



Policy Briefing Summary
Board of Supervisors
RE: Eagle Systems Land Development

Date Presented: November 17, 2021

Prepared By: Diane Hicks, Director of Planning and Zoning

Eagle Systems Medical Marijuana Dispensary - 716 West Baltimore Pike

The Plan proposes to construct a 4,200 square foot medical marijuana dispensary with two associated parking areas on UPI # 62-3-70, located in the C Commercial Zoning District and containing 0.72 acres. The proposed improvements are located at 716 W. Baltimore Pike (SR 3046). The proposed building will be serviced through public water and sewer. Access to the site will be provided via existing entrances to both W. Baltimore Pike (SR 3046) and West Cypress Street (SR 3046) through a private lane located on UPI # 62-3-69. Lot 1 will contain the existing dwelling, shed, and driveway and consist of 1.1 acre. The dwelling on this lot is currently serviced by public water and sewer. Lot 2, 2.443 acres, is proposed to contain the remainder of the site with no improvements.

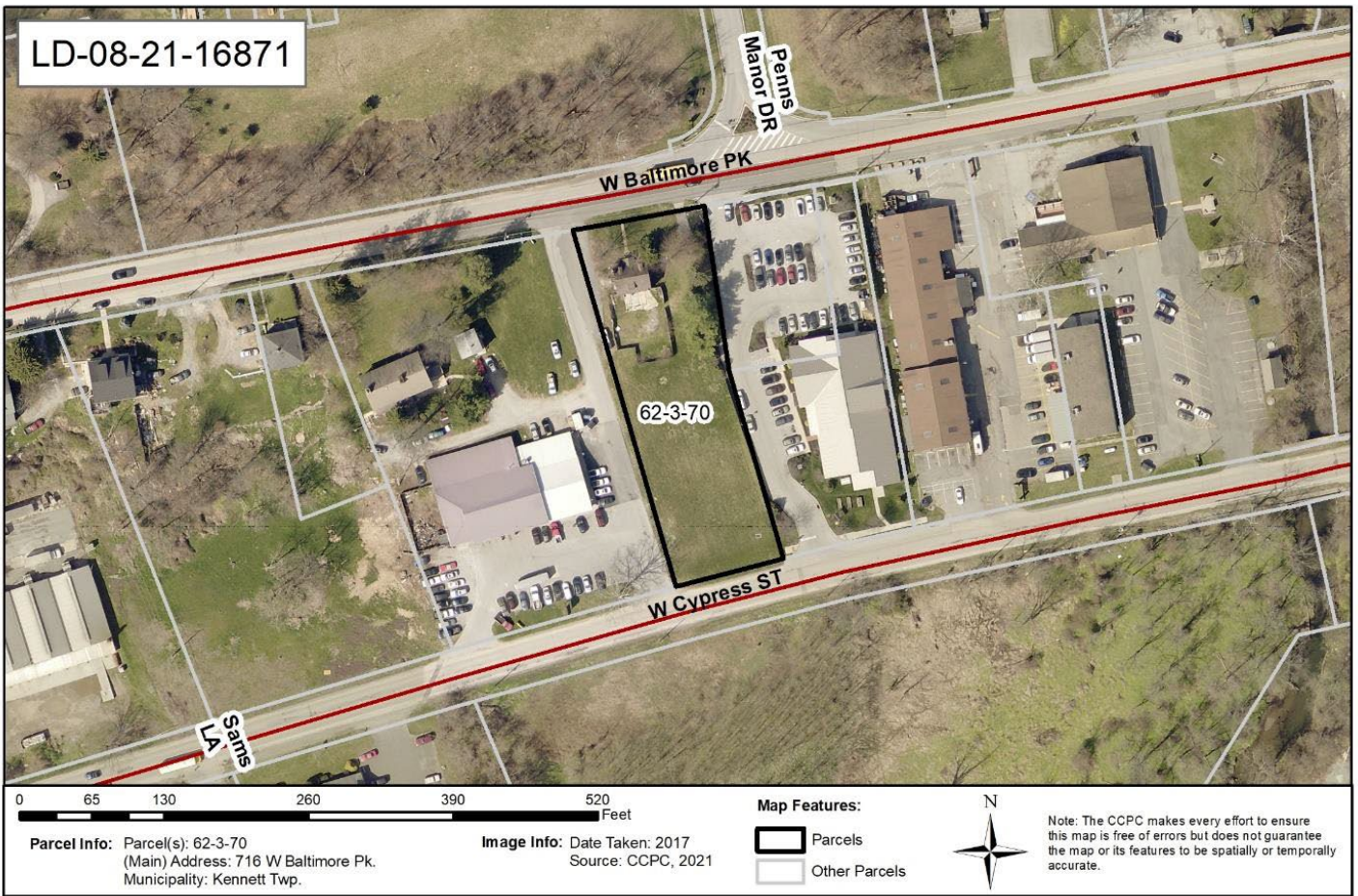
The Board of Supervisors of Kennett Township approved a text amendment to Section 240-1924-A9(C) of the Kennett Zoning Ordinance to allow that:

