



**UPPER UWCHLAN TOWNSHIP
PLANNING COMMISSION**

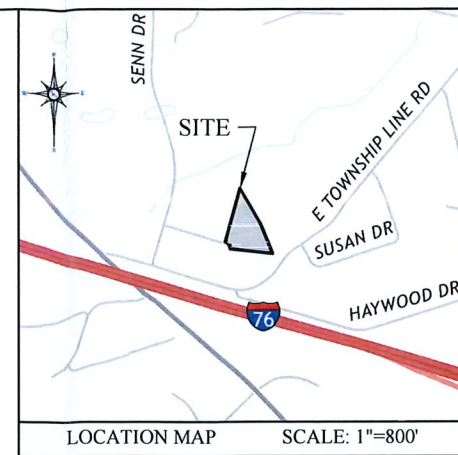
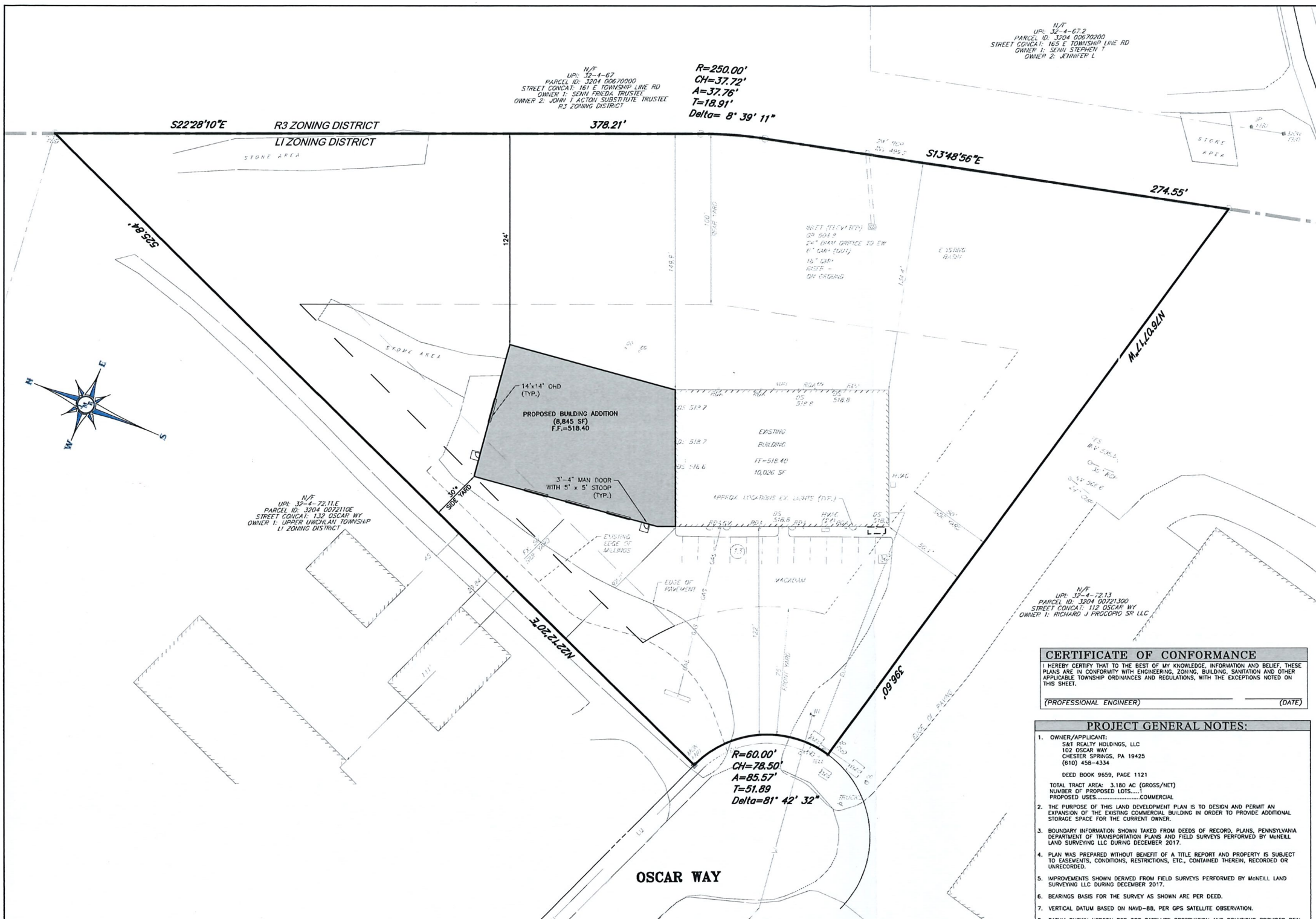
AGENDA

June 14, 2018

7:30 p.m.

Packet Page Number

- | | | |
|------|---|----|
| I. | Call To Order | |
| II. | 122 Oscar Way / S & T Realty Holdings Final Land Development Plan
A Plan proposing an 8,845 SF building addition, reconfiguration of existing parking/access drive, and minor grading on a parcel located on Oscar Way, in the LI District. Discuss the Consultants' review comments. Consider recommending Final Plan Approval to the Board of Supervisors. | 2 |
| III. | Village at Byers Station (Parcel 5C) Commercial Lot 2 Amended Final PRD Plan
Village at Byers Station (Parcel 5C) is the parcel on the north side of Station Boulevard, between Pottstown Pike/Route 100 and Graphite Mine Road. The Plan proposes 40,000+ SF of commercial space on Lot 2, the first of two phases. Lot 2 is 13.44 acres. Discuss previous PRD approvals and Township Code compliance. Consider recommending Plan Approval for first Phase to the Board of Supervisors. | 13 |
| IV. | Approval of Minutes: May 10, 2018 Meeting | 53 |
| V. | Open Session | |
| VI. | Next Meeting Date: July 12, 2018 7:30 p.m. | |
| VII. | Adjournment | |



- PLAN LEGEND**
- BOUNDARY LINE
 - ADJOINER BOUNDARY LINE
 - LEGAL RIGHT-OF-WAY LINE
 - EXISTING SANITARY SEWER
 - EXISTING SANITARY MANHOLE
 - EXISTING WATER LINE
 - EXISTING EDGE OF PAVING
 - SETBACK LINE
 - REQUIRED RIGHT-OF-WAY LINE
 - EDGE OF MILLINGS

**COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CHESTER**

ON THIS, THE _____ DAY OF _____, 20____, BEFORE ME, THE UNDERSIGNED OFFICER, PERSONALLY APPEARED, _____, RESPONSIBLE OFFICIAL FROM S&T REALTY HOLDINGS, LLC, WHO BEING DULY SWORN ACCORDING TO LAW, DEPOSES AND SAYS THAT THEY ARE THE OWNERS OF THE PROPERTY SHOWN ON THIS PLAN, THAT THE PLAN THEREOF WAS MADE AT THEIR DIRECTION, THAT THEY ACKNOWLEDGE THE SAME TO BE RECORDED, AND THAT ALL STREETS AND OTHER PROPERTY IDENTIFIED AS PROPOSED PUBLIC PROPERTY (EXCEPTING THOSE AREAS LABELED "NOT FOR DEDICATION") WILL BE OFFERED FOR DEDICATION.

(S&T REALTY HOLDINGS, LLC OFFICIAL)

SWORN TO AND SUBSCRIBED BEFORE ME
THIS _____ DAY OF _____, 20____.

(NOTARY PUBLIC)

APPROVALS

TOWNSHIP OF UPPER UWCHLAN

APPROVED BY THE BOARD OF SUPERVISORS OF UPPER UWCHLAN TOWNSHIP, CHESTER COUNTY, PENNSYLVANIA, THIS _____ DAY OF _____, 20____.

REVIEWED BY THE PLANNING COMMISSION OF UPPER UWCHLAN TOWNSHIP, CHESTER COUNTY, PENNSYLVANIA, THIS _____ DAY OF _____, 20____.

REVIEWED BY THE UPPER UWCHLAN TOWNSHIP ENGINEER THIS _____ DAY OF _____, 20____.

CHESTER COUNTY PLANNING COMMISSION

THIS PLAN WAS REVIEWED BY THE CHESTER COUNTY PLANNING COMMISSION ON THIS _____ DAY OF _____, 20____.

(CCPC FILE NUMBER)

(PLANNING COMMISSION SECRETARY)

CHESTER COUNTY RECORDER OF DEEDS

RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS OF CHESTER COUNTY AT WEST CHESTER, PENNSYLVANIA, IN PLAN BOOK _____, PAGE _____, ON THIS _____ DAY OF _____, 20____.

(DEPUTY RECORDER OF DEEDS)

CERTIFICATE OF CONFORMANCE

I HEREBY CERTIFY THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, THESE PLANS ARE IN CONFORMITY WITH ENGINEERING, ZONING, BUILDING, SANITATION AND OTHER APPLICABLE TOWNSHIP ORDINANCES AND REGULATIONS, WITH THE EXCEPTIONS NOTED ON THIS SHEET.

(PROFESSIONAL ENGINEER)

(DATE)

PROJECT GENERAL NOTES:

- OWNER/APPLICANT: S&T REALTY HOLDINGS, LLC
102 OSCAR WAY
CHESTER SPRINGS, PA 19425
(610) 458-4334
DEED BOOK 9659, PAGE 1121
TOTAL TRACT AREA: 3.180 AC (GROSS/NET)
NUMBER OF PROPOSED LOTS: _____
PROPOSED USES: _____ COMMERCIAL
- THE PURPOSE OF THIS LAND DEVELOPMENT PLAN IS TO DESIGN AND PERMIT AN EXPANSION OF THE EXISTING COMMERCIAL BUILDING IN ORDER TO PROVIDE ADDITIONAL STORAGE SPACE FOR THE CURRENT OWNER.
- BOUNDARY INFORMATION SHOWN TAKEN FROM DEEDS OF RECORD, PLANS, PENNSYLVANIA DEPARTMENT OF TRANSPORTATION PLANS AND FIELD SURVEYS PERFORMED BY MCNEILL LAND SURVEYING LLC DURING DECEMBER 2017.
- PLAN WAS PREPARED WITHOUT BENEFIT OF A TITLE REPORT AND PROPERTY IS SUBJECT TO EASEMENTS, CONDITIONS, RESTRICTIONS, ETC., CONTAINED THEREIN, RECORDED OR UNRECORDED.
- IMPROVEMENTS SHOWN DERIVED FROM FIELD SURVEYS PERFORMED BY MCNEILL LAND SURVEYING LLC DURING DECEMBER 2017.
- BEARINGS BASIS FOR THE SURVEY AS SHOWN ARE PER DEED.
- VERTICAL DATUM BASED ON NAVD-83, PER GPS SATELLITE OBSERVATION.
- DATUM SHOWN HEREON PER GPS SATELLITE OBSERVATION AND SOLUTIONS PROVIDED REAL TIME BY MCNEILL GPS, INC. WHICH UTILIZES TRIMBLE VIRTUAL REFERENCE SYSTEM CONTINUALLY OPERATING HIGH PRECISION GNSS REFERENCE STATIONS. DATUM PROVIDED IS NAD 83 / NAVD 83 PENNSYLVANIA STATE PLANE COORDINATE SYSTEM ZONE: 3702 (JAMBERT/SOUTHERN ZONE).
- REFERENCE PLANS:
A. PLAN OF SUBDIVISION MADE FOR EAGLE NURSERY, INC., BY BEIDMAN ASSOCIATES, INC., DATED 06/03/1999, LAST REVISED 06/29/1999 AND RECORDED AS CHESTER COUNTY PLAN #15163.
B. PLAN OF SUBDIVISION MADE FOR EAGLE NURSERY, INC., BY YERKES ASSOCIATES, INC., DATED 01/20/1989, LAST REVISED 05/27/1990 AND RECORDED AS CHESTER COUNTY PLAN #10656.
- EXISTING UNDERGROUND UTILITY LOCATIONS WERE PLOTTED FROM UTILITY COMPANY PLANS SUPPLIED TO US IN ACCORDANCE WITH PA ACT 199 (2004) OR BY PHYSICAL SURVEY LOCATIONS. ALL UNDERGROUND UTILITY LOCATIONS ARE APPROXIMATE ONLY. CONTRACTORS ARE REQUIRED BY PA ACT 199 TO VERIFY THE EXACT LOCATIONS OF ALL UNDERGROUND UTILITIES PRIOR TO COMMENCING EXCAVATION ACTIVITIES.
- THE SITE IS LOCATED WITHIN THE WATERSHED OF VALLEY CREEK WHICH IS DESIGNATED AS EXCEPTIONAL VALUE - MIGRATORY FISH (EV-MF) IN DEP CODE TITLE 25, CHAPTER 93.
- THERE ARE NO WETLANDS PRESENT ON THE PROPOSED PARCEL OF LAND TO BE SUBDIVIDED PER THE NATIONAL WETLANDS INVENTORY.
- THERE ARE NO FLOODPLAIN AND FLOODWAY LIMITS LOCATED ON SITE AS PLOTTED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) FLOOD INSURANCE RATE MAP (FIRM) PANEL 95 OF 380, COMMUNITY PANEL No.42029C00950, LAST REVISED SEPTEMBER 29, 2017.
- SOIL INFORMATION SHOWN HEREON PLOTTED FROM WEB SOIL SURVEY BY THE UNITED STATES DEPARTMENT OF AGRICULTURE (USDA) NATURAL RESOURCE CONSERVATION SERVICE (NRCS).
- THE LOT IS CURRENTLY SERVED BY PUBLIC SEWER AND WATER.

WAIVER REQUESTS

§ CHAPTER 152

REQUIRED:
STORMWATER MANAGEMENT

REQUESTED:
TO UTILIZE THE EXISTING BASIN FOR STORMWATER MANAGEMENT, AS THE IMPERVIOUS AREA REMAINS VIRTUALLY UNCHANGED.

VARIANCE APPROVAL

AT A MEETING HELD ON MARCH 29, 2018 THE UPPER UWCHLAN TOWNSHIP ZONING HEARING BOARD GRANTED A VARIANCE FROM SECTION 200-45.C

REQUIRED:
50 FOOT SIDE YARD BUILDING SETBACK

GRANTED:
TO ALLOW A 30-FOOT SIDE YARD SETBACK SUBJECT TO COMPLIANCE TO THE TOWNSHIP'S SATISFACTION WITH THE SCREENING PROVISIONS LISTED IN "CONSERVATION-UTILITIES AND CONSTRUCTION PLAN EAGLE INDUSTRIAL PARK" (ZONING BOARD EXHIBIT B-2)

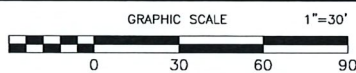
**UPPER UWCHLAN TOWNSHIP
LIMITED INDUSTRIAL ZONING DISTRICT**

AREA & BULK REGULATIONS:	REQUIRED	EXISTING	PROVIDED
LOT AREA	3 ACRES (MIN.)	3.180 ACRES	3.180 ACRES
LOT WIDTH	200 FEET (MIN.)	192.4 FEET	192.4 FEET
FRONT YARD	75 FEET (MIN.)	122 FEET	122 FEET
SIDE YARD*	*50 FEET (MIN.)	50.1 FEET	30 FT
REAR YARD (ABUTTING RES. DISTRICT)	100 FEET (MIN.)	134.4 FEET	134.4 FEET
BUILDING COVERAGE	40% (MAX.)	7.2% (10,026 SF)	13.6% (18,871 SF)
IMPERVIOUS COVERAGE	70% (MAX.)	31.2% (43,230 SF)	31.6% (44,094 SF)
BUILDING HEIGHT	35 FEET (MAX.)	<35 FEET	<35 FEET
ACCESSORY STRUCTURE SETBACK	35 FEET (MAX.)	<35 FEET	<35 FEET
FRONT YARD	NOT PERMITTED	N/A	N/A
SIDE & REAR YARD	30 FEET (MIN.)	>30 FEET	>30 FEET

*VARIANCE OF § 200-45.C GRANTED TO ALLOW A SIDE YARD OF 30 FT. TO PERMIT BUILDING ADDITION AS SHOWN LOT WIDTH-EXISTING NON-CONFORMANCE

IMPERVIOUS COVERAGE TABLE

PROPOSED BUILDING ADDITION OUTSIDE EX. PAVEMENT	= 864 SF
TOTAL IMPERVIOUS COVERAGE PROPOSED	= 864 SF
EXISTING BUILDING	= 10,026 SF
EXISTING PAVEMENT, STONE & MILLINGS	= 33,204 SF
TOTAL IMPERVIOUS COVERAGE EXISTING	= 43,230 SF
TOTAL NET IMPERVIOUS COVERAGE PROPOSED	= 44,094 SF



PROFESSIONAL CIVIL ENGINEERING • LAND PLANNING SERVICES
55 COUNTRY CLUB DRIVE, SUITE 201 • DOWNTOWN, PA 19335
VOICE: (484) 880-7342 • FAX: (610) 594-8669
EMAIL: ADMIN@JMRENGINEERING.COM



JOHN M. ROBINSON
PROFESSIONAL ENGINEER
PENNSYLVANIA LICENSE No. PE055271

UTILITY USERS LIST

USERS	RESPONSES
AQUA PENNSYLVANIA INC.	CONFLICT
COMCAST CABLE	CLASH-NO FACILITIES
PECO ENERGY	CONFLICT
UPPER UWCHLAN TWP/W.A. AUTH.	CLASH-NO FACILITIES
VERIZON PENNSYLVANIA LLC	CLASH-NO FACILITIES

CALL BEFORE YOU DIG!

