoy their property because there is so much noise. When you look at the schedule, it is close to that. Attorney Bucknum commented there is no one at the meeting who presented an objection to the use. Mike Jones commented the Board has received complaints in the past. Attorney Bucknum commented they are not at the hearing.

Paul Scheirer, 1131 Pecan Lane, commented before they moved here, they lived in a little town. They had an industry that had equipment pounding morning, noon, and night. They lived across the street from it. You learn to live with it. This is not happening 24/7. It is on a few occasions. Even if it happens every weekend, it is only for a certain period of time. It is not all day long. Mike Jones noted that Mr. Lorah is not looking for a time limit to be set. It would be nice to set something in stone. Mrs. Scheirer commented they also need to figure out when they have the help.

Attorney Bucknum noted this is a commercial zoning district. Mike Jones commented he understands, but if someone were to buy 10 acres and want to do this, they would have to go through so much more to get to this point. He believes it should be every other weekend. Mr. Lorah commented they start in April. August they only have one or two events and September they finish out the season. July is when everyone takes vacation. May and June are the heaviest months. People have central air and have their windows closed. They don't sit out on their patios because it is mosquito season.

Jerry Pritchard commented he is on the Recreation Board with David Hess. The Lions Club has proposed a substantial amount of projects that are beneficial to the Township. If this use was not beneficial to the Township, he would be the first one against it. He does not see why, if they are benefitting the Township, we would be against it. He has a hard time being against beneficial things. During COVID, these people gave us a place to go. He doesn't agree with telling a business how to operate. If the residents were dead against it, the room would be overflowing if they wanted to shut it down. Mike Jones commented he does not want to shut this down.

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Attorney Bucknum commented imposing conditions because you have a few people objecting is one thing, but there is no one here to object to this. No one is asking for that condition to be placed.

Kristin Soldridge commented the Quarter Midget track goes every Friday night and sometimes they go past 11:00 p.m. On a clear night you can hear their noise as well as the train going through Slatington. You can't impose limitations and restrictions on one and not on the other. It needs to be across the Board.

Jerry Pritchard made a motion to approve the conditional use application of Mr. Lorah with the conditions of the events ending by 11:00 p.m., abiding by the noise ordinance and the Police Department being notified when there is an event. David Hess seconded the motion. Cindy Miller, David Hess, Jerry Pritchard, and Phil Gogel voted aye. Mike Jones was opposed because he would want every other weekend as a condition. Other than that, he has no issues. Motion carried. Attorney Backenstoe noted a written decision will be rendered within 45 days.

Phil Gogel made a motion to adjourn. David Hess seconded the motion. All voted aye. Motion carried.