“A medical marijuana dispensary shall not be operated or maintained on a parcel within 250 feet, measured by a straight line in all directions, without regard to intervening structures or objects, from the nearest point ~~on a property line of a residentially zoned property~~ of a residentially zoned and occupied dwelling unit or a parcel containing a public, private or parochial school, or day-care center.”

A recommendation has been made by the Kennett Township Planning Commission to the granting of the waiver request to have the plan considered for Preliminary/Final Plan approval conditioned on the following to the Board of Supervisors on November 10, 2021, conditioned upon resolving the outstanding comments in the AECOM letter of November 4, 2021, to the satisfaction of the Township which include:

1. Per §206-304.A, the proposed improvements are considered to be a major development plan. In accordance with §206-304. D. (2) such plans are required to proceed through preliminary plan review phase prior to the submittal of a final plan. A waiver request letter has been provided to the Township for review and it is recommended that the Board accept such a waiver as there is no objection from the Township engineer based on the extent of the open plan comments.
2. Subdivision and Land Development Ordinance (SALDO) §206-307 through 206-309 provide the requirements for Final Plan approval and recordation. Therefore, any Final Plan approval requirements as stated in the following sections must be addressed to the satisfaction of the Township to include:

- a. A subdivision and land development improvements agreement should be provided in accordance with §206-307. A. (3). (a) and §206-404. G.
 - b. A Penn DOT Highway Occupancy Permit should be provided in accordance with §206-307. A. (3). (e).
 - c. PADEP approval for a sewage planning module or exemption therefrom should be provided to address the requirements of §206-307. A. (3). (f).
 - d. A performance guarantee/escrow requirement per §206-309, as well as the associated financial security agreement.
3. Copies of the approval or otherwise any communications with CWA to address the proposed water connection to occur within the CWA Right-of-Way that exists on the adjacent property UPI# 62-3-72.1 should be provided to the satisfaction of the Township.
 4. The sewage planning module exemption must be approved by the Township, Kennett Square Borough and Pennsylvania DEP.
 5. Copies of all easements executed with private property owners, utilities or municipalities should be provided for approval of the Township Solicitor. This is including the submission of any easement and maintenance agreement for use and maintenance of the common driveway located on UPI# 62-3-69 to the Township for review and approval by the Township Solicitor and an associated plan note should be updated. The Township Solicitor should also confirm the adequacy of the signature block and proposed language of the associated plan note for the owner of UPI# 62-3-69.
 6. PennDOT HOP requirements should be addressed.
 7. The Applicant complies fully with all agreements and conditions as to traffic impact fees, which may be assessed by the Township.
 8. PennDOT approval or otherwise copies of any communications with PennDOT regarding the altered storm sewer flows crossing West Cypress Street should be provided to the satisfaction of the Township.
 9. A stormwater Operations & Maintenance agreement must be approved by the Township and Township Solicitor.
 10. All outstanding plan notes and items in AECOM summary review letter dated November 5, 2021, not specifically mentioned in the above conditions should be addressed to the satisfaction of the Township.



Motion: Move to grant approval of the Eagle Systems Land Development plan prepared by Gilmore & Associates, Inc. last revised October 25, 2021, as a Preliminary/Final Land Development and conditioned on the resolution of outstanding comments from the AECOM November 4, 2021, review letter be resolved.