1-800-242-1776
POCS SERIAL NUMBER: 20173342759

PLAN REVISIONS

REV	DATE	DESCRIPTION OF CHANGES

**ZONING EXHIBIT
FOR
122 OSCAR WAY**

LOCATION:
**122 OSCAR WAY
CHESTER SPRINGS, PA 19425
UPPER UWCHLAN TOWNSHIP
CHESTER COUNTY, PA**

PARCELS:
**TAX PARCEL NUMBER:
3 204 00721200**

CLIENT:
**S&T REALTY HOLDINGS, LLC
102 OSCAR WAY
CHESTER SPRINGS, PA 19425**

PROJECT No.: 1259-B
SURVEY REF.: UP UWC-1248 (MCNEILL)
DRAWN BY: E.C.R.
CHECKED BY: J.M.R.
PLAN DATE: APRIL 16, 2018
PLAN SCALE: 1" = 30'

LAYOUT PLAN

SHEET NUMBER:
1 OF 5

Plot Date: Mon. Apr. 16, 2018



June 6, 2018

File No. 03-0351T5

Cary B. Vargo
Upper Uwchlan Township
140 Pottstown Pike
Chester Springs, PA 19425

Attention: Cary B. Vargo, Township Manager

Reference: 122 Oscar Way Building Addition
Final Land Development Review
Upper Uwchlan Township, Chester County, PA

Dear Cary:

Gilmore & Associates, Inc. (G&A) is in receipt of the following information prepared and submitted by JMR Engineering, Inc. (JMR) on behalf of S&T Realty Holdings, LLC, the applicant:

- Final Land Development Application, dated April 16, 2018.
- Plan titled, "122 Oscar Way", prepared for S&T Realty Holdings, LLC, by JMR Engineering, Inc., dated April 16, 2018.

The subject site is comprised of one (1) parcel (TMP 32-4-72.12) located north of the Pennsylvania Turnpike (I-76) with access from Oscar Way. The property is located in the LI Limited Industrial Zoning District.

G&A, as well as other Township Consultants, have completed our first review of the above referenced final land development application for compliance with the applicable sections of the Township's Zoning Ordinance, Subdivision and Land Development Ordinance, and Stormwater Management Ordinance, and wish to submit the following comments for your consideration. Please note that comments with a **(W)** or an **(RW)** may require relief from the Township Ordinances. A **"(W)"** denotes a waiver that has not been requested and an **"(RW)"** denotes a requested waiver.

I. OVERVIEW

The Applicant is proposing to construct an 8,845 square foot building addition on the north side of the existing building. The proposed building expansion will be located on an existing area of asphalt parking to be removed, with some minor regrading to the northern and eastern sides of the proposed

184 West Main Street | Suite 300 | Trappe, PA 19426 | Phone: 610-489-4949 | Fax: 610-489-8447

Gilmore & Associates, Inc.
Building on a Foundation of Excellence
www.gilmore-assoc.com

building addition. The total increase in impervious surface coverage is approximately 864 square feet, and the total proposed disturbance for the construction is approximately 0.56 acres. Proposed lighting fixtures will be installed, as well as landscaping plantings along the eastern property boundary of the site. There are no existing wetlands on the site.

II. ZONING ORDINANCE REVIEW

1. §200-45.B. – The required minimum lot width at the building setback line is 300 feet. The existing lot width at the building setback line is only 192.4 feet. Revise the front yard setback line as shown on Layout Plan to where minimum lot width is 300 feet.
2. (V) §200-45.C.(2) – A variance was granted by the Zoning Hearing Board at the March 28th, 2018 meeting from the requirement to provide a 50 foot side yard setback. Applicant is proposed a side yard setback of 30 feet.
3. §200-73.C.(3) – The existing parking spaces do not appear to be striped to a stall line length of 18 feet.
4. §200-73.H.(1) – Computations shall be provided showing number of parking spaces and how Applicant meets nonresidential parking requirements.
5. §200-74 – Applicant shall indicate on plans loading/unloading area.

III. SUBDIVISION AND LAND DEVELOPMENT ORDINANCE REVIEW

1. §162-9.B.(2)(b)[18] – An established benchmark shall be listed on the plans showing location and elevation of the datum to which the contour elevations refer.
2. §162-9.C.(2)(a)[8] – The location of existing sanitary utilities shall be shown on the Existing Conditions Plan, with size and materials of each indicated.

IV. STORMWATER MANAGEMENT ORDINANCE REVIEW

1. (RW) §152 – Stormwater runoff from this site will flow directly to an existing basin. The net increase in impervious surface is 864 SF. Typically, projects which do not increase impervious surface by more than 1,000 SF are exempt from providing stormwater management. However, since the Applicant is disturbing more than 5,000 SF it is required to be evaluated.

Since this is considered "Redevelopment", the applicant is required to consider 20% of existing impervious as lawn area for the evaluation. Doing so would lead to the need to provide at least some level of stormwater infiltration.

The applicant is requesting a waiver from providing any stormwater management. Although additional storm water measures are most likely required, being as the runoff from this site currently does, and will continue to, flow directly to an existing detention basin which, to our knowledge, is functioning adequately; we do not foresee any adverse effects from not providing additional controls if the Board choses to grant the waiver.

V. GENERAL COMMENTS

1. The rear yard provided setback should be revised to 124 feet in the Area & Bulk Regulations Table on the Layout Plan.
2. There is an existing 8" tree near the southwestern corner of the property only shown on the Existing Conditions Plan, which appears to conflict with the location of a proposed light fixture labeled A on the Landscape & Lighting Plan. Please clarify if this tree is to be removed.
3. A pavement detail for the area of regrading as mentioned in Sequence of Construction Note 14 on Erosion Control Plan should be provided on the plans, and the limits of proposed paving should be clarified.
4. Silt sock is labeled on the Erosion Control Plan, but a Silt Fence Detail is shown. Please clarify.
5. The location of the Stabilized Construction Entrance shall be shown on the Erosion Control Plan.
6. The reference to the site being located in Valley Creek Watershed should be revised to indicate Pickering Creek Watershed.
7. Contractor Notes 13 through 16 on the Grading Plan refer to sanitary sewer. If there are no sanitary sewer improvements outside of the proposed building addition, please remove these notes.
8. Sequence of Construction Note 8 on Erosion Control Plan mentions installation of storm inlet and associated roof leaders and piping. Please clarify on plans locations of roof leaders from proposed building addition.

VI. TOWNSHIP TRAFFIC CONSULTANT COMMENTS
McMAHON ASSOCIATES, INC.

1. SALDO Sections 162-9.H(2) and 162-42 – It is our understanding the proposed expansion of the site will be used as warehousing space. The applicant should provide information regarding the anticipated site trip generation. Based on information contained in the Institute of Transportation Engineer's (ITE) publication *Trip Generation, 10th Edition*, the proposed 8,845 square foot expansion of the existing building will generate approximately 35 additional daily trips, approximately 13 additional weekday morning peak hour trips, and approximately 14 additional weekday afternoon peak hour trips. As such, a traffic study would not be required since fewer than 20 additional trips are generated by the proposed expansion, based on the ITE data.
2. ZO Section 200-73.C – There are several locations on the north side of the proposed expansion where the vehicular circulation aisle width is less than 25 feet. Please provide justification for the proposed aisle widths in this area that are less than 25 feet for two way traffic, such as vehicular turning templates.
3. ZO Section 200-73.H – The plan should be updated to provide a parking tabulation for the existing and expanded site parking requirements. Based on the plan, it appears the 18,871 square-foot expanded site (10,026 square feet of existing space and 8,845 square feet of proposed space) would require at least 19 parking spaces, plus one space per vehicle normally stored on the site. Since only 13 parking spaces are currently provided, additional parking spaces are required. Please provide additional information regarding the site parking needs.
4. Chapter 79-8.A – Subject to comment 1, based on the ITE data, the proposed 8,845 square feet of additional warehousing space will generate approximately 14 total new trips to the study area roadways during the weekday afternoon peak hour. Therefore, the number of trips which should be subject to the Township's Transportation Impact Fee is **14**, and as such, the total transportation impact fee for this development is **\$32,676**.

VII. TOWNSHIP PLANNING CONSULTANT COMMENTS
BRANDYWINE CONSERVANCY

Comments to be provided under separate cover.

VIII. TOWNSHIP SEWER CONSULTANT COMMENTS
ARRO CONSULTING, INC.

1. The Developer is proposing an 8,845 square foot building addition. The site has an existing on-lot septic system. As such the County Health Department should review the adequacy of the existing on-lot system ability to service the proposed building addition. Also, Note 13 which indicates the lot is currently serviced by public sewer and water shall be revised accordingly.

IX. TOWNSHIP LIGHTING CONSULTANT COMMENTS
STUBBE CONSULTING, LLC.

1. Control/Hrs of Operation - §614.C.3.d. & e. require that unless otherwise permitted by the Township (e.g., for safety or security or all-night operations), lighting shall be controlled by automatic switching devices to extinguish exterior lighting by 11 p.m. Lighting proposed for use after 11 p.m. shall be reduced by 75% from then until dawn unless, supporting a specific purpose and approved by the Township. Plan proposes to have 25% of the number of luminaires remain on all night, that is assuming that the 2 wall-mounted luminaires on the existing building are to be extinguished nightly by 11 p.m.

It is recommended Applicant be requested to specify or describe on Lighting Plan, the on/off control device that is to be used to automatically extinguish the exterior lighting nightly, at what time the lighting is to be extinguished, and to clarify whether the 2 luminaires on the existing building are to be extinguished by 11 p.m. or operate all night.

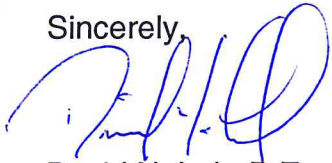
2. Plan Content- The following Ordinance required information could not be found on Plan:
 - a. Specified Lighting Equipment - §614.D.1.c. requires the placement on lighting plan of catalog numbers and catalog cuts of specified lighting equipment.
 - b. Plan Notes - §614.D.4.Requires that the inclusion of notes on lighting plan:
 - i. "Post-approval alterations to lighting plans or intended substitutions for approved lighting equipment shall be submitted to Township for review and approval prior to installation."
 - ii. "Upper Uwchlan Township reserves the right to conduct one or more post-installation site visits to confirm satisfactory compliance with approved plan commitments and if deemed necessary, to require remedial action at no expense to the Township."

- c. Mounting heights of pole mounted and building mounted luminaires.
- d. Foundation detail of the base supporting the 2 luminaire poles.
- e. Statistical Area Summary of minimum, average and maximum plotted footcandles and maximum to minimum uniformity ratio.
- f. Names of ies photometric files used to generate plotted illuminance values.

It is recommended Applicant be requested to provide the above information on Lighting Plan.

This concludes our first review of the above referenced final land development application. We would recommend the plans be revised to address the above referenced comments as well as any raised by the Planning Commission and the Board of Supervisors. If you have any questions, please do not hesitate to contact me.

Sincerely,



David N. Leh, P.E.
Municipal Services Manager
Gilmore & Associates, Inc.

cc: Upper Uwchlan Township Board of Supervisors (via email only)
Upper Uwchlan Planning Commission (via email only)
Kristin S. Camp, Esq., BBMM, LLP (via email only)
Christopher J. Williams, P.E., McMahon Associates, Inc. (via email only)
G. Matthew Brown, P.E., ARRO Consulting, Inc. (via email only)
David M. Schlott, Jr., P.E., ARRO Consulting, Inc. (via email only)
Sheila Fleming, Brandywine Consulting (via email only)
Scott Johnson, S&T Realty Holdings, LLC (via email only)
John M. Robinson, P.E., JMR Engineering, Inc. (via email only)



THE COUNTY OF CHESTER



COMMISSIONERS

Michelle Kichline
Kathi Cozzone
Terence Farrell

Brian N. O'Leary, AICP
Executive Director

PLANNING COMMISSION

Government Services Center, Suite 270
601 Westtown Road
P. O. Box 2747
West Chester, PA 19380-0990
(610) 344-6285 Fax (610) 344-6515

May 16, 2018

Gwen Jonik, Township Secretary
Upper Uwchlan Township
140 Pottstown Pike
Chester Springs, PA 19425

Re: Final Land Development - 122 Oscar Way
LD-04-18-15392 - Upper Uwchlan Township

Dear Ms. Jonik:

A final land development plan entitled "122 Oscar Way", prepared by JMR Engineering, LLC and dated April 16, 2018, was received by this office on April 19, 2018. This plan is reviewed by the Chester County Planning Commission in accord with the provisions of Section 502 of the Pennsylvania Municipalities Planning Code. We offer the following comments on the proposed land development for your consideration.

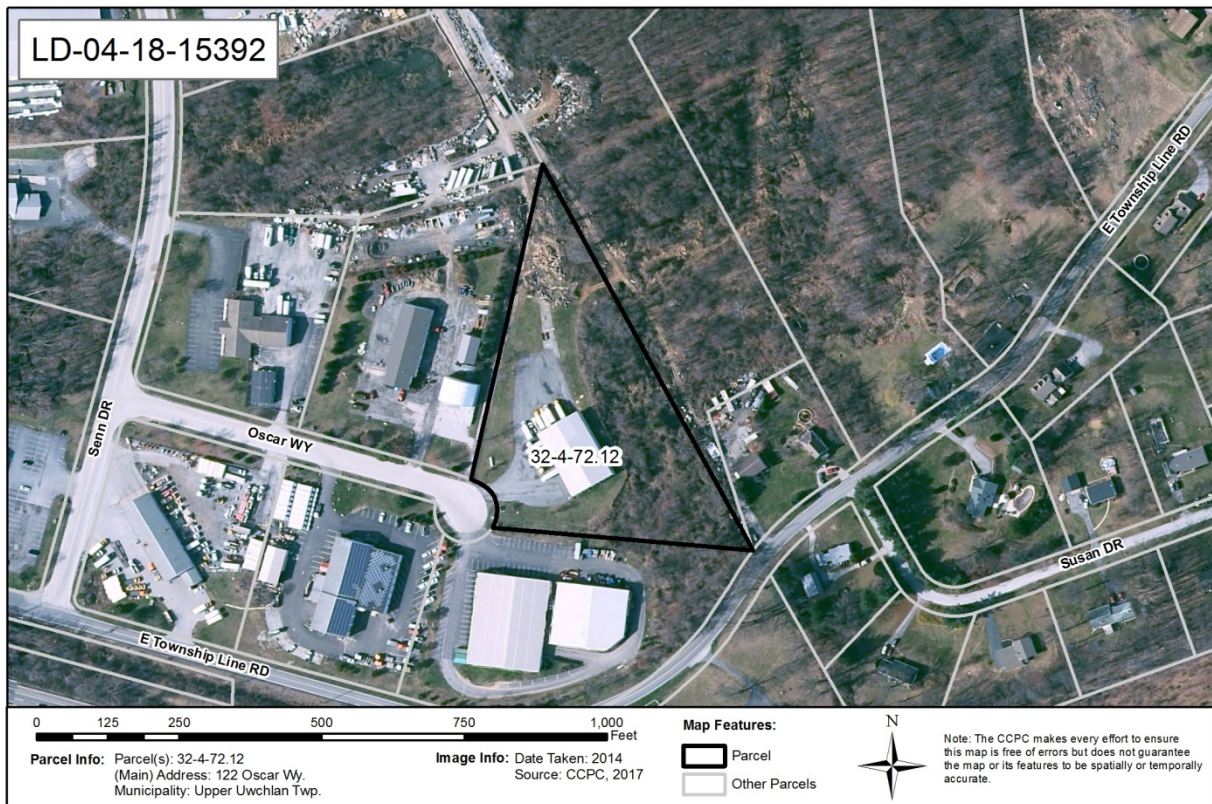
PROJECT SUMMARY:

Location:	At the end of Oscar Way, east of Senn Drive
Site Acreage:	3.18 acres
Lots/Units:	1 lot; one structure
Non-Res. Square Footage:	8,845 square feet (addition)
Proposed Land Use:	Commercial
New Parking Spaces:	0
Municipal Land Use Plan Designation:	Village
UPI#:	32-4-72.12

PROPOSAL:

The applicant proposes the construction of an 8,845 square foot addition to a 10,026 square foot commercial building. The site, which will be served by public water and public sewer facilities, is located in the Upper Uwchlan Township Limited Industrial zoning district.

RECOMMENDATION: The County Planning Commission recommends that the issues raised in this letter should be addressed and all Township issues should be resolved before action is taken on this land development plan.



COUNTY POLICY:

LANDSCAPES:

1. The site is located within the **Suburban Center Landscape** designation of *Landscapes2*, the 2009 County Comprehensive Plan. The objective of the **Suburban Center Landscape** is to promote new development to accommodate anticipated population and employment growth, using appropriate density, sustainable design, and smart transportation principles. Additionally, *Landscapes2* supports infill development and redevelopment efforts in the **Suburban Center Landscape** based upon infrastructure capacity and environmental constraints. The proposed land development is consistent with the objectives of the **Suburban Center Landscape**.

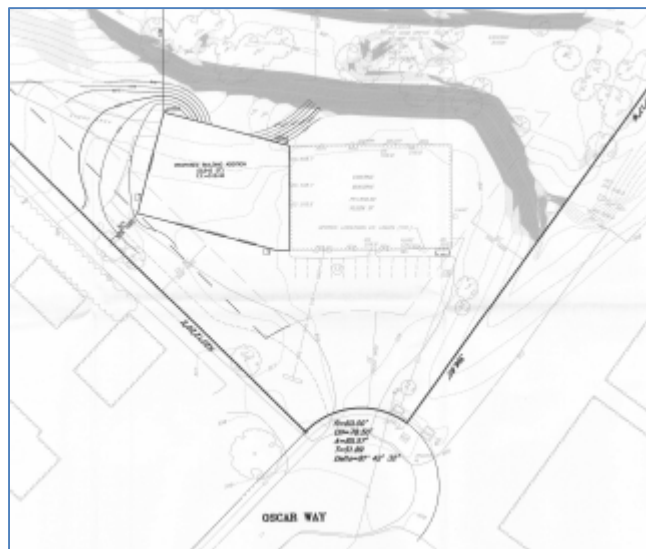
WATERSHEDS:

2. *Watersheds*, the water resources component of *Landscapes2*, indicates the proposed development is located within the Pickering Creek watershed. *Watersheds*' highest priority land use objectives within this watershed are:
 - implement comprehensive stormwater management,
 - protect vegetated riparian corridors, and
 - protect first order streams.

Watersheds can be accessed at www.chesco.org/water.

PRIMARY ISSUES:

3. The plan indicates that a variance has been granted by the Township on March 29, 2018 for this land development. Prior to granting final plan approval, the Township should verify that the plan conforms to the decision issued by the Township Zoning Hearing Board, and any conditions of approval issued by the Board should be indicated on the final plan. We note that Sheet 5 indicates that, according to relief granted by the Zoning Hearing Board, the landscaping plan has been designed to satisfy conditions of approval relating to the Eagle Industrial Park.
4. The applicant is requesting a waiver from the provisions of the Township stormwater management requirements, because the impervious surfaces on the site remain virtually unchanged. The Township Engineer should review this waiver request, due to the updated ***County-wide Act 167 Stormwater Management Plan for Chester County, PA*** (July 2013). Waiver requests should only be granted following the determination that the proposed project either meets the purpose of these requirements or does not create the impacts that these provisions are intended to manage.



***Detail of 122 Oscar Way
Final Land Development Plan***

ADMINISTRATIVE ISSUES:

5. The applicant should contact the office of the Chester County Conservation District for information and clarification on erosion control measures. The provisions of the Commonwealth Erosion Control Regulations may apply to the project and may require an Earth Disturbance Permit or a National Pollutant Discharge Elimination System permit for discharge of stormwater from construction activities.
6. A minimum of four copies of the plan should be presented at the Chester County Planning Commission for endorsement to permit recording of the final plan in accord with the procedures of Act 247, the Pennsylvania Municipalities Planning Code, and to meet the requirements of the Recorder of Deeds, and the Assessment Office.

Page: 4

Re: Final Land Development - 122 Oscar Way

LD-04-18-15392 - Upper Uwchlan Township

This report does not review the plan for compliance to all aspects of your ordinance, as this is more appropriately done by agents of Upper Uwchlan Township. However, we appreciate the opportunity to review and comment on this plan. The staff of the Chester County Planning Commission is available to you to discuss this and other matters in more detail.

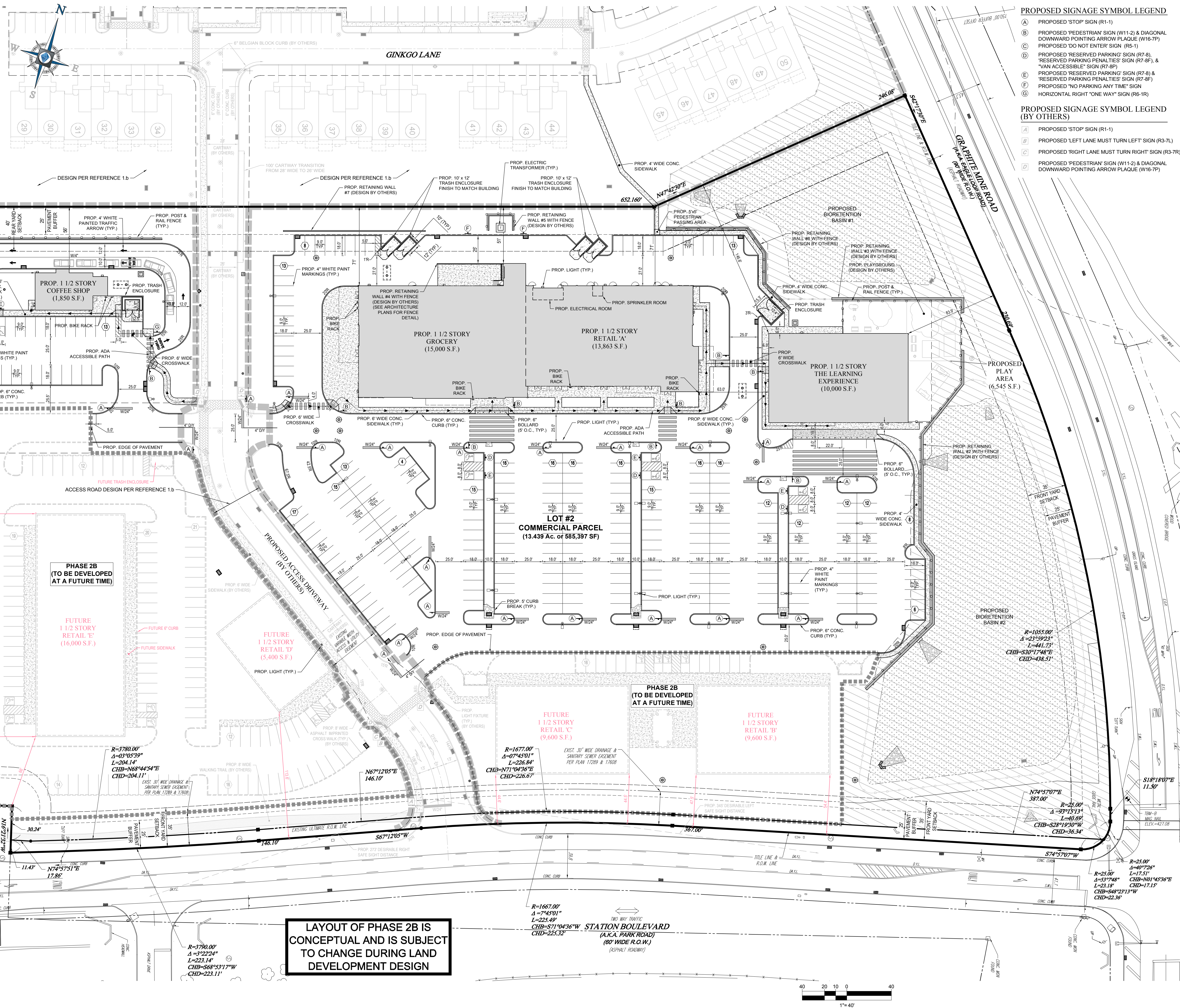
Sincerely,

A handwritten signature in dark ink that reads "Wes Bruckno". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

Wes Bruckno, AICP
Senior Review Planner

cc: JMR Engineering, LLC
S&T Realty Company
Chester County Conservation District

	EXISTING PROPERTY LINE
	BUILDING SETBACK LINE
	PROPOSED ROAD CENTERLINE
	ADJACENT PROPERTY LINE
	EXISTING ACCESS & UTILITY EASEMENT
	PROPOSED PHASE LINE
	DENOTES IMPROVEMENTS AREA AS DESIGNED IN REFERENCE 1.b
	PROPOSED CONCRETE
	PROPOSED ASPHALT WALKING TRAIL
	PROPOSED OPEN SPACE
	PROPOSED DETECTABLE WARNING SURFACE
	PROPOSED GRAPHITE MINE ROAD CONSTRUCTION & MAINTENANCE EASEMENT
	PROPOSED PARKING COUNT
	FUTURE PARKING COUNT
	PROPOSED SIGN
	PROPOSED FIRE HYDRANT



LAYOUT OF PHASE 2B IS
CONCEPTUAL AND IS SUBJECT
TO CHANGE DURING LAND
DEVELOPMENT DESIGN


UNIFORM PARCEL IDENTIFIER: 32-4-497

- (A) PROPOSED 'STOP' SIGN (R1-1)
- (B) PROPOSED 'PEDESTRIAN' SIGN (W11-2) & DIAGONAL DOWNWARD POINTING ARROW PLAQUE (W16-7P)
- (C) PROPOSED 'DO NOT ENTER' SIGN (R5-1)
- (D) PROPOSED 'RESERVED PARKING' SIGN (R7-8), 'RESERVED PARKING PENALTIES' SIGN (R7-8F), & 'VAN ACCESSIBLE' SIGN (R7-8P)
- (E) PROPOSED 'RESERVED PARKING' SIGN (R7-8) & 'RESERVED PARKING PENALTIES' SIGN (R7-8F)
- (F) PROPOSED 'NO PARKING ANY TIME' SIGN
- (G) HORIZONTAL RIGHT 'ONE WAY' SIGN (R6-1R)

A	PROPOSED 'STOP' SIGN (R1-1)
B	PROPOSED 'LEFT LANE MUST TURN LEFT' SIGN (R3-7L)
C	PROPOSED 'RIGHT LANE MUST TURN RIGHT' SIGN (R3-7R)
D	PROPOSED 'PEDESTRIAN' SIGN (W11-2) & DIAGONAL DOWNWARD POINTING ARROW PLAQUE (W16-7P)

[illegible]

PENNSYLVANIA LAW REQUIRES
3 WORKING DAYS NOTICE FOR
CONSTRUCTION PHASE AND 10
WORKING DAYS IN DESIGN
STAGE - STOP CALL

 PA1
SYSTEM, INC.
1-800-242-1776


POCS SERIAL NUMBER
201525331377

PROJECT:

AMENDED FINAL
PRD PLANS

FOR

"FINAL PLAN FOR LOT 2
OF PARCEL 5C, PHASE A"



BOHLER
ENGINEERING

1600 MANOR DRIVE, SUITE 200
CHALFONT, PENNSYLVANIA 18914

Phone: (215) 996-9100
Fax: (215) 996-9102

www.BohlerEngineering.com

SHEET TITLE:

SHEET NUMBER: _____

3
OF 38

REVISION No. 3



June 6, 2018
File No. 03-0434T6

Mr. Cary B. Vargo
Upper Uwchlan Township Manager
140 Pottstown Pike
Chester Springs, PA 19425

Reference: Parcel 5C (Byers Station) – Lot 2
Amended Final PRD Plans – Second Review
Upper Uwchlan Township, Chester County, PA

Dear Cary:

Gilmore & Associates, Inc. (G&A) is in receipt of the following documents:

- Response Letter prepared by Bohler Engineering, dated May 7, 2018.
- Plan set consisting of thirty-eight (38) sheets titled “Byers Station Amended Final PRD Plans – Final Plan for Lot 2 of Parcel 5C, Phase A” prepared by Bohler Engineering, dated February 16, 2018, last revised May 7, 2018.
- Report titled “General Project Description and Stormwater Management Calculations” prepared by Bohler Engineering, dated February 16, 2018, last revised May 7, 2018.
- Waiver request letter to Upper Uwchlan Township dated May 7, 2018.

G&A, as well as the other Township Consultants, have completed our second review of the above referenced Amended Final Plans for compliance with the Conditions of Tentative Approval Byers Station PRD, Township Zoning Ordinance, Subdivision and Land Development Ordinance, as well as the Stormwater Management Ordinance, and wish to submit the following comments for consideration.

Please note that comments with a **(RW)** denotes a requested waiver. Comments in *italics* are from our previous review letter, and comments in **bold text** require resolution by the applicant. Previous comments which have been satisfactorily addressed are not repeated herein.

I. OVERVIEW

The subject parcel is located at the northeastern corner of the intersection of Station Boulevard and Pottstown Pike. The tract is approximately 29.8 acres in size and is located in the R-4 Residential District and C-1 Village District, being developed under the Planned Residential Development Option as set forth in the Byers Station conditions of tentative approval. The parcel was subdivided into two lots. Lot #1 consisting of 16.353 acres in residential property is currently being constructed. At this time, the Applicant, Executive Land Holdings, L.P., is proposing to improve Lot #2 consisting of 13.439 acres of commercial property, with proposed access driveway to Station Boulevard, parking improvements, a Coffee Shop, Grocery, Retail Stores, and The Learning Experience. The proposed improvements will be completed in two phases; Phase One consisting of approximately 40,713 square feet of commercial space. Phase Two will consist of approximately 40,600 square feet in retail space. Stormwater management will be handled via two (2) bioretention basins along the eastern ends of the property.

II. CONDITIONS OF TENTATIVE APPROVAL BYERS STATION PRD

1. *Section II.B.3.a – An educational use is a permitted use following conditional use approval by the Board of Supervisors. The Applicant should make application for conditional use approval of the educational facility.*

It is the applicant's opinion that the Tentative and Final PRD Plan approvals supersede all other zoning and subdivision processes, and Conditional Use Approval is not required. We defer to the Township Solicitor on this matter.

III. ZONING ORDINANCE REVIEW

1. *Section 1500.C.3 – Parking areas shall be landscaped in accordance with Section 1505.D. We defer to the Township's Land Planner as to the adequacy of the proposed landscaping. However, it should be pointed out that additional plantings could be incorporated into the green space between the drive through lanes and the 2 handicap parking spaces for the coffee shop as well as the landscaping island at the end of the 24 space parking bay near the Learning Experience.*

Additional trees have been added per our comments. We defer to the Township's Land Planner.

2. *Section 1503 - A clear bypass lane shall be provided for the benefit of traffic that either does not wish to use the drive-through facilities or for motorists who have entered the drive-through lanes and wish to exit before reaching the sales or service window. It appears the 12.5' drive width at the proposed Coffee Shop is not wide enough for motorists to bypass the drive-through facilities and should be widened to provide stacking and area for bypassing. Also, please show the vehicles stacked at the drive-through window on the Delivery Truck Circulation Plan. Additionally, provide delineation of pedestrian walks crossing parking and driveway aisles by either stripes or a different paving material in front of the proposed Grocery, Retail 'A', and The Learning Experience.*

A 12 foot wide bypass lane and a 10 foot wide drive-thru service lane are provided. We defer to Traffic Engineer with regard to the proposed circulation.