MEMORANDUM

Date: November 5, 2021
To: Diane Hicks
From: Stan Corbett
Subject: **Eagle Systems Medical Marijuana Dispensary
Preliminary/Final Land Development Plan**

This summary is provided to assist with Township consideration of the referenced project. Current AECOM comments are summarized below with references to our complete November 4, 2021 review letter inserted parenthetically. We also note the October 7, 2021 Thomas Comitta Associates (TCA) memorandum indicates the plan to be satisfactory, with a recommendation to consider crosswalks across the driveway entrances from West Baltimore Pike and West Cypress Street.

Assuming the requested waiver for a combined preliminary/final plan approval is acceptable and the Township has considered the above-noted TCA recommendation, we would have no objection to a plan approval conditioned upon resolving all outstanding comments from our November 4, 2021 letter.

1. The Applicant is requesting a waiver from §206-304.D.(2) to allow the plan to be reviewed as a preliminary and final plan concurrently. A waiver request letter with supporting justification should be provided to the Township and the correct ordinance citation should be noted on the plan. Notwithstanding the absence of supporting justification, we would have no technical objection to such a waiver. The plan has been reviewed as a Preliminary/Final Plan to facilitate Township review of a waiver request (Subdivision and Land Development comment 1).
2. The Final Plan approval requirements of §206-307 through 206-309 should be addressed (Subdivision and Land Development comments 1A.a through 1A.d).
3. The Applicant should provide approval by CWA and the affected property owner to address the proposed water connection on UPI No. 62-3-72.1 (Subdivision and Land Development Ordinance comment 6.b).
4. The sewage planning module exemption must be approved by the Township, Kennett Square Borough and DEP (Subdivision and Land Development comment 7.c and 7A.b).
5. A copy of all easements executed with private property owners, utilities and municipalities should be provided (Subdivision and Land Development comment 7A.a).
6. PennDOT HOP requirements should be addressed (Subdivision and Land Development Ordinance comment 9.c).
7. An easement and maintenance agreement for use and maintenance of the common driveway located on UPI 62-3-69 shall be submitted to the Township for review and approval and an associated plan note should be updated (Subdivision and Land Development Ordinance comment 10).

8. Information should be provided regarding traffic impact fee requirements (Subdivision and Land Development comment 12).
9. PennDOT approval for altered storm sewer flows crossing West Cypress Street should be resolved (Stormwater Management Ordinance comment 4).
10. A Stormwater O&M agreement must be approved by the Township and Township Solicitor (Stormwater Management Ordinance comment 10).
11. The Township Solicitor should confirm adequacy of the signature block language for the owner of UPI No. 62-3-69 (General comment 3).
12. The Township's emergency service providers should review the proposed plan for acceptability (General comment 5).

More detail is provided in the attached November 4, 2021 review letter, which should be referenced by the Applicant in any follow-up plan submission.

cc: Joe Nolan, Eagle Energy Systems, Ltd.
Dan Mallach, RLA, Thomas Comitta Associates
Ken Hoffman, RLA, Gilmore & Associates, Inc.
Dave Sander, Kennett Township Solicitor
Heather Dorsey, PE, AECOM



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4051 Ogletown Road
Newark, DE 19713

November 4, 2021

Ms. Diane Hicks
Director of Planning and Zoning
Kennett Township
801 Burrows Run Road
Chadds Ford, PA 19317

**Re: Eagle Systems Medical Marijuana Dispensary
716 W. Baltimore Pike
Preliminary/Final Land Development Plan**

Dear Ms. Hicks:

As requested, we have reviewed the Land Development Plan for the above-referenced project. We received the following documents electronically on October 26, 2021:

- Response letter to AECOM's October 20, 2021 review letter, prepared by Gilmore & Associates, Inc., dated October 26, 2021.
- Preliminary/Final Land Development Plan for Eagle Systems – Medical Marijuana Dispensary – 716 W. Baltimore Pike, prepared by Gilmore & Associates, Inc., dated August 6, 2021, last revised October 25, 2021 (14 sheets).

The Plan proposes to construction a 4,200 square foot medical marijuana dispensary with two associated parking areas on UPI # 62-3-70, located in the C Commercial Zoning District and containing 0.72 acres. The proposed improvements are located at 716 W. Baltimore Pike (SR 3046). The proposed building will be serviced through public water and sewer. Access to the site will be provided via existing entrances to both W. Baltimore Pike (SR 3046) and West Cypress Street (SR 3046) through a private lane located on UPI # 62-3-69.