3. *Section 1504 – Screening shall be provided in accordance with this section. We defer to the Township's Land Planner, Brandywine, on the adequacy of the proposed landscaping.*

IV. **SUBDIVISION AND LAND DEVELOPMENT REVIEW**

1. *§162-9.B.(2)(c)[2] – Provide profiles for all sanitary and stormwater lines.*

Provide a structure between Storm MH203 and Storm MH202 to reduce pipe run length between structures.

2. *§162-49.H.(11) – All hydrant locations shall be reviewed by the emergency services coordinator.*

The applicant has indicated the Fire Marshal has reviewed the plans and has no comments. **We would recommend the Township receive written verification on this matter.**

3. (RW) *§162-57.C.(7)(f)[3] – Landscaped islands shall be at least 15 feet in width when provided at the end of each parking bay where such parking bay abuts or opens onto any street or accessway. The plans shall be revised or a waiver sought.*

A waiver has been requested from this requirement. We have no objection to the granting of this waiver.

4. (RW) §162-57.D.(1) – A waiver has been requested to not provide 2 deciduous trees, 1 evergreen tree, and 8 shrubs per 1,000 square feet gross building area. We defer to the Township's Land Planning Consultant on this matter.

The applicant is requesting a waiver from this requirement. Applicant indicates they will donate any landscaping saved as a result of this waiver to the Township for use at a Township park location. We continue to defer to the Township Land Planner on this matter.

V. STORMWATER MANAGEMENT ORDINANCE REVIEW

1. (RW) §152-311.G.(1) – A waiver has been requested to utilize HDPE pipe in paved cartways instead of reinforced concrete. We have no objection to this waiver request.
2. (RW) §152-311.H.(3) – A waiver has been requested to utilize a natural spillway lining instead of paved with concrete monoslab pavers; however, a detail shall be provided before a waiver is considered.

The applicant has provided a detail which shows NAG SC-250 lining material for the basin emergency spillways. The proposed material is satisfactory and we have no objections to the granting of this waiver.

3. The infiltration BMP surface area for Bioretention #1 is listed as 22,671 sf on Page 22 of Stormwater Report, but pond report on Page 23 lists the contour area as 16,300 sf. The infiltration surface area for Bioretention #2 is listed as 42,329 sf on Page 22 of the Stormwater Report, but pond report on Page 25 lists the contour area as 34,435 sf. The plan sheets appear to scale the bottom of each basin area as 16,425 sf and 34,359 sf respectively. Please clarify how the infiltration BMP surface area on Page 22 is calculated.
4. Provide calculations for how BMP volume reduction calculations were arrived at on Page 20 for each bioretention basin based off the volume at two year water surface elevations provided in hydrograph reports. Also, it appears based on 2 year water surface elevation provided and height of 4" orifice in Bioretention Basin #2 that runoff will be outletting through the orifice; therefore, that volume will not be provided. Revise volume calculation provided on Page 20.
5. All storm sewer calculations provided in the report appear to be neglecting impervious areas from Phase 2B construction. (See

Drainage Inlet Areas Inlet 44, 45, 208, 210, 212, 217, 218 on Pages 125 and 126).

VI. GENERAL COMMENTS

1. *Please revise the A.D.A. Ramp Details Sheets as there appear to be some typos/incorrect slopes and elevations.*

We defer to Township Zoning Officer for review of ADA accessibility.

2. *There is a mention to a small riparian forest buffer area along Graphite Mine Road on Sheet 32, along with a mention to an equivalency demonstration found in the PCSM Narrative. Please clarify where this is located in the PCSM Narrative.*

Note on Sheet 36 has been revised to state "There are no riparian buffer impacts associated with this major amendment." Mention of riparian buffer has been removed from PCSM Narrative. **Callout for Prop BMP 5.6.3 Re-Vegetate Disturbed Area (For Riparian Equivalency) along Graphite Mine Road on Sheet 34 still remains.**

3. *Shopping cart storage areas should be provided within the required parking space area for the storage of such carts. Each designated storage area shall be clearly designed and marked for storage, and shall be enclosed by a barrier.*

The applicant indicates the grocery store tenant does not require cart corrals.

VII. TOWNSHIP TRAFFIC CONSULTANT COMMENTS
McMAHON ASSOCIATES, INC.

1. Conditions of Tentative Approval Section II.J.2 – The parking tabulation on sheet 2 still shows a parking requirement of 3.5 parking spaces per 1,000 square feet for the retail space. Please revise the parking tabulation based on five parking spaces per 1,000 square feet.
2. Conditions of Tentative Approval Section II.J.4 – The parking tabulation on sheet 2 calculates the required parking for the proposed coffee shop using the parking requirement for eating and drinking establishment without a drive through (15 parking spaces per 1,000 square feet) from the Conditions of Tentative Approval. However, since the coffee shop has a drive through, the

184 West Main Street | Suite 300 | Trappe, PA 19426 | Phone: 610-489-4949 | Fax: 610-489-8447

parking supply requirement for this use should be the higher of 20 spaces per 1,000 square feet plus one space per employee on the highest shift, or one space per two seats plus one space per employee on the highest shift. As discussed at the April 17, 2018 meeting between the Township and the applicant, it was discussed that the plan could possibly be revised to use the lesser of the two (with drive through) calculations. Furthermore, it was also discussed that the applicant would submit other parking data reflecting the specific parking needs for a coffee shop to confirm the parking needs, since a coffee shop is not specifically identified in the Conditions of Tentative Approval. Absent any supporting documentation with the plan submission, our office reviewed other available data for a coffee shop with drive through, and we are comfortable with the parking supply in the vicinity of the coffee shop of 27 parking spaces. Furthermore, in the off chance that more parking is required for the coffee shop, additional parking is available in the parking field on the east side of the access road, and convenient pedestrian facilities are provided in this area for customers to access the coffee shop.

3. If the parking supply requirements for the retail space (five parking spaces per 1,000 square feet) and coffee shop (20 parking spaces per 1,000 square feet plus one space per employee on the largest shift) are used, the total required parking supply for Phase 2A would be 219 parking spaces plus one parking space per employee on the highest shift for the coffee shop. Since Phase 2A will provide a total of 298 parking spaces, the parking supply for Phase 2A is more than adequate. Furthermore, as discussed at the April 17th meeting, the applicant proposes to complete a shared parking evaluation as part of the Lot 2, Phase 2B application. The applicant's engineer should coordinate with our office to determine the scope of the shared parking study prior to completion of the study. It is noted that the size and land use mix proposed for Phase 2B may be affected by the results of the shared parking study.
4. ZO Section 1502.H.3 – The landscape plans should be revised to show sight distance lines for traffic exiting both site access intersections along the proposed access driveway looking to the left and right, as well as for left-turn vehicles entering both driveways looking ahead and behind. Please verify there is adequate sight distance with regard to the horizontal curve in the proposed access driveway and the location of parking and landscaping.
5. ZO Section 1502.H.3 – The sight distance lines for traffic exiting the proposed access driveway at its intersection with Station Boulevard should be revised to be 10 feet from the edge of Station Boulevard.

6. The applicant's engineer should identify the purpose of the concrete areas on the northern end of several of the parking islands in the vicinity of the retail and day care buildings.
7. Please consider providing a detectable warning surface (DWS) for the curb ramps/depressed curb areas in front of the grocery store and Retail A buildings.
8. As indicated in the note for the Section C curb ramp detail on sheet 8, there are two potential options for the pedestrian crossing of Station Boulevard in the vicinity of the site access. General note 42 on sheet 3 of the previously-approved residential plan for the Village at Byers Station indicates this crossing should be constructed at the same time as the site access. As such, the applicant should confirm the selected option, and it should be constructed at the same time as the Station Boulevard site access. The final approved crossing should be provided on the plan.
9. As discussed at the April 17th meeting, please shift the coffee shop building to the west as much as possible in order to increase the drive-through stacking area.
10. At the April 17th meeting, there was discussion to provide a pervious concrete sidewalk along one of the landscape islands within the parking lot between the Grocery Store/Retail A and Phase 2B.

VIII. TOWNSHIP PLANNING CONSULTANT COMMENTS
BRANDYWINE CONSERVANCY

Comments will be provided under separate cover.

IX. TOWNSHIP SEWER CONSULTANT COMMENTS
ARRO CONSULTING, INC.

Sanitary Sewer:

1. The Developer is proposing, ultimately, eight (8) buildings with various uses; the proposed sewer flow capacity is 9,025 Gallons per Day, utilizing 225 Gallons per Day/Equivalent Dwelling Unit (GPD/EDU). The sanitary sewer capacity required 40.1 EDUs. The proposed capacity appears acceptable, but we recommend that the Township reserve the right to evaluate water usage after the respective establishments are opened and

- require the purchase of additional capacity, if warranted. The required sanitary sewer capacity needs to be purchased from the Township
2. The Sewage Facilities Planning Module (SFPM) package was submitted on April 20, 2018 to Pennsylvania Department of Environmental Protection (Pa DEP). Any planning approval should be conditioned on receiving the Pa DEP approval letter.
 3. Sheet 2 Note 39 regarding compliance with the Regulations for the Discharge of Non-Residential Waste into the Upper Uwchlan Township Municipal Authority's Sewerage System, Resolution #10-20-04-15, dated October 20, 2004. Additional language should be added allowing the Township to access site for implementation of the resolution.
 4. A sampling port should be provided immediately downstream on each grease interceptor proposed. The sample port should include an 8-inch minimum diameter riser, include a minimum 6-inch vertical drop between the invert in and out, and include a cast iron frame and cover.

X. TOWNSHIP LIGHTING CONSULTANT
STUBBE CONSULTING LLC

Lighting information was found on Sheet 23, Lighting Plan, and Sheet 24, Lighting Details and Notes. Proposed is the use of 35 full cutoff 4000K LED area luminaires pole mounted at 20' AFG, 18 4000K LED wall sconces facade mounted at 15' AFF, and 5 existing 100-watt metal halide Township-standard street lighting luminaires post-top mounted at 15' AFG. Lighting Plan Note 10 states: "With exception of security lighting, all lighting shall be extinguished at 11 p.m. or one hour past the close of business, whichever is greater. For businesses that are approved to remain open 24 hours, lighting shall not be extinguished around that business or within the parking lot serving that business. Street lighting shall remain on during all hours between dusk and dawn."

The following comments and recommendations are repeated from the previous review, followed by Bohler's responses, and this office's subsequent recommended courses of action, offered for Township consideration, in accordance with the lighting requirements contained in SLDO Section 614. Lighting, and reasonable and customary engineering practices:

1. Luminaire Control Requirements - §614.C.3.d. requires that luminaires are to be extinguished between 11 p.m. and dawn. No information was found with respect to method of on/off control of luminaires and the proposed hour(s) at which the site lighting was to be extinguished and which luminaires, if any,

were proposed to remain on all night or dimmed, for site safety/security. It is recommended Applicant be requested to submit a proposed exterior lighting on/off control scheme for Township review and approval.

Applicant's Response: A lighting control scheme will be submitted to the township for review prior to final approval. At this time, notes have been added to the lighting plan to clarify intent, but the exact hours of operation of the tenants has yet to be determined.

Applicant has documented a generic intention by stating that final on/off scheme will be provided at a later date, e.g., when tenants have been selected. In addition it is recommended commitment to a control scheme, e.g., "Exterior lighting, with the exception of roadway lighting, shall be controlled by automatic timer with astronomic adjustment and capacitor memory."

2. Pole Protection - §614.C.4.b requires that poles supporting luminaires be adequately protected from collision by backing vehicles, by being set back 5' from face of curb or placed on a concrete pedestal a minimum of 30" above pavement, or placement of a steel bollard between face of curb and pole face, or by other Township approved means. There are locations where poles supporting luminaires are extremely vulnerable to collision by backing vehicles. It is recommended Applicant be requested to take appropriate steps to protect poles supporting luminaires directly behind parking spaces, from being struck by backing vehicles.

Applicant's Response: The detail for the area lighting has been revised to specify a 30" base which will provide adequate protection for any of the poles in and around the parking lot.

Issue judged to have been satisfactorily resolved. No further action deemed necessary.

3. Plan Notes - §614.D.4. and E. require the placing of the following notes on Lighting Plan:
 - a. Proposed approved-plan alterations to lighting plans or intended substitutions for lighting equipment on approved lighting plan, shall be submitted to Township for review and approval prior to installation.
 - b. The Township reserves the right to conduct post-installation nighttime inspections to verify compliance with commitments made on approved Lighting Plan, and if appropriate, to require remedial action at no expense to Township.

Applicant's Response: The notes have been added to the lighting plan as requested.

Issue resolved. No further action deemed necessary.

4. .Landscape Conflicts - In the parking area south of proposed 1.5 story structure A, at the south end of the center planting island, there are 2 proposed red maple trees that, at or before tree maturity, have the potential to block sufficient light output from the 2 PD-4 luminaires to their north, to result in lighting levels on the cartway to its south, that are below Ordinance required minimums. It is recommended Applicant be requested to take appropriate corrective action, perhaps selecting a less dense tree variety.

Applicant's Response: The proposed lighting and landscaping has been developed in concert to ensure that the placement of the trees will not impact the lighting design as the trees mature.

Issue judged to have been resolved, no further action deemed necessary.

5. Luminaire Mounting Height Conflict - Sheet 22, Lighting Pole Detail depicts a 14' 6" luminaire mounting height, which is inconsistent with specified mounting heights on the Sheet 21 Luminaire Schedule. It is recommended Applicant be requested to take appropriate action to correct this apparent inconsistency.

The mounting heights have been verified and the pole detail has been revised accordingly.

Issue resolved. No further action deemed necessary.

6. LED Light Color - Specified for the correlated color temperature of proposed LED lighting is 4000K. To minimize glare as seen from adjacent uses, including residential uses, and to minimize glare response as seen by site visitors, it is recommended Township request that 3000K lighting be specified.

Applicant's Response: The township's Village Light Standard is required and specified as a Metal Halide light source with an anticipated 4000-4200 Kelvin color temperature. To maintain consistency across the site, the LED area lighting has been specified at 4000 Kelvin to match. The selected fixtures are specified with a zero-uplight and low glare rating. So the fixtures are not expected to create a glare condition regardless of color temperature. It should be noted that the ordinance does not have a color temperature requirement.

Yes, metal halide has a 4000K+ color temperature. Yes, the lighting ordinance, in need of updating, does not establish maximum CCT values. However, to compare the CCT of metal halide with the CCT of LED sources, does not tell the whole story. 3000K LED sources contain

Mr. Cary Vargo, Upper Uwchlan Township Manager

Page - 11 -

Reference: Parcel 5C (Byers Station) – Lot 2

Amended Final PRD Plans – Second Review

Upper Uwchlan Township, Chester County, PA

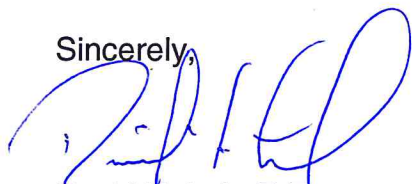
File No.: 03-0434T6

June 6, 2018

a lower level of the blue area of the spectrum than 4000K LED sources, and therefore elicit a greater glare response by the eye. For patron and adjacent use visual comfort, this office continues to recommend that the specified LED sources be requested to be rated 3000K.

This concludes our second review of the above referenced Amended Final Plans. If you have any questions, please do not hesitate to contact me.

Sincerely,



David N. Leh, P.E.
Municipal Services Manager
Gilmore & Associates, Inc.

cc: Upper Uwchlan Township Planning Commission Members
Upper Uwchlan Township Board of Supervisors
Sheila A. Fleming, ASLA, Brandywine Conservancy (via email only)
Christopher J. Williams, P.E., McMahon Associates, Inc. (via email only)
David Schlott, P.E., ARRO Consulting, Inc. (via email only)
C. Stanley Stubbe, Stubbe Consulting, LLC (via email only)
William R. Rearden, P.E., Bohler Engineering (via email only)
C.J. Bock, P.E., Bohler Engineering (via email only)
Robert Dwyer, Executive Land Holdings, L.P., Applicant (via email only)
Alyson Zarro, Esq. – RRHC (via email only)



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MEMORANDUM

To:	Upper Uwchlan Township Planning Commission Upper Uwchlan Township Board of Supervisors Cary Vargo, Township Manager Al Gaspari, Township Zoning Officer Gwen Jonik, Secretary David Leh, P.E., Township Engineer Matt Brown, P.E., Township Engineer
From:	Thomas F. Oeste
Date:	May 17, 2018
Subject:	Byers Station Parcel 5C- Lot 2 Development- Final PRD Plan

At the May 10, 2018 Planning Commission meeting, former Supervisor Don Carlson presented comments regarding the proposed commercial development of Byers Station PRD, Parcel 5-C, Lot 2; and specifically questioned whether a restaurant with drive-through service is permitted on Lot 2. Mr. Carlson cited a July 21, 2003 Decision and Order of the Board of Supervisors which was the Final PRD Approval for Parcels 1, 2A and 2B, 3 and 4, residential areas of the Byers Station PRD (the "2003 Decision and Order").

We have reviewed the 2003 Decision and Order and two additional documents: the 2015 Settlement Agreement and Release by and among Toll Brothers, Orleans Homebuilders, Pulte Homes Corporation, Upper Uwchlan Township and the Upper Uwchlan Township Municipal Authority (the "Settlement Agreement") and a 2017 Decision and Order of the Board of Supervisors granting Final PRD approval for the residential portion of Parcel 5-C, known as Lot 1 (the "2017 Final PRD Decision").

1. The 2003 Decision and Order.

Background Paragraph 3 of the 2003 Decision and Order states that the Board of Supervisors granted Tentative Plan Approval to the Byers Station PRD on June 7, 1999. Finding of Fact 4 defines the “Final Plan Property” as including the “Tentative Plan Property” (the entirety of the lands granted Tentative Plan Approval by the 1999 decision) and a 1.2-acre parcel, known as the Heineken parcel, purchased by Orleans Homebuilders. Therefore, the application subject of the 2003 Decision and Order technically included Parcels 5-C and 6-C.

However, Finding of Fact 10 states that “the application for Final Plan approval submitted by the Applicants did not seek Final Plan approval to develop parcels 5-C and 6-C.” As Mr. Carlson stated, Conclusion of Law 9 states that “Applicants shall be required to submit separate application(s) for the development of parcels 5-C and 6-C and any approval herein shall not be an approval to develop either parcel.” Order Paragraph 11 states that Parcels 5-C and 6-C are “excluded from this approval and will require separate land development approval.”

We conclude that the 2003 Decision and Order does not negate or modify the Tentative Plan approval for Parcel 5-C or the permitted uses. There is no Finding, Conclusion or condition of the Order that negates or modifies the Tentative Plan approval for, including the permitted uses on, Parcel 5-C. The term “land development approval” in Order Paragraph 11 should not have been used since this is a PRD; but use of that term does not negate any aspect of the Tentative Plan Approval for Parcel 5-C.

2. The Settlement Agreement.

The Settlement Agreement also did not change the Tentative Plan approval for Parcels 5-C and 6-C. Paragraph 5.b. of the Settlement Agreement states that the Township and Authority “acknowledge and agree that Final Plan applications for Parcels 5C and 6C . . . were timely filed with the Township in accordance with the Tentative Approval . . . and that Toll and Orleans, their successors and assigns, may proceed with said Final Plan applications or file new Final Plan applications for Parcels 5C and 6C in accordance with the Tentative Approval within a period of three (3) years” of the date of the Settlement Agreement (March 16, 2015), except as otherwise extended by agreement between the Township, Toll and Orleans.

Paragraph 5.b. resolved any dispute over the timely filing of the Final PRD applications for Parcels 5-C and 6-C and specifically confirmed the right of the developers to Final approval in accordance with the Tentative Plan Approval, which included the drive-through use on Parcel 5-C.

3. The 2017 Final PRD Decision.

The 2017 Final PRD Decision approved the Final PRD Plan only for the residential portion of Parcel 5-C. Paragraph 17 of the Order confirmed the amount of approved commercial square footage of Lot 2 and extended the period for the Final PRD application for Lot 2 for 5 years from the date of the 2017 Decision, until May 15, 2022.

4. Conclusion.

It is our opinion that the 2003 Opinion and Order, the Settlement Agreement and the 2017 Final PRD Decision do not amend or negate the Tentative Plan approval for the commercial portion of Parcel 5-C which entitles the applicant to file for final PRD approval based on the Tentative Plan Approval, including the right to a drive-through restaurant use.

Byers Station

BEFORE THE BOARD OF SUPERVISORS OF UPPER UWCHLAN TOWNSHIP CHESTER COUNTY, PENNSYLVANIA

Application of Toll Brothers Inc., Orleans Homebuilders, Inc., and Hovnanian Pennsylvania, Inc., for Final Plan Approval of a Planned Residential Development to be known as "Byers Station"

DECISION AND ORDER

BACKGROUND

1. In August 1998, the Bryn Coed Farms, a Pennsylvania Limited Partnership (Bryn Coed), submitted an application to Upper Uwchlan Township (the Township) for tentative plan approval under the Township's "Planned Residential Development" ordinance, Upper Uwchlan Township Ordinance No. 97-7, and Article VII, §§701 through 713 of the Municipalities Planning Code, 53 P.S. §§10701-10713, for property situated at the intersection of Route 100 and Byers Road in the Township known as the "Byers Station" property (the Tentative Plan Property).
2. Beginning in November 1998, the Township held a series of public hearings during which Bryn Coed, by and through its attorneys, presented testimony and the Township with its consultants, as well as, interested citizens of the community were given the opportunity to review, ask questions, and offer testimony in support or opposition to a proposed Planned Residential Development of the property.
3. On June 7, 1999, the Board of Supervisors, considering the testimony and evidence submitted by Bryn Coed, together with the testimony of the Township's consultants and interested citizens, granted Tentative Plan Approval for development of the property as a Planned Residential Development, as described in the Master Plan and Land Use Plan prepared by Glackin Associates, Inc., dated June 11, 1998, last revised July 23, 1998, for the Property, and subject to such terms and conditions as were set forth in the "Conditions of Tentative Approval Byers Station PRD". This document, as well as, all exhibits attached thereto are incorporated by reference as if set forth in full herein.
4. In March 2000, Bryn Coed, entered into an Agreement of Sale for the property and transfer of the Planned Residential Development rights attached thereto to Toll Brothers, Inc., Hovnanian Pennsylvania, Inc., Pulte Home Corporation, and Orleans Home Builders, Inc., organized as a joint venture for the purpose of developing the property.
5. On August 21, 2000, the partners submitted a Sketch Plan to the Board of Supervisors for input and direction to the Tentative Plan Approval at the request of both the Applicants and the Township. The revised plan was prepared by Glackin Associates, Inc., and consisted of one (1) sheet, dated April 4, 2000, last revised July 12, 2000.
6. At a public meeting on September 5, 2000, the Upper Uwchlan Township Board of Supervisors approved the partners' interim plan, which proposed minor changes in size/location of proposed spray areas, road alignment for Right of way on Road K into Eagle Farms, riparian buffers, dwelling unit mix, and the proposed trail system.

7. In January 2002, Pulte Home Corporation, by execution of a written agreement, assigned its interest in the Property and the Byers Station development project to the remaining parties to the contract, Toll Brothers, Inc., Hovnanian Pennsylvania, Inc., and Orleans Home Builders, Inc.

FINDINGS OF FACT

1. The applicants for final approval of the Plan are Toll Brothers, Inc., Orleans Homebuilders, Inc., and Hovnanian Enterprises, Inc. (hereafter Applicants) with an address 325 Fellowship Road, Chester Springs, Pa 19425.
2. The Applicants are the current equitable owners of the Tentative Plan Property and legal owners of the Heineken Parcel.
3. The legal owner of the Tentative Plan Property is Bryn Coed Farms (Bryn Coed), a Pennsylvania Limited Partnership, with an address of 1422 St. Mathews Road, Chester Springs, PA 19425.
4. On May 2, 2002, Orleans Homebuilders, Inc. purchased the Heineken parcel; a 1.2 acre parcel adjacent to open space COS – 5 and COS – 6 of the Tentative Plan Property, which is within the Planned Residential Development Overlay zoning district, Tax Parcel No. 32-4-21. The Heineken Parcel, together with the Tentative Plan Property hereinabove described, constitutes the entire property that is the subject of the Applicants' application (hereinafter the "Final Plan Property").
5. The Final Plan Property consists of approximately 288.43 acres; more particularly identified as Tax Parcel Nos. 32-4-19.2, 32-4-21, 32-4-27, 32-4-28, and 32-4-19.1.
6. The Final Plan Property is situated in the R3, R4 and C-1 Zoning Districts, each of which permits development using the Planned Residential Development Overlay development option.
7. On July 6, 1999, the Township granted approval to Bryn Coed to develop the Tentative Plan Property under the Township's PRD ordinance with 620 dwelling units and 215,000 sq. ft of office and retail space in accordance with the following table:

Land Use	Parcel #	Approved Use	Tentative PRD Units
Residential	1	SFD	76
Residential	2A+2B	SFD	53
Residential	3	SFD, Twins, or Townhouses	103 – 180
	4	Townhouse or Multifamily	170 – 226
Residential/ Commercial	5-C	Commercial and Multifamily	175,000 SF; Office/Retail and 220 Multiple Family
Commercial	6-C	Commercial	40,000 SF + additional units or SF on second floor
Total	-	-	620 units and 215,000 SF of Office/Retail

8. On July 17, 2002, the Applicants submitted an application for final plan approval to develop the Final Plan Property, which included a plan titled "Byers Station Final Land Development Plan" prepared by Taylor, Wiseman & Taylor, dated January 12, 2002 (the "Plan").
9. Applicant proposes to develop the Final Plan Property with 457 residential dwelling units on parcels 1, 2A & 2B, 3 and 4, which shall also include two (2) existing single family dwelling units (Todd Farmstead and Butler House) as well as, two (2) dwelling units in the Todd Barn if adapted for re-use.
10. Although the Township granted Tentative Plan Approval for parcels 5-C and 6-C in 1999 by decision and order dated July 6, 1999, the application for Final Plan approval submitted by the Applicants did not seek Final Plan approval to develop parcels 5 – C and 6 – C (See Conclusions Para. 9, hereafter).
11. The Final Plan application included the following documents, which are incorporated by reference as if set forth in full herein:
 - a. Stormwater Management Report, prepared by Taylor Wiseman & Taylor, Volumes I, II, and III last revised April 29, 2003.
 - b. A Plan entitled "Byers Station Final Land Development Plan" prepared by Taylor, Wiseman & Taylor, dated January 12, 2002, last revised April 30, 2003 and consisting of:
 - i. Title Sheet, 1 of 53
 - ii. Overall Site Plan, 2 of 58
 - iii. Phasing Plan, 3 of 58
 - iv. Site Analysis Plan, 4-5 of 58
 - v. Grading Plan, 6-15 of 58
 - vi. Utility Plan, 16-25 of 58
 - vii. Post-Development Drainage Area Map, 26-27 of 58
 - viii. Soil Erosion, Sediment Control & Drainage Area Map, 28-37 of 58
 - ix. Lighting Plans, 40-41 of 58
 - x. Profiles, 42-52 of 58
 - xi. Construction Details, 53-57 of 58
 - xii. Traffic Signage, Striping, and Sight Distance Plan, 58 of 58
 - c. Additional Plan sheets prepared by Taylor, Wiseman & Taylor, Drawing #WC4-75319-I; "Lighting Plans," sheets LT1-LT10, dated April 30, 2003.
 - d. Additional Plan sheets prepared by Glackin, Thomas & Panczak, Inc., Drawing #WC4-75319, dated December 7, 2001 and last revised June 6, 2003
 - i. Landscape Plans LP1-LP-11.
 - ii. Open Space Management Plan, LP-2.
12. The Applicants' Plan proposed the following general changes to the Tentative Plan Approval for the Byers Station Planned Residential Development as follows:
 - a. The addition of the 1.2-acre Heineken parcel to the Tentative Plan Property.
 - b. Changes to the internal road system.

- c. Changes to the dwelling unit mix and locations.
 - d. Changes to the size and location of effluent spray areas.
 - e. Changes to the size of Open Space parcels.
13. Applicants seek the following specific changes to the Tentative Plan Approval granted by the Township concerning the dwelling-unit mix for parcels 1, 2A & 2B, 3, and 4:
- A. On Parcel 1, a decrease in Single Family Dwellings from 76 to 63.
 - B. On Parcels 2A & 2B, a decrease in Single Family Dwellings from 53 to 36 plus two existing dwelling units (the Todd and Butler homes), as well as, two dwelling units in the Todd Barn if adapted for re-use.
 - C. On Parcel 3, a proposal for 58 Single Family Dwellings and 104 Single Family Attached Dwellings for a total of 162 units; this is within the range of 103-180 authorized by the Tentative Plan Approval.
 - D. On Parcel 4, 192 multi-family dwellings, plus an existing single-family dwelling unit (the Butler house); which is within the range of 170-226 authorized in the Tentative Plan Approval.
14. Applicants seeks the following specific changes from the Tentative Plan Approval concerning Common Open Space (COS):
- A. On COS-1, a decrease in acreage from 21.47 to 15.51.
 - B. On COS-2A + 2B, an increase in acreage from 30.42 to 37.15.
 - C. On COS-3, an increase in acreage from 11.58 to 17.90.
 - D. On COS-4, a decrease in acreage from 13.29 to 12.08.
 - E. On COS-5, a decrease in acreage from 37.27 to 29.80.
 - F. On COS-6, an increase in acreage from 2.97 to 3.40.
 - G. On COS-7, an increase in acreage from 0 to 1.50.
 - H. On TU-1, an increase in acreage from 7.39 to 7.42.
 - I. Village Green areas, an increase in acreage from 0 to 1.5.
15. On August 30, 2002, through their counsel, Louis J. Colagreco, Jr., Esquire of Riley, Riper, Hollin & Colagreco, Applicants submitted a letter to the Township requesting that the Township hold a public hearing to consider for final approval the "Byers Station Final Land Development Plan" for a planned residential development, consistent with the requirements of §711 of the Pennsylvania Municipalities Planning Code, 53 P.S. §10711 and in accordance with §1409, of the Upper Uwchlan Township Zoning Ordinance, ORD. 97-7.
16. Being duly authorized and properly posted, the Township held public hearings on the Applicants Plan on September 24, 2002, February 19, 2003, and April 3, 2003, at which Applicants presented evidence and testimony and the Township and its consultants, as well as, interested citizens of the community were given the opportunity to review, ask questions, and offer testimony in support or opposition to the Plan.
17. At the public hearings, the Applicants were represented by Louis J. Colagreco, Jr., Esquire of Riley, Riper, Hollin & Colagreco, with an address of Eagleview Corporate Center, 717 Constitution Avenue, Suite 200, Exton, PA 19341.
18. John E. Good, of John Good and Associates, 331 West Miner Street, West Chester, PA 19382 served as the Township Solicitor and conducted the hearings on behalf of the Township.

19. The following Board of Supervisor members were present and participated in the public hearings:
- A. Charles W. Lobb, Chairman
 - B. Walter J. Styer, Vice-Chairman
 - C. Donald B. Carlson, Member
20. The following individuals, first being duly sworn, testified on behalf of the Applicants:
- A. Dennis Glackin of Glackin, Thomas & Panczak, a land planner.
 - B. Neal Camens, P.E., of Taylor, Wiseman & Taylor.
21. The following individuals, first being duly sworn, provided testimony during the public hearing on behalf of the Township concerning Applicants' proposed development:
- A. Farley F. Fry, P.E., Arro Consulting Group, Inc.
 - B. Christopher Williams, P.E., McMahon & Associates
 - C. Sheila Fleming, ASLA, Brandywine Conservancy
 - D. Sandi Morgan, P.E., URS Corporation
 - E. Robert Wise, Wise Preservation Planning
 - F. Stanley Stubbe, Stubbe Lighting Consultants
22. No individual came forward and requested party status at the public hearings.
23. During the public hearing, Applicants stated that they could accept as conditions of approval, the following:
- A. Compliance with all review comments and conditions as set forth in the review letter of Sandy Morgan, P.E., of URS Corporation, dated July 8, 2003.
 - B. Compliance with all review comments and conditions as set forth in the review letter of Sheila E. Fleming, ASLA, of the Brandywine Conservancy, dated July 15, 2003.
 - C. Compliance with all review comments as set forth in the review letter of Farley F. Fry, P.E., of Arro Group, Inc., dated February 26, 2003.
 - D. Compliance with all review comments as set forth in the review letter of Daniel L. Daley, P.E., of E.B. Walsh & Associates, Inc., dated February 19, 2003.
 - E. Compliance with the following review comment set forth in the review letter of Robert Wise of Wise Preservation, dated March 19, 2003:
 - i. Comment 1: Subject to review and approval of the Township Solicitor, placement of the following note on the Subdivision Plan for Parcel 2B -
"7. Additional conditions and restrictions on lot 199 are as follows:
 - 1. *The barn shall and lot shall be used for one of the following uses: storage or maintenance, recreational activities, or residential use. If it is to be used as a residence, the barn may contain either one or two dwelling units; if it is to contain two dwelling units, these units shall be developed at the same time.*
 - 2. *Concerning any proposed alteration, change or modification to the Todd Barn pursuant to item (1.) hereinabove, the Upper Uwchlan Township Historical Commission shall have a reasonable time, not to exceed sixty (60) days, to review and comment on any such proposed alteration, change or modification, before the issuance of any building permit by Upper Uwchlan Township. Before undertaking*

any alteration, change, or modification to the exterior facade of the Todd Barn, owner or Developer shall take under advisement any written comments timely provided by the Upper Uwchlan Township Historical Commission and shall use as guidelines the United States Department of Interior "Standards for Rehabilitation" then in effect.