AECOM has reviewed this submission in accordance with the Kennett Township Zoning, Subdivision and Land Development and Stormwater Management Ordinances. We have not reviewed ordinance requirements applicable to landscaping, as this is addressed by the Township's Landscape Architect, Thomas Comitta Associates. Outstanding comments from our September 1, 2021 and October 20, 2021 letters follow, with new or modified comments indicated by bold italic font. Prior numbering has been retained for recordkeeping purposes.

Subdivision and Land Development Ordinance

1. Per §206-302.A, the proposed improvements are considered a major land development plan. §206-304.D.(2) states "Major subdivision or land development plans are required to proceed through the preliminary plan review phase prior to the submittal of a final plan." The current plan is titled Preliminary/Final. A waiver would be required for review and approval of the Preliminary/Final plans concurrently. At this time, the plan has been reviewed as a Preliminary Plan submission. [9/1/21] The plan has been retitled Preliminary Plan and this item is resolved. [10/20/21] ***A waiver request is now noted on the cover sheet regarding §206-304.D.(2) (incorrectly noted as §260-304.D.(2)) to allow the plan to be reviewed as a preliminary and final plan concurrently. A waiver request letter with supporting justification should be***

provided to the Township for review and the noted ordinance citation error should be corrected on the cover sheet. We note that the extent of open plan comments is limited and would not have a technical objection to such a waiver if otherwise acceptable to the Township. The current submission has been reviewed as a Preliminary/Final Plan to facilitate Township consideration of a waiver request.

- 1A. **§206-307 through 206-309 provide the requirements for Final Plan approval and recordation. Any Final Plan approval deemed appropriate by the Township should be preceded by or include conditions to address submission of the following:**
 - a. **A subdivision and land development improvements agreement should be provided in accordance with §206-307.A.(3).(a) and §206-404.G.**
 - b. **PennDOT Highway Occupancy Permits should be provided in accordance with §206-307.A.(3).(e).**
 - c. **PADEP approval for a sewage planning module or exemption therefrom should be provided to address the requirements of §206-307.A.(3).(f).**
 - d. **A performance guarantee/escrow per §206-309, as well as the associated financial security agreement.**
2. §206-403.B lists the required tract information to be noted on the plan. The following items should be noted on the cover sheet: (1) total acreage of the tract, and (2) name, address and telephone number of the landowners or applicant. Improvements are proposed on abutting lands of UPI No. 62-3-69 to construct the two proposed entrances to the site and this landowner information should also be addressed. [9/1/21] Additional information has been added to the cover sheet. Three property owners are listed on the cover sheet. The applicable UPI numbers are formatted as parcel ID numbers instead. UPI number format should be used to correspond to plan labels for clarity. [10/20/21] **The UPI number format has been updated on the cover sheet. This item is resolved.**
6. §206-403.F requires a Site Design and Layout Plan. Sheet 3 - Record Plan provides many of the requirements for this plan. The following items should be added to this plan:
 - b. §206-403.F.(1).(d) requires the proposed water supply to be shown on the plan. [9/1/21] The proposed water supply is shown via a connection on adjacent UPI # 62-3-72.1. The water line traversing UPI # 62-3-72.1 is within a 20-foot wide Chester Water Authority Easement as recorded on Book 7444 , Page 2183. The Applicant should address CWA approval and the need for an additional or amended easement with a Final Plan submission. [10/20/21] **Gilmore & Associates has indicated that CWA has confirmed tapping into the main located in the easement is acceptable and the Applicant will continue to coordinate with CWA and the property owner of UPI #62-3-72.1 as needed. A copy of the approval from CWA and the adjacent property owner should be provided prior to Final Plan approval.**
7. §206-403.G requires an Improvement Construction Plan. This plan shall provide the information for the construction of the proposed streets, curbs, sidewalks, stormwater facilities, and the

means of water supply and sewage disposal facilities. Some of the required information has been provided on Sheet 4 – Grading & PCSM Plan. The following comments regarding the requirements of this section should be addressed:

- c. §206-403.G.(2) requires submission of a Sewage Facilities Planning Module. A DEP Sewage Facilities Planning Module Application Mailer form has been provided which requests an exemption from the requirement to complete a planning module. We have no objection to this request and recommend Township completion of Section 8.d of the DEP form. The form should then be returned to the Applicant for DEP submission and review. [9/1/21] The Applicant will also need to secure a capacity approval from Kennett Square Borough prior to DEP submission, since sewage flows are conveyed to the Borough's WWTP. Comment remains for Township review otherwise. [10/20/21] **Comment remains. Please note that the Applicant should contact Kennett Square Borough directly to secure the needed capacity determination.**
- 7A. **§206-404 provides the Final Plan requirements. The following final plan requirements should be addressed:**
- a. **§206-404.G.(5) requires a copy of all easements executed with private property owners, utilities or municipalities, as approved by the Township Solicitor. Copies of all such easements should be provided.**
 - b. **Per §206-404.G.(8), final plan approval shall be conditioned upon receipt of an approved sewage facilities planning module from the Pennsylvania DEP or approval of a planning exemption.**
9. §206-503 states the requirements for sidewalks. The following items regarding the proposed sidewalks should be addressed:
- c. Permit approval for work in the PennDOT ROW should be provided with a final plan submission. [9/1/21] **Comment remains.**
10. §206-505.A specifies limitations on separately owned lots sharing a common private driveway. The proposed access via a private lane on UPI No. 62-3-69 would not exceed the maximum 3 lots allowed, but the existing access easement, dated June 26, 2002 as recorded at the Chester County Recorder of Deeds (Book 5360 Page 933) does not address all associated requirements. §240-2021.F states in part "Cross-easements and maintenance agreements for use and maintenance of the common driveway shall be submitted to the Township for review and approval. Such cross-easements and maintenance agreements shall be recorded with the approved final subdivision plan". An agreement addressing the requirements of this section should be provided in a form acceptable to the Township Solicitor with a final plan submission. [9/1/21] **The Applicant states that a draft access easement agreement is currently under review by the property owner of UPI 62-3-69. Reference Note 5 on the Plan should be updated to address applicable easement conditions and the agreement should be approved by the Township and Township Solicitor prior to Final Plan approval.**
11. §206-518.B.(12) requires all parking spaces to have precast concrete wheel stops that are anchored to prevent vehicle encroachment onto sidewalks and/or landscaped areas. A wheel stop detail has been provided. The locations of the wheel stops should be indicated on the

plans. [9/1/21] General Note 6 on Sheet 6 as well as the detail on Sheet 12 note that the concrete wheel stops are to be provided for all parking spaces. The locations have not been indicated in the plan views. At a minimum, a diagram should be provided with the detail indicating the typical location of the wheel stops. Per Appendix X, the wheel stops are to be a minimum of 18" from the curb. [10/20/21] **A note has been added to the detail on Sheet 12. This item is resolved.**

12. **Article X – Traffic Impact Fees requires traffic impact fees for proposed developments. Per §206-1004.B, the specific impact fee for a new development or subdivision within the transportation service area for road improvements shall be determined as of the date of the preliminary land development or subdivision approval by multiplying the peak hour trip cost established for the transportation service area, as set forth in the Capital Improvements Plan, by the estimated number of peak hour trips to be generated by the new development or subdivision. Per the Capital Improvements Plan – Transportation Impact Fee, dated October 2016 and the current Township fee schedule, the project is located within the North Transportation Service Area and is subject to a traffic impact fee equivalent to \$1,376.42 per development trip as of the date of Preliminary Plan approval for this project. Traffic impact fees are to be paid at the time of building permit issuance. The Applicant should provide estimated peak hour trips and a plan note should memorialize associated fees and required payment provisions.**

Stormwater Management Ordinance

4. The plan proposes to connect the proposed 15" HDPE outlet pipe from the subsurface infiltration facility. Per the plan, the existing inlet includes an existing 12" inlet pipe and a 10" outlet pipe. It is unclear where the 10" CMP outlets once it leaves the site. Additional information should be provided regarding the outfall location for the 10" CMP. §199-302.D requires PennDOT approval for any BMP or conveyance that would discharge to a PennDOT right-of-way. The Applicant should verify that adequate capacity is available in the existing inlet system. [9/1/21] Additional information has been provided for the inlet system leaving the site. The Plan proposes to connect the outfall pipe from the subsurface infiltration facility to the existing inlet. The inlet is located outside of the PennDOT right-of-way, but the outfall pipe crosses under W. Cypress Street (SR 3046) and directs runoff onto UPI #62-3-79. This parcel is owned by Mike Pia Jr Land & Holding Co. LLC. [10/20/21] **Approval from PennDOT should be obtained prior to Final Plan approval.**
7. §199-306.M requires roof drains that are designed to discharge directly to infiltration practices to have appropriate measures to prevent clogging from debris and leaves, such as leaf traps, gutter guards, cleanouts or filter systems. This should be addressed on the plans. [9/1/21] The Applicant notes that runoff from the building roof will drain to downspouts that discharge to grade. No roof drains are proposed to discharge directly to an infiltration practice. The location of the roof drains should be indicated on the plan to indicate how the roof runoff will be directed towards the infiltration facility. [10/20/21] **The Applicant states that the architectural plans have progressed and it has been determined the roof will drain to the north. Downspout locations have been provided with underdrains connecting to the inlet system. This item is resolved.**