3. *For the purpose of adaptive reuse of the Todd barn as a residential dwelling, the owner shall be permitted to make minor changes to the exterior facade of the Todd barn, provided such changes do not have an adverse impact on its historic or architectural value. Such changes may include the addition of windows, doors, and other minor changes to the structure, which, to the extent practical, the owner shall incorporate into the architectural design of the structure to ensure that its general character and integrity are preserved.*
4. *The owner shall be required to maintain the exterior facade of the Todd barn in a manner generally consistent with its appearance at the time of final plan approval.*
5. *The owner shall be required to provide general upkeep and maintenance to the structure to ensure that the structure does not fall into neglect and disrepair.*
6. *Notwithstanding (2.) or (3.) hereinabove, owner shall make reasonable efforts to preserve, maintain, or sell the barn before undertaking the demolition or destruction of the same. In the event that Owner deems it unreasonable to preserve or maintain the Barn, or is unsuccessful in its efforts to transfer ownership to another party, and as a result, demolishes the Barn, no other structures shall be built on the lot and it shall remain as Open Space with an continuing offer of dedication to the Township.*

- F. Compliance with all review comments as set forth in the review letter of Chris Williams of McMahon & Associates dated July 15, 2003.
- G. Compliance with all review comments as set forth in the review letter of John Good, Esquire, dated July 15, 2003.

24. Applicants made a Final Plan submission prepared by Taylor, Wiseman & Taylor dated January 12, 2002 and last revised April 30, 2003, on May 13, 2003 [verify date] to comply with all review comments and conditions from the Township consultants set forth hereinabove in paragraph (22).

25. The Township entered the following exhibits into the record during the public hearing:

- A. B-1, Proof of Publication for September 24, 2002 hearing.
- B. B-2, Affidavit of Posting for September 24, 2002 hearing.
- C. B-3, Proof of Publication for February 19, 2003 hearing.
- D. B-4, Affidavit of Posting for February 19, 2003 hearing.
- E. B-5, Proof of Publication for April 3, 2003 hearing.
- F. B-6, Proof of Publication for April 3, 2003 hearing.

26. The Applicant offered the following exhibits, which the Township accepted into the record during the public hearing:

- A. A-1, letter from Riley, Riper, Hollin & Colagreco to Township requesting a public hearing, dated August 30, 2002.
- B. A-2, Byers Station Agreement of Sale, March 20, 2000.
- C. A-3, Pulte Assignment of Rights Agreement dated January 25, 2002.

- D. A-4, Application and Final Plan entitled "Byers Station Final Land Development Plan", dated January 12, 2002, and last revised, September 19, 2002.
- E. A-5, 199 Tentative Plan Approval Resolution and Conditions, dated July 6, 1999.
- F. A-6, 2000 Interim Sketch Plan prepared by Glackin, Thomas & Panczak, dated April 4, 2000, last revised July 12, 2000.
- G. A-7, Approved minutes for the September 5, 2000 Board of Supervisors meeting.
- H. A-8, Copy of Heineken Property Deed, dated May 2, 2002.
- I. A-9, Overall Site Plan for Ewing and Byers Station, prepared by Taylor, Wiseman & Taylor and dated September 10, 2002.
- J. A-10, Three (3) plan sheets prepared by Taylor, Wiseman & Taylor, dated September 19, 2002, detailing alternate layouts for Todd Farmstead.
- K. A-11, Final Land Development Plan for Byers Station, dated January 12, 2002, last revised February 18, 2003.
- L. A-12, Landscape Plan prepared by Glackin, Thomas & Panczak, dated December, 2001, last revised February 13, 2003.
- M. A-13, Plan Sheet showing revised Spray Area No. 4B for Byers Station, prepared by Taylor, Wiseman & Taylor, dated April 1, 2003.

CONCLUSIONS

1. The Applicants, Toll Brothers, Inc., Hovnanian Pennsylvania, Inc., and Orleans Home Builders, Inc., are equitable owners of the subject Property.
2. Orleans Homebuilders, Inc. is the legal owner of the Heineken Parcel, Tax Parcel No. 32-4-21, which Applicants have incorporated into their application as part of the Final Plan Property.
2. The Final Plan Property, consisting of tax parcel Nos. 32-4-19.2, 32-4-21, 32-4-27, 32-4-28, and 32-4-19.1, and 32-4-21, is comprised of more than 250 acres.
3. The Final Plan Property is located entirely within the Planned Residential Development Overlay District as designated on the Upper Uwchlan Township Zoning Map.
4. The proposed development by Applicants is consistent with the community objectives and comprehensive plan for development of a Planned Residential Community in Upper Uwchlan Township.
5. The purpose, location, and amount of common open space designated under the Final Plan, and the maintenance and conservation of such common open space are adequate as related to the proposed type and density of development.
6. The Final Plan provides for adequate centralized sewer and water services to the Final Plan Property.
7. The Final Plan provides for adequate frontage of the Final Plan Property along the easterly side of Route 100.
8. Applicants' proposal to develop 457 residential dwelling units on parcels 1, 2A & 2B, 3, and 4 as set forth in the Final Plan is consistent with the area, bulk, and density requirements of §1409.C and in the public interest.
9. Applicants shall be required to submit separate application(s) for the development of parcels 5-C and 6-C and any approval herein shall not be an approval to develop either parcel.
10. Applicants' proposal to re-configure the Todd Farmstead Property as depicted on the Final Plan is in the public interest and offers adequate steps to ensure that the developer will preserve historically significant structures located on the Final Plan Property -- specifically the Todd Farmstead and the Butler House.
11. Applicants' proposal to add two (2) dwelling units for the adaptive reuse of the Todd Barn, subject to the requirements of §1409.C.6.(c) is in the public interest.
12. The commercial components of the Final Plan (Parcels 5-C and 6-C) are located to maximize direct access to Route 100.
13. The Final Plan provides for a right-of-way not less than ninety feet (90') in width for the Route 100 Eagle Loop Road.

14. The Final Plan proposes Common Open Space of 118.82 ac. or 41.3% of the net developable acreage, which exceeds the minimum of 100.52 ac. or 35% common open space required by the Planned Residential Development ordinance provision.
15. The Final Plan provides for adequate control over proposed vehicular traffic in and around the Byers Station Planned Residential Development.
16. The proposed departures from the Upper Uwchlan Township Subdivision and Land Development Ordinance and Zoning Ordinance are consistent with the legislative intent of Article VII, §701, et seq., *as amended*, of the Municipalities Planning Code. 53 P.S. §10701 et seq., and in the public interest.
17. In all other respects, the Final Plan for the Byers Station Planned Residential Community complies with the requirements of the Tentative Plan Approval granted by Upper Uwchlan Township on July 6th, 1999 and §1409, Planned Residential Development, of the Upper Uwchlan Township Zoning Ordinance, and Article VII, §701, et seq., of the Municipalities Planning Code. 53 P.S. §§10701 et seq.

ORDER

IT IS HEREBY ORDERED AND DECREED that the Board of Supervisors for Upper Uwchlan Township does find that the Applicants have presented sufficient evidence and testimony to demonstrate that final plan approval for the Byers Station Planned Residential Development to develop 455 residential dwelling units of types on parcels 1, 2A & 2B, 3 and 4 as described hereinabove plus two (2) dwelling units for the adaptive reuse of the Todd Barn, subject to the requirements of §1409.C.6 (c)), two (2) existing single family dwelling units (the Todd Farmstead and Butler House) as well as, two dwelling units in the Todd Barn if adapted for reuse would be in the public interest and Applicants' Plan is hereby **APPROVED**, in accordance with the evidence and testimony presented at the public hearing and subject to such terms and conditions as have been imposed by the Upper Uwchlan Township Board of Supervisors, which are set forth as follows:

1. Compliance with all review comments and conditions as set forth in the review letter of Sandy Morgan, P.E., of URS Corporation, dated March 31, 2003, as amended by the revised letter dated July 8, 2003.
2. Compliance with all review comments and conditions as set forth in the review letter of Sheila E. Fleming, ASLA, of the Brandywine Conservancy, dated July 15, 2003 as amended by the revised letter dated June 13, 2003.
3. Compliance with all review comments as set forth in the review letter of Farley F. Fry, P.E., of Arro Group, Inc., dated February 26, 2003 as amended by the revised letter dated June 11, 2003.
4. Compliance with all review comments as set forth in the review letter of Daniel L. Daley, P.E., of E.B. Walsh & Associates, Inc., dated February 19, 2003 as amended by the revised letter dated June 12, 2003.
5. Compliance with all review comments as set forth in the review letter of Stanley Stubbe of Stubbe Lighting Consultants, dated June 1, 2003, concerning the proposed lighting plan, to the satisfaction of the Township Engineer.
6. Compliance with all review comments as set forth in the review letter of Chris Williams of McMahon & Associates, dated March 27, 2003 as amended by the revised letter dated July 15, 2003.
7. Compliance with all review comments as set forth in the review letter of John Good, Esquire, dated July 15, 2003.
8. Compliance with the following review comment set forth in the review letter of Robert Wise of Wise Preservation, dated March 19, 2003 as amended by the revised letter dated May 27, 2003:

- A. Comment 1: Subject to review and approval of the Township Solicitor, placement of the following note on the Subdivision Plan for Parcel 2B -

"7. Additional conditions and restrictions on lot 199 are as follows:

- 1. Subject to township approval, the developer shall be entitled to two dwelling units for adaptive use of the Todd barn.*
- 2. The Upper Uwchlan Township historical commission shall have a reasonable time, not to exceed 60 days, to review and comment on any proposed alteration, change or modification to the exterior facade of the Todd barn, prior to the issuance of any building permit.*
- 3. For the purpose of adaptive reuse of the Todd barn as a residential dwelling, the owner shall be permitted to make minor changes to the exterior facade of the Todd barn, provided such changes do not have an adverse impact on its historic or architectural value.*

Such changes may include the addition of windows, doors, and other minor changes to the structure, which, to the extent practical, the owner shall incorporate into the architectural design of the structure to ensure that its general character and integrity are preserved.

- 4. The owner shall be required to maintain the exterior façade of the Todd barn in a manner generally consistent with its appearance at the time of final plan approval.*
 - 5. The owner shall be required to provide general upkeep and maintenance to the structure to ensure that the structure does not fall into neglect and disrepair.*
 - 6. The owner shall not undertake to destroy or demolish the Todd barn, without first providing the Upper Uwchlan historical commission a reasonable time, not to exceed 30 days, to review and comment on any such proposed action."*
9. Applicant shall revise its Final Plan in accordance with the review comments of the Township Consultant's most recent review letters.
 10. Applicant may accomplish adaptive reuse as two dwelling units for the existing structure, provided the Applicant can demonstrate that adequate wastewater disposal capacity is available. In the event Developer, through reasonable efforts, is unsuccessful in achieving adaptive reuse of the Todd Barn, the Township shall have the right of first refusal to take possession of the Todd Barn.
 11. Applicant acknowledges that Lots 5c and 6c as depicted on the Final Plan are excluded from this approval and will require separate land development approval. As part of the land development approval for these parcels, Applicant must demonstrate that there will be adequate wastewater treatment in the wastewater treatment facility and that adequate land disposal capacity will also be available.
 12. The Township's 12,000 GPD capacity is not available for any unit/use within the Byers Station Development.
 13. To the extent practicable and subject to condition (8) herein, the Applicants shall use its best efforts to adapt the Todd Barn for practical reuse.
 14. The Applicant shall work with the Township to relocate and refurbish Larkins Bridge in a location mutually agreeable to the Applicant and the Township. The Applicant shall bear reasonable costs associated with the relocation and refurbishment of Larkins Bridge, design, engineering and construction costs. Applicant shall be responsible for making reasonable efforts to obtain all required permits to relocate Larkins Bridge as necessary.
 15. The Applicant shall inspect the condition of the Spring House and make repairs necessary to maintain the integrity of the structure. Applicant shall not be required to return Spring House to a usable condition.
 16. The Applicants shall construct the sewage control building identified on Parcel 275 of the Final Plan in a manner that ensures the exterior is consistent with the form and function of the facility and to the extent practical, surrounding structures as well.
 17. The Applicants shall pave the portion of the trail connecting Pickering Spring farm and the Byers Station development as shown on the Final Plan
 18. General Conditions. The following are general conditions of final approval that must be completed before beginning construction on Byers Station:

- A. Execute developer and escrow agreements in a form and manner acceptable to the Township Solicitor.
- B. Obtain a letter of Adequacy from the Chester County Conservation District.
- C. Obtain all necessary permits and approvals from PennDOT for the construction of the Northern Link of the Eagle Loop By-Pass Road and all internal roadways as shown on the approved Final Plan.
- D. Comply with all requirements of the Planning Module submission as finally approved by DEP, to the satisfaction of the Township Engineer.
- E. Obtain an NPDES Stormwater Discharge Permit.
- F. Obtain approval from DEP for encroachment onto wetlands located on the site.
- G. Receive approval from the Township Engineer concerning the "Engineer's Report for Hydrologic & Hydraulic Analysis: Byers Station Final Land Development Plans", as prepared by Taylor Wiseman & Taylor, Dated January 7, 2003 Last Revised June 6, 2003
- H. Execute necessary utility agreements with PECO, Verizon, and PSW to satisfaction of the Township Solicitor.
- I. Obtain all other necessary permits and approvals from state and federal regulatory agencies to the satisfaction of the Township Engineer.
- J. Satisfaction of all conditions imposed by the Board of Supervisors at the hearing of April 3, 2003.
- k. Acknowledge this Decision and Order, accepting the terms and conditions as set forth herein.

19. Consistent with the legislative intent of Article VII to encourage innovative development of residential and non-residential development and meet a growing housing demand with greater variety in type and design and lay-out, as well as, to encourage the conservation and more efficient use of open space, the Final Plan approval granted herein shall also grant the following departures of Applicants' Final Plan from the Subdivision and Land Development and Zoning ordinance provisions of the Upper Uwchlan Township Code of Ordinances:

- A. §504.A., Maximum Street Grade. The maximum grade for minor and major collectors is 8 and 9%, respectively. In order to match existing conditions, including those on an adjacent property that is not being developed, the proposed grade for a portion of Byers Station Boulevard (from station 19+60 to station 21+90 and from station 23+10 to station 26+50 at the property line) is 10%.
- B. §505.C., Minimum Tangent Length. A 100-foot tangent is required between curves on collector and arterial streets. At one location along Byers Station Boulevard (station 13+50), the tangent between two horizontal curves is less than 100 feet (a 73.51' tangent between reverse curves at station 13+50).
- C. §505.D., Super Elevation (Major Streets). Roadway super-elevation is required for major streets with centerline radii less than 600 feet. Byers Station Boulevard (Street "A") and eastbound Sunderland Avenue East (Street "K") are proposed to be posted with a 30 miles-per-hour speed limit. Without super elevations due to the environmental constraints on the property, if any, median islands shall be proposed as a traffic calming measure. Also, if these streets are constructed with a 2 percent cross slope from crown to gutter, super elevation is not required in accordance with the 2001 AASHTO *A Policy on Geometric Design of Highways and Streets*, a.k.a. the "Green Book", pages 193 - 195.

- D. §507.B., Dead End Streets. Dead-end streets must be provided with a cul-de-sac. Existing Eagle Farms Road is to end without a cul-de-sac at the site boundary line. The road will continue as both a driveway to the sanitary sewer pump station and an emergency access road connecting to Parcel 4. The existing house at the rear of tax parcel 32-4K-3 (n/f William & Fay S. McGarry) will be the only user gaining sole access from the road.
- E. §507.E., Minimum Length of Single Access Streets. Single access streets shall have a minimum length of 250 feet. Melrose Court has a length of 234 feet, measured from the centerline intersection with Barnsdale Road to the back of the cul-de-sac turnaround.
- F. §607.B.4.i., Runoff Control Measures. The maximum depth of water in a detention basin shall be three (3) feet. Township Consultants, the Brandywine Conservancy and E.B. Walsh, have requested that we utilize pre-development "Meadow" conditions. In order to provide the volume control of 2-year storm as required by condition II.F.c. of the TPA, we have used detention basin depths up to four (4) feet.
- G. §607.B.4.o., Slope of Basin Bottom. Proposed basin slopes are to be 2% minimum with 1% minimum for channels. For those basins with infiltration, proposed basin slopes are flat (0%) in order to provide infiltration as required in condition II.F.c. of the TPA.
- H. §1518.D.3.c., Impervious Coverage in Precautionary Slopes. The maximum amount of impervious coverage within the Precautionary Slope Area portion of a lot is limited to 50% of the maximum amount of impervious coverage permitted in the underlying district. Lot 197 is proposed to have as much as 11% (1,052 sf of 9,620 sf) impervious coverage within the Precautionary Slope Area portion of a lot. This amount is within the permitted 20% (50% of the allowable 40% impervious coverage in the underlying R-3 district) for the primary building alone. However, additional impervious structures may be added to the lot that may result in greater than 20% coverage.
- I. §1518.D.3.b.(1), Structures in Precautionary Slopes. Structures are permitted by conditional use in the Precautionary Slope Area of the Steep Slope Conservation District. Structures are proposed to be located within portions of the building areas on lots 46, 197, 200, 230, and 231 that are within the Precautionary Slope Area.
- J. §1518.D.3.b.(2), Roads in Precautionary Slopes. Roads are permitted by conditional use in the Precautionary Slope Area of the Steep Slope Conservation District. The following portions of Roads are within the Precautionary Slope Area:
- i. Barnsdale Road Stations 6+75 to 7+50
 - ii. Sunderland Avenue East Stations 0+50 to 1+50, 3+70 to 4+75 8+40 to 19+50
 - iii. Ferncroft Lane Stations 42+75 to 43+50
- K. §1518.D.3.b.(4), Sanitary Storm Sewers in Precautionary Slopes. Sanitary or storm sewers are permitted by conditional use in the Precautionary Slope Area of the Steep Slope Conservation District. The following portions of roads contain sanitary and storm sewer lines that are located within the Precautionary Slope Area:
- i. Barnsdale Road Stations 5+75 to 7+50
 - ii. Sunderland Avenue East Stations 0+50 to 1+50, 3+70 to 4+75, 8+40 to 19+50, 16+50 to 17+00
 - iii. Ferncroft Lane Stations 42+75 to 43+50

Approved this 21st day of July 2003.

ATTEST:

UPPER UWCHLAN TOWNSHIP
BOARD OF SUPERVISORS

Morgan M. Mengel
Morgan Mengel,
Township Secretary

Charles W. Lobb
Charles W. Lobb, Chairman

Walter J. Styer
Walter J. Styer, Vice-Chairman

Donald B. Carlson, Member

Acknowledged:

Toll Brothers, Inc.
Hovnanian Enterprises, Inc.
Orleans Homebuilders, Inc.

Jim Boyer
By: Jim Boyer, Vice President, Toll Brothers, Inc.

Decision Dated: July 21st, 2003



Upper Uwchlan Township

May 19, 2017

Louis Colagreco, Jr., Esquire
Riley Riper Hollin & Colagreco
P. O. Box 1265
717 Constitution Drive, Suite 201
Exton, PA 19341

VIA EMAIL ONLY

RE: Equus / Byers Station PRD
Village at Byers Station Subdivision and Final PRD Approval

Dear Mr. Colagreco,

The Board of Supervisors, at their May 15, 2017 meeting, approved and executed the attached Decision and Order for the "Application of Byers Residential Acquisition, L.P. and Byers Retail Acquisition, L.P. For Final Approval of the Residential Portion of Parcel 5C at Byers Station".

The Decision and Order, drafted by your office, clarifies the current status of the subdivision, PRD, and land development approvals for Byers Station Parcel 5C Lot 1 and Lot 2, and supersedes the March 17, 2017 Approval.

Thank you for your attention in this matter.

Sincerely,


Cary B. Vargo
Township Manager

Enclosure

Copy with enclosure, via email only:

Bob Dwyer, Equus
Alyson Zarro, Esq., Riley Riper Hollin & Colagreco
Kristin Camp, Esq., Buckley, Brion McGuire and Morris

Copy with enclosure: John Good, Esq., John E. Good Associates

BEFORE THE BOARD OF SUPERVISORS
OF UPPER UWCHLAN TOWNSHIP OF CHESTER COUNTY, PENNSYLVANIA

APPLICATION OF BYERS RESIDENTIAL ACQUISITION, L.P.
AND BYERS RETAIL ACQUISITION, L.P. FOR FINAL APPROVAL
OF THE RESIDENTIAL PORTION OF PARCEL 5C AT BYERS STATION
DECISION AND ORDER

BACKGROUND

1. In August, 1998 the Bryn Coed Farms, a Pennsylvania limited Partnership, submitted an application to Upper Uwchlan Township (the "Township") for tentative plan approval under the Township's Planned Residential Development Ordinance, Upper Uwchlan Township Ordinance No. 97-7 and Article VII, Section 7.01-7.13 of the Pennsylvania Municipalities Planning Code, 53 PS Section 10701-10713 for property situated at the intersection of Route 100 and Byers Road in the Township known as the Byers Station Property ("Subject Property").

2. On June 7, 1999, the Township granted tentative PRD approval for development of the Subject Property as a planned residential development ("Byers Station PRD"). That document, as well as all exhibits attached thereto, are incorporated by reference as if set forth in full herein.

3. On July 21, 2003 the Township granted final PRD approval for various parcels in the Byers Station PRD as depicted in the approved tentative plan ("2003 Approval"). The 2003 Approval did not grant final plan approval for Parcels 5C and 6C and the Board expressly acknowledged same in Paragraph 11 of the 2003 Approval. That document, as well as all exhibits attached thereto are incorporated by reference as if set forth in full herein.

4. On September 8, 2009, the Board of Supervisors modified the 2003 Approval granted by the Board regarding matters pertaining to development of a property within the PRD known as "The Butler House" being Lot 261 on the PRD Plan of Property which parcel was also known as Tax Map Parcel No. 32-4-496 ("2009 Approval"). The 2009 Approval did not modify or amend the 2003 Approval as pertains to Parcel 5C.

5. On May 23, 2016 Byers Residential Acquisition, L.P. and Byers Retail Acquisition, L.P., current equitable owners of Parcel 5C ("collectively, Applicant"), submitted an application for final PRD approval for a portion of Parcel 5C depicted in the application ("Application") and referred to as "Lot 1". The Application did not seek final PRD approval for the commercial phase of Parcel 5C which is designated as "Lot 2" on the Application. The Final PRD Plan for Lot 1 of Parcel 5C is that plan set prepared by Bohler Engineering dated May 20, 2016 and last revised September 12, 2016 ("Final Plan").

6. At its meeting on February 21, 2017, the Township granted approval of the Final Plan for Parcel 5C and that approval was communicated to the Applicant in a written correspondence dated March 17, 2017 ("2017 Approval").

7. The Board now wishes to amend the 2017 Approval to clarify certain terms thereof.

ORDER

The Board hereby amends the 2017 Approval as set forth hereinbelow:

1. The Final Plan shall be revised to comply with Gilmore and Associates, Inc. review letter dated November 3, 2016 and the Final Plan shall be labeled "Final PRD Plan, Lot 1, Parcel 5C The Village at Byers Station."
2. The Applicant shall secure all required outside agency permitting prior to plan recordation.
3. The Applicant hereby agree to make a contribution in the amount of \$206,000.00 to be utilized for the construction of Eagle Park. This contribution shall be made prior to the release of plans for recordation.
4. A multi-use trail shall be provided along Darrell Drive from Graphite Mine Road to Pottstown Pike.
5. A tot lot, similar to that which is provided in the Windsor Ridge Development of Upper Uwchlan Township shall be provided within Lot 1.
6. The following proposed cross walks shall be eliminated from the Final Plan: Darrell Drive and Pottstown Pike (northwest corner of the project); Darrell Drive and Graphite Mine Road (northeast corner of the project); Station Boulevard and Graphite Mine Road (southeast corner of the project).
7. The proposed street light at ^{Darrell} ~~Darryl~~ Drive and Pottstown Pike (northwest corner of the project) shall be eliminated.
8. An ADA compliant ramp for the trail shall be provided on the western side of the driveway access and Station Boulevard.
9. The trail segment currently depicted adjacent to Station Boulevard shall be eliminated from the east side of Station Boulevard driveway access to Graphite Mine Road.

10. Applicant shall revise the plans to provide a trail crossing over Station Boulevard to connect the trail on Lot No. 2 to an existing trail on the south side of Station Boulevard, unless Applicant can demonstrate to the Board that such trail connection is prohibitively costly and creates an undue financial burden, in which case the Applicant shall provide a trail connection in a different location accepted by the Board.

11. If Applicant does not install a retaining wall along Route 100 and the slopes exceed 3(H):1(V), geotechnical computations shall be provided confirming that the proposed slope will be stable. In addition, the areas disturbed shall be planted with low maintenance vegetation to stabilize the area disturbed.

12. A waiver from Section 162-39.E to permit *Belgian* block curbing is granted.

13. A waiver from Section 162-41.A which requires sidewalk to be provided on both sides of new streets is hereby granted. Sidewalk shall be provided on one side of all internal streets.

14. A waiver from Section 152-311.G.1 to permit the use of HDPE piping within the right-of-way instead of RCP is hereby granted.

15. A waiver from Section 152-311.H(3) to permit use of naturalized spillway lining instead of concrete block is hereby granted.

16. To the extent that the Final Plan or any of the conditions attached herein through this Order are inconsistent with the tentative plan approval granted by this Board in 1999 for Parcel 5C, the conditions of approval set forth herein shall control.

17. The commercial allocation of retail square footage depicted on Lot 2 of the Application is consistent with the June 7, 1999 tentative approval and shall continue

to be deemed a tentatively-approved planned residential plan. Pursuant to Section 709(c) of the Pennsylvania Municipalities Planning Code. The period of time in which an Application for final approval of Lot 2, Parcel 5C must be filed with Upper Uwchlan Township shall be five (5) years from the date of this Order, unless otherwise amended upon request of the Applicant by this Board.

This Resolution adopted this 15th day of May 2017.

Attest:


Township Secretary

UPPER UWCHLAN TOWNSHIP
BOARD OF SUPERVISORS:


Kevin C. Kerr, Chair


Jamie W. Goncharoff, Vice-Chair


Guy A. Donatelli, Member

Response Comments to May 17, 2018 Thomas F. Oeste, Esq. Memorandum for the Upper Uwchlan Township Planning Commission and Board of Supervisors

Subject: Byers Station Parcel 5C-Lot 2 Development-Final PRD Plan

Response Comments Date: 6/11/18

**Author: Don Carlson, PhD; Vice chairman, Upper Uwchlan Township Municipal Authority
Former Upper Uwchlan Township Supervisor, 1994-2005**

Each of you have received a copy of Mr. Oeste's Memorandum addressing the comments I presented at the May 10, 2018 Planning Commission meeting regarding the proposed commercial development of Byers Station, Parcel 5-C, Lot 2. Those comments addressed the proposed inclusion of a restaurant (coffee shop) with drive-through service. Since I'm not certain a copy of my original comments were included in the documents distributed by the Township along with Mr. Oeste's Memorandum I am, immediately hereafter, including a copy with these response comments for easy reference.

Comments for Consideration by the Upper Uwchlan Township Planning Commission May 10, 2018 Meeting

Date: 5/10/18

Author: Don Carlson

Background:

Applicants have proposed commercial development of Lot 2 of Parcel 5C. Lot 2 of Parcel 5C is located within the C1 Zoning District referred to as the Village Commercial District on Zoning maps and Zoning Ordinance last revised 8/3/98 (hereafter "1998 ZO"). The more recent Zoning Ordinance covers this commercial district under Article VIII, C-1, Village District (hereafter "Recent ZO").

The "Conditions of Tentative Approval Byers Station PRD", Exhibit A of Resolution 07-06-99-09, adopted July 6, 1999 in Section II.B.3.a state that:

"Parcel 5-C – The following design guidelines shall be part of any Final Plan:

- a. Any use permitted in accordance with Sections 801, 901 or 1001 of the Township Zoning Ordinance is permitted, except for the uses set forth in Section 1001F"

Applicants have proposed to include a coffee shop (restaurant) with drive-thru service.

Section 801C (Use Regulations) within Article VIII, C-1, Village Commercial District, of the 1998 ZO states the following: "Eating and drinking establishment, confectionery shop, or other place serving food or beverages, **provided that no outdoor counter, curb or drive-thru services shall be permitted.**

Accordingly, a coffee shop with drive-thru services is not permitted under the 1998 ZO, Section 801C.

Section 901I (Use Regulations) within Article IX, C-2, Limited Commercial District, of the 1998 ZO states the following as uses permitted by conditional use: "Uses similar to above, but **expressly excluding retail store or shop, wholesale sales and storage, restaurant, bar, hotel, motel, bowling lanes indoor theatre or other places of amusement or recreation.**"

Accordingly, a coffee shop (restaurant) is not permitted under the 1998 ZO, Section 901I.

Section 1001C (Use Regulations) within Article X, C-3, Highway Commercial District states the following: "Eating and drinking establishment, confectionery shop, or other place serving food or beverages, **provided that no outdoor counter or curb-service shall be permitted.**"

Kristin Camp, UUT Solicitor has interpreted this Section in her May 2, 2018 Memorandum, Subject: "Byers Station Parcel 5C-Lot 2 Development-Final PRD Plan", on page 3, under the "Design Guidelines" section, first bullet, to "permit(s) and eating and drinking establishment with drive-through which would include a coffee shop with drive-through."

Since Section 1001C, in contrast to 801C and 901I, does not specifically exclude drive-through restaurants this interpretation is possible. **However, this interpretation completely excludes any consideration of a second critical legal document signed by Toll Bros. and UUT representatives and dated July 21, 2003. This document is the "Byers Station Decision and Order."**

The Decision and Order "FINDINGS OF FACT" Clause 10 states the following:

"10. Although the Township granted Tentative Plan Approval for Parcels 5-C and 6-C in 1999 by decision and order dated July 6, 1999, **the application for Final Plan approval submitted by the Applicants did not seek Final Plan approval to develop parcels 5-C and 6-C (See Conclusions Para. 9, hereafter).**"

The Decision and Order "CONCLUSIONS" Clause 9 states the following:

"9. Applicants shall be required to submit separate application(s) for the development of parcels 5-C and 6-C and any approval herein shall not be an approval to develop either parcel."

In other words, the parties (Toll and UUT) agreed, conceptually, to development of Parcel 5-C under the "Conditions of Tentative Approval Byers Station PRD", but not the specifics of how/what would be permitted in the final SDLD plan for 5C. This plan is subject to review by the Planning Commission (and recommendations to the BOS thereafter) at the time the applicant submits their final PRD plan for the commercial portion of Parcel 5C (Lot 2). In particular, that plan is "The Village at Byers Station-Lot 2 Commercial", Bohler Engineering, dated Feb. 16, 2018 which was officially accepted for consultants review by the UUT Planning Commission at its March 8, 2018 meeting. Accordingly, the proposed uses must be in concert with the "Recent ZO" Article VIII, C-1, Village District, Section 200-33 Use Regulations which state the following:

B. Conditional Uses in C-1 Village District

- (8) Eating or drinking establishment with inside and/or outside table service and with or Without indoor or outdoor counter service for consumption on or off-site **but Excluding drive-through service.**

Miscellaneous Comments:

Question:

Is there any Township precedent for not allowing a drive-thru restaurant in the Village (Commercial) District, such that the Township's action in this circumstance wouldn't be arbitrary or capricious?