9. §199-402 states the SWM site plan content requirements. Most of the required information is provided on Sheet 4- Grading & PCSWM Plan. The following items should be addressed:
 - c. The soil classification information and testing information should be provided on the SWM Site Plan per §199-402.B.8.(k). The test pit numbering indicated on Sheet 2 of the current submission conflicts with the soils testing information included in the Stormwater Management Report. This should be clarified with the required SWM Site Plan information. [9/1/21] The test pit locations are not shown on the SWM Site Plan. This information should be added. [10/20/21] **The test pit locations have been added to the SWM plan. This item is resolved.**
10. §199-402.F states the inspections, operations and maintenance requirements. An Operation and Maintenance plan and agreement, as well as assurances and easements, must be provided per §199-702 through §199-704. [9/1/21] **Comment remains. A stormwater O&M agreement should be approved by the Township and Township Solicitor prior to or as a condition of Final Plan approval.**

General

3. A final plan submission should include a signature block for the owner of UPI No. 62-3-69 due to proposed improvements on this parcel to construct the two proposed entrances to the site. [9/1/21] **A signature block for the improvements located on UPI No. 62-3.69 has been added to the cover sheet. This signature block references a specific easement area, which should be shown on the plan. We also recommend review by the Township Solicitor to confirm acceptability.**
5. The Township's emergency service providers should review the proposed plan for acceptability. [9/1/21] **Comment remains.**
7. A minimum 10-foot horizontal separation distance should be provided between the sewage grinder pump station and the proposed water supply line. [10/20/21] **The grinder pump location has been shifted and this item is resolved.**

Please contact our office should you have any questions.

Sincerely,

AECOM



Stan Corbett
Associate Vice President, Municipal Department

cc: Joe Nolan, Eagle Energy Systems, Ltd.
Dan Mallach, RLA, Thomas Comitta Associates
Ken Hoffman, RLA, Gilmore & Associates, Inc.
Dave Sander, Esq., Kennett Township Solicitor
Heather Dorsey, PE, AECOM



GILMORE & ASSOCIATES, INC.
ENGINEERING & CONSULTING SERVICES

November 12, 2021

Ms. Diane Hicks – Director of Planning & Zoning
Kennett Township
801 Burrows Run Road
Chadds Ford, PA 19317

**RE: Waiver Request
Proposed Preliminary / Final Land Development
Medical Marijuana Dispensary – Eagle Systems
716 W. Baltimore Pike, Tax Parcel #62-3-70
Kennett Square, PA 19348
Gilmore Project #21-01183K-1**

Dear Ms. Hicks:

The following waiver relief from the Kennett Township ordinance is requested for the proposed Medical Marijuana Dispensary located at 716 W. Baltimore Pike.

- 1) SALDO Section 206-304.D.(2) - major subdivision or land development plans are required to proceed through the preliminary plan review phase prior to the submittal of a final plan.

This Waiver request is to have this major land development plan to be reviewed as both a preliminary and final plan concurrently in an attempt to streamline the approval process due to the small size of the project and the limited number of issues relating to final approval, the applicant hereby requests a waiver of SALDO Section 206-304.D.(2) to allow preliminary and final plan approval to occur simultaneously.

Please review this information and provide your comments and/or questions.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Ken F. Hoffman', is written over a light blue horizontal line.

Kenneth F. Hoffman, RLA
Project Manager

KFH/afj

pc. Joe Nolan – Eagle Energy Systems, Ltd.
Neil Land – Esquire
Chris Burkett, PE – Gilmore & Associates, Inc.
Ross Bickhart, PE – Gilmore & Associates, Inc.

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