Answer:

Yes. Stadium Grill, a restaurant previously located in the "Acme" shopping center requested to put in a drive-thru window. The request was denied on the basis that the Village (Commercial) District zoning does not permit drive-thru restaurants.

**Response Comments to May 17, 2018 Thomas F. Oeste, Esq. Memorandum
Subject: Byers Station Parcel 5C-Lot 2 Development-Final PRD Plan**

Mr. Oeste's basic conclusion is that the 2003 Decision and Order does "not negate or amend the Tentative Plan approval for the commercial portion of Parcel 5-C which entitles the applicant to file for final PRD approval based on the Tentative Plan Approval, including the right to a drive-through restaurant use."

I firmly disagree with this conclusion for the following reasons:

- 1) Both the Applicants (Toll Bros., Inc., Hovnanian Pennsylvania, Inc., and Orleans Home Builders, Inc.) and the Township were represented in the public hearings resulting in the 2003 Decision and Order (hereafter D & O for simplicity) as evidenced by the following:
 - a. Number 17 of the "Background" section of the D & O states:

"At the public hearings, the applicants were represented by Louis J. Colagreco, Jr. Esquire of Riley, Riper, Hollin & Colagreco."
 - b. Number 18 of the "Background" section of the D & O states:

"John E. Good of John Good and Associates - - - served as the Township Solicitor and conducted the hearings on behalf of the Township."
 - c. Number 19 of the "Background section of the D & O states:

"The following Board of Supervisor members were present and participated in the public hearings:

 - A. Charles W. Lobb, Chairman
 - B. Walter J. Styer, Vice-Chairman
 - C. Donald B. Carlson, Member

Accordingly, both the Applicant and the Township had representatives present who would have clearly understood the implications of Clause 10 of the D & O Findings of Fact and Paragraph 9 of the D & O Conclusions sections.

- 2) The language of Clause 10 of the "Background" section of the D & O, Clause 9 of the "Conclusions" section of the D & O, as noted in my 5/10/18 comments (reproduced above) presented to the Planning Commission are unambiguous. Indeed, Mr. Oeste's May 17'th Memorandum points out that Clause 11 of the D & O's "Order" section states:

"11. Applicant acknowledges that Lots 5c and 6c as depicted on the Final Plan **are excluded from this approval and will require separate land development approval.**" (emphasis added).

- 3) Further, at the 5/10/18 Planning Commission meeting, **prior to use of the term in my written comments**, Mr. Oeste referred to any earlier plans for 5-C as being "Conceptual" (i.e., a generalized idea of a thing or class of things). This was in agreement with my prepared comment's use of the term "conceptual". Conceptual plans always must be followed by submission of "Final" plans.
- 4) As noted in my comments presented to the Planning Commission on 5/10/18:

In other words, the parties (Toll and UUT) agreed, conceptually, to development of Parcel 5-C under the "Conditions of Tentative Approval Byers Station PRD", but not the specifics of how/what would be permitted in the final SDLD plan for 5C. This plan is subject to review by the Planning Commission (and recommendations to the BOS thereafter) at the time the applicant submits their final PRD plan for the commercial portion of Parcel 5C (Lot 2). In particular, that plan is "The Village at Byers Station-Lot 2 Commercial", Bohler Engineering, dated Feb. 16, 2018 which was officially accepted for consultants review by the UUT Planning Commission at its March 8, 2018 meeting. Accordingly, the proposed uses must be in concert with the "Recent ZO" Article VIII, C-1, Village District, Section 200-33 Use Regulations which state the following:

B. Conditional Uses in C-1 Village District

(8) Eating or drinking establishment with inside and/or outside table service and with or Without indoor or outdoor counter service for consumption on or off-site but excluding drive-through service.

As a former Supervisor during a time when extensive development was occurring in Upper Uwchlan Township I and my fellow supervisors worked diligently to protect and preserve the ambiance of the Village of Eagle. Examples include requiring:

- J. Lowe & Assocs. to retain, rather than demolishing, the Victorian home now occupied by the formal attire shop.
- Working with J. Lowe & Assocs. and Mike Robinson to move, rather than demolishing, one of the Victorian era homes, from one side of Rt. 100 to the opposite side allowing it to be preserved and reused for offices.
- Requiring the developer of the CVS Pharmacy to have a façade that is compatible with the surrounding Victorian era structures.

The careful work by the past and present Historic Commission and Planning Commission members to develop, and by the then elected Board of Supervisors to adopt, the Village Commercial District Zoning excluding eating or drinking establishments with drive-through services, was done to further support the preservation of the character of the Village of Eagle consistent with the charge of taking actions that best address the health, safety and welfare of the citizens of Upper Uwchlan Township.

Accordingly, I urge the current Planning Commission members to carefully consider the facts noted herein that support a PC recommendation against a drive-through restaurant use in Lot 2 of Parcel 5-C.

I further urge the Board of Supervisors to likewise carefully consider the facts noted herein and vote to preserve the ambiance of the Village of Eagle by rejecting the Applicant's request for approval of a drive-through restaurant use in Lot 2 of Parcel 5-C.

Respectfully Submitted,

Don Carlson



UPPER UWCHLAN TOWNSHIP

Planning Commission Meeting

May 10, 2018

Minutes

DRAFT

In Attendance:

Bob Schoenberger, Chair, Sally Winterton, Vice-Chair, Brett Hand, Bob Phillips, Joe Stoyack, Jim Dewees, Chad Adams, Dave Leh, P.E. – Gilmore & Associates, Tom Oeste, Esquire – Buckley, Brion, McGuire & Morris, Gwen Jonik, Planning Commission Secretary

Bob Schoenberger called the meeting to order at 7:32 p.m. as a quorum was present.

122 Oscar Way / S & T Realty Holdings Final Land Development Plan

Scott Johnson, owner of S&T Realty Holdings, operates his traffic safety equipment business (J Tech) in the Eagle Industrial Park. Mr. Johnson introduced a plan for an 8,845 SF building addition on Oscar Way, for storing raw metal materials that are currently stored outside. There have been thefts of the materials. The building will be constructed over existing pavement. This is for storage only, no office space.

Joe Stoyack moved, seconded by Bob Phillips, to accept the Plan for consultants' review. The Motion carried unanimously.

Bob Schoenberger announced that following the Village at Byers Station Commercial Lot 2, the Vantage Point Retirement Living project would be discussed, a slight diversion from the Agenda.

Village at Byers Station (Parcel 5C) Commercial Lot 2 Amended Final PRD Plan

Bob Dwyer, Equus, and Alyson Zarro, Esq., attended. Discussion of this project at last month's Planning Commission meeting stalled as research was needed to determine whether or not to follow 1999 or current zoning and subdivision ordinances, especially regarding drive-through service. Mr. Dwyer said they used the 1999 zoning regulations and the current subdivision/land development when planning the residential and commercial lots for Parcel 5C; the PRD (Planned Residential Development) approval dictates the zoning. The drive-through is for a coffee shop; there are no plans for a fast-food restaurant now or in the future.

Tom Oeste, Esquire, the Township's Solicitor, advised that PRD Approvals become the zoning for that particular property, and states the uses and standards allowed.

Discussion and comments included the following points:

1. In the 1999 PRD Decision, there is a paragraph that relates specifically to Parcel 5C;
2. Section 801 of the Use regulations at that time doesn't allow for drive-through, though other Sections prohibit window and curb service, which is different from drive-through. If it isn't prohibited, it's allowed. These terms are not defined in the Ordinances.
3. Parcel 5C Lot 1 (residential) was reviewed using the old zoning and the current subdivision and land development ordinances (SALDO). The current SALDO has better, higher standards.
4. Perhaps the Board of Supervisors could prohibit fast food restaurants in any future approval conditions for this property; the accuracy/legality of this suggestion is questionable.
5. A drive-through may be allowed only on this Parcel because of the PRD; not on any other properties in the Township.

6. Once there's a Final Plan recorded of a PRD, any modification to Use or the Plan requires a new Hearing process, and it would be open to all involved in the PRD (all Byers Station residents and businesses) for ideas.

Don Carlson offered comments regarding the previous zoning ordinance sections that were allowed within the PRD. As mentioned earlier, one prohibited drive-through, one prohibited restaurants, one prohibited outdoor counter or curb service. Mr. Carlson noted he was a Township Supervisor at the time of the Byers Station PRD approval and since the development of Parcels 5C and 6C were to be accomplished separately, he believes they fall under current C-1 Village Section 200-33 (zoning) Use Regulations, which excludes drive through service. They were interested in maintaining a village-type ambiance and didn't favor fast-food restaurants.

Mr. Dwyer advised revised plans have been submitted for the consultants' review and they hope to get the Planning Commission's recommendation for approval at the June meeting.

Chad Adams commented that the consultants and solicitors have offered their opinions on the drive-through and the Planning Commission should base their recommendation to the Board of Supervisors on whether or not they accept these opinions.

Brief discussion followed regarding an opinion on the points Mr. Carlson highlighted from the 2003 Decision & Order for the PRD. Alyson Zarro and Kristin Camp will review the 2003 Decision and provide their thoughts.

Vantage Point Retirement Living (Parcel 6C) Amended PRD Plan

Alyson Zarro, Esq., Joe Russella, Guy DiMartino, and several Vantage Point representatives were in attendance. Ms. Zarro reminded the Commission that the Board of Supervisors had added the Senior Living Facility use to the PRD regulations. The Applicant seeks amendment of the Tentative PRD Plan approval, which requires a Hearing, and current Zoning and SALDO will be used. Parcel 6C is 3.8 acres; the proposed Senior Living Facility is a 36,171 SF building that fronts Graphite Mine Road; the side faces Byers Road; the Butler House driveway from Byers Road would be improved, which would also provide a second access to Parcel 6C.

Bob Schoenberger recalled the Butler House Approval included that Parcel gaining access to Graphite Mine Road through Parcel 6C. The existing Butler House driveway right-of-way was to be vacated as it runs through the Township's wastewater disposal field.

Joe Russella and Alyson Zarro presented the Plan, proposing 2 fenced gardens at the rear for Memory Care residents; parking and loading would be in the rear; right-in/right-out on Graphite Mine Road; a walkway along Byers Road and a connection to the trail along the Mews/Graphite Mine Road; 101 units -- 86 assisted living or memory care and 15 will be independent living; residents can move from independent living to the other units as the need arises.

The comments in Gilmore's review letter can be addressed and/or complied; they'll look at the access requirements from previous approvals (Butler House); the front door covered canopy is 14' high, high enough for typical emergency vehicles; the traffic study was conducted while school was in session and since the majority of this Facility's residents won't be driving, traffic impact is low.

Alyson Zarro advised that some of the conditions from the 1999 Decision don't make sense at this time or can't be done, such as an access through Parcel 4 (The Mews). A connection to the trail along the Mews/Graphite Mine Road won't be right along the road due to the embankment and Graphite Mine Road drainage system; it will be positioned near the end of the building's front sidewalk; parking lot lighting cutoff may need to be later than 11:00 PM due to Staff shift change timing. Ms. Zarro advised a Hearing will need to be scheduled as this is an Amended PRD Plan. They'll revise the Plans and seek the Commission's recommendation for a Hearing next month.

Eagleview Corporate Center Lot 1B – Maintenance Area Preliminary/Final Land Development Plan
Neal Fisher and Mike Malloy of The Hankin Group attended. Mr. Fisher advised that through the consultants' review process it's been agreed that they'll relocate the maintenance area from where they originally proposed. They won't need to remove as many trees at the alternate location, which is right along the parking area, but they'll need 10'-15' riparian buffer relief. There will be screening, it'll reduce the conflict with the trail from Hickory Park, and storm water management measures need minimal increase. The Plan will be modified and resubmitted for the July Commission meeting. The maintenance area will not have a roof. Mulch will be stored; salt will be stored just ahead of winter, not year-round.

Eagleview Corporate Center Lot 1C Preliminary Land Development Plan

Neal Fisher, The Hankin Group, presented a Preliminary Land Development Plan proposing an 113,000 SF, 1-story flexible-space building on the 22 acre wooded Lot 1C, which also contains the public sewer pump station, discharging to the Eagleview Plant. They can comply with the majority of the consultants' comments and are asking for a waiver from providing sidewalk expansion joints every 30' -- they've had better success with a continuous pour -- and a waiver from the quantity of replacement trees to be planted as there isn't enough room.

Discussion included the following:

1. Commission members suggested that instead of waiving the number of replacement trees, enhance the buffer with the residential properties, using rounder/taller trees; keep the buffer area thick, even if it'll need to be thinned in the future.
2. A fee in lieu of tree replacement was mentioned in the review letter. Mr. Fisher will discuss this with Township Staff as they may propose additional landscaping/streetscaping for the Pennsylvania Drive reconstruction project in lieu of the Lot 1C tree replacement.
3. The 393 proposed parking spaces seem excessive, but cover the possible uses in the building. Parking spaces could be reduced, or loading docks could become parking areas, depending on what uses go in the building. They could phase the parking construction and not build along the residential boundaries at the start. Public transportation isn't yet an option for this area -- one of the pharmaceutical businesses runs their own bus service.
4. Storm water management concerns will be addressed.
5. The Pondview Way trail connection is favored. The proposed trail might meander south through the 30' buffer with the residential properties and follow the slope to the Sierra Drive pump station.

Mr. Fisher asked the Commission for a recommendation for Preliminary Plan approval and approval of the 2 waivers. He'll revise the Plans and submit them for the Commission's July meeting.

The Planning Commission was agreeable to the sidewalk expansion joint waiver. Further discussion followed regarding the tree replacement waiver request, the buffer with the residential properties, and shielding from the building/parking lighting.

Mr. Fisher advised that the Lot is basically flat along the residential property and the parking lot light standards are compliant with the ordinances. Discussion with Sheila Fleming suggests Hankin use different species than Lot 1B's buffer zone -- rounder trees instead of columnar, such as pines/spruces -- and they've suggested replacing some of the trees on Lot 1B's buffer.

There was disagreement regarding the shields used on the parking lot lights, the amount of light glare and/or spillage onto neighboring properties from Lot 1B, and with the Lot 1C Plan being very similar, the problem would increase.

Sally Winterton moved, seconded by Chad Adams, to recommend Preliminary Plan Approval to the Board of Supervisors. Brett Hand asked when the lighting and tree replacement alternatives would be discussed. Bob Schoenberger advised that would take place during the Final Land Development Plan approval discussions.

Chad Adams moved, seconded by Sally Winterton, to recommend Preliminary Plan Approval with the conditions that the lighting and fee in lieu of woodland replacement would be worked out during Final Land Development process. The Motion carried with (5) in favor, (1) abstention (Stoyack) and (1) opposed (Deweese).

Chad Adams also recommended that the HVAC noise and lighting issues from Lot 1B be investigated and worked out before Final Approval for Lot 1C.

Pickering Valley Elementary School / Township Lot Line Adjustment Plan

Dave Leh presented a Plan to adjust the lot line between the Township property and Pickering Valley Elementary School, and also consolidate the 2 parcels that make up the Township Building property. While designing the Eagle Park construction plan it was evident the Township would annex the School property during construction, and the land transfer would also accommodate any future township building expansion. Discussions with the Downingtown Area School District resulted in an Agreement to transfer 0.9 acres along the common property line, from the rear of the Township Building to the School driveway curb line. The DASD Board of Directors approved the Agreement.

Jim Dewees moved, seconded by Joe Stoyack, to recommend Approval of the 0.9 acre land transfer from the School District to the Township. The Motion carried unanimously.

Approval of Minutes

Jim Dewees moved, seconded by Chad Adams, to approve as presented the minutes of the Planning Commission's April 12, 2018 meeting. The Motion carried unanimously.

Open Session

Jim Dewees inquired when Toll would build the bridge across the stream in the Reserve at Chester Springs. Mr. Leh advised the Township will apply for the permit.

Sally Winterton and Bob Schoenberger advised they will not attend the June 14, 2018 Planning Commission meeting.

Adjournment

Joe Stoyack moved, seconded by Jim Dewees, to adjourn at 10:20 PM. All were in favor.

Respectfully submitted,

Gwen A. Jonik
Planning Commission Secretary