

IN RE: : BEFORE THE BOARD OF SUPERVISORS  
APPLICATION OF : OF WESTTOWN TOWNSHIP  
FAIR SHARE PROPERTIES, L.P. : CHESTER COUNTY, PENNSYLVANIA

### **DECISION**

Fair Share Properties, L.P. (hereinafter "Applicant") has filed an application with the Westtown Township Board of Supervisors (hereinafter "Board") to amend a prior conditional use approval to substitute a daycare center for an approved bank pad at the northern end of the property located at 401 West Pleasant Grove Road (UPI No. 67-4-23), West Chester, Pennsylvania in the R-3 Residence Office Zoning District of the Township pursuant to §170-801.B(6) of the Westtown Township Zoning Ordinance ("Zoning Ordinance").

The hearing on this application was opened on January 20, 2015 and was continued, with the Applicant's consent, to February 17, 2015 and March 2, 2015. *See* N.T., pp. 68-69, 143-144. Chairman Michael T. DiDomenico and Supervisors Carol R. DeWolf and Thomas F. Haws, Jr., heard the application for the Board. Patrick M. McKenna, Esquire, appeared as the Board's Solicitor. The Applicant was represented by Andrew Rau, Esquire, and no other parties appeared of record.

After receiving the evidence presented by the Applicant and having reviewed the same, the Board makes the following:

#### **Findings of Fact**

1. Notice of the hearing, marked as Exhibit B-1, was duly published in the Daily Local News on December 30, 2014 and January 6, 2015 as evidenced by Exhibit B-2. Proof of posting on the subject property is marked as Exhibit B-3. Exhibit B-4 is the tax parcel map depicting the location of the subject property. Exhibit B-5 is a letter dated November 26, 2014 from Chris Patriarca, Township Planning and Zoning Officer, deeming the application complete. Exhibit B-6 is

an email dated December 3, 2014 from Andrew Rau, Esq., confirming that the Applicant will comply with all current Township ordinances as they relate to the daycare center. Exhibit B-7 is the Zoning Ordinance by reference. Exhibit B-8 is a memorandum from the Chief of Police dated January 21, 2015. Exhibit B-9 is a January 26, 2015 letter from Bureau Veritas regarding the application. Exhibit B-10 is a McCormick Taylor review letter dated February 3, 2015. Exhibit B-11 is a letter dated February 5, 2015 from Chris Patriarca containing the recommendation of the Planning Commission. Said exhibits were admitted at the hearing.

2. The hearing was duly convened, and the Applicant presented evidence in support of the application.

3. The Applicant is Fair Share Properties, L.P.

4. The subject property is located at 401 West Pleasant Grove Road, at the northwest corner of Wilmington Pike (Route 202) and West Pleasant Grove Road, West Chester, Pennsylvania (“Property”).

5. The Property is located in the R-3 Residence Office District of the Township.

6. At the hearing, the Applicant offered the following exhibits, which were admitted into evidence:

Exhibit A-1: Deed to Fair Share Properties;

Exhibit A-2: Conditional Use Decision, dated August 7, 2007;

Exhibit A-3: Current Conditional Use Application, dated October 30, 2014;

Exhibit A-4: McCormick Taylor planning and traffic review letters, dated December 12, 2014;

Exhibit A-5: InLand Design Preliminary Stormwater Management Analysis, dated October 31, 2014;

Exhibit A-6: InLand Design December 30, 2014 response to McCormick Taylor’s December 12, 2014 review letter;

- Exhibit A-7: Amended Conditional Use Plan prepared by InLand Design, last revised December 30, 2014;
- Exhibit A-7A: Full Size Rendering of Conditional Use Plan prepared by InLand Design, last revised December 30, 2014;
- Exhibit A-7B: Supplemental Parking Exhibit prepared by InLand Design, dated February 17, 2015;
- Exhibit A-8: Connector Road/Stetson Drive intersection aerial alternatives;
- Exhibit A-9: Curriculum vitae of Roman Dychdala, P.E., P.L.S.;
- Exhibit A-10: McCormick Taylor second review letter, dated January 20, 2015;
- Exhibit A-11: Malvern School packet;
- Exhibit A-12: Curriculum vitae of Greg Richardson, P.E.;
- Exhibit A-13: Traffic Planning and Design, Inc., Trip Generation Analysis Letter, dated November 14, 2014;
- Exhibit A-14: Traffic Planning and Design, Inc., response to McCormick Taylor December 12, 2014 traffic review letter, dated January 26, 2015;
- Exhibit A-15: Traffic Planning and Design, Inc., Arborview Transportation Impact Assessment, dated January 26, 2015;
- Exhibit A-16: Westtown-East Goshen Regional Police comments, dated January 21, 2015;
- Exhibit A-17: Brian M. Gallagher of Bureau Veritas comment letter, dated January 26, 2015;
- Exhibit A-18: McCormick Taylor second traffic review letter, dated February 3, 2015;
- Exhibit A-19: InLand Design traffic review partial response letter, dated February 4, 2015;
- Exhibit A-20: Traffic Planning and Design, Inc., jug handle concept plan, last revised February 4, 2015;
- Exhibit A-21: Westtown Township Planning Commission recommendation, dated February 5, 2015; and
- Exhibit A-22: McCormick Taylor conditions of approval letter, revised February 5, 2015.

7. The Property is approximately 3.295 acres in size. *See* Exhibits A-7, A-7A, and B-4; *see also* N.T., p. 2.

8. The Applicant previously sought and received conditional use approval for a bank pad and office use on the Property in a decision dated August 6, 2007. The Applicant now seeks to amend that Conditional Use Decision and Order to permit a daycare center pursuant to §170-801.B(6) of the Zoning Ordinance in place of the approved bank pad on the northern end of the Property. The Applicant does not seek an amendment to the prior approved office use on the Property. *See* Exhibits A-2, A-3, A-7, and A-7A; *see also* N.T., pp. 2, 4-5.

9. A daycare is permitted by conditional use in the R-3 Residence Office District. *See* Exhibit B-7; *see also* N.T., p. 9.

10. The Applicant's development of the Property was delayed by the economic recession, and the Applicant has granted the Township land development review extensions since the original conditional use approval, pending improvement of economic conditions. *See* Exhibit A-3; *see also* N.T., p. 9.

11. The Malvern School is licensed by the Pennsylvania Department of Human Services and serves children from infants through pre-K on a full- and half-day schedule as well as students who attend afterschool programs. *See* Exhibit A-11; *see also* N.T., pp. 12, 18.

12. The Malvern School has approximately 120 students attending per day, along with up to fifteen (15) kindergarten students attending afterschool programming, and operates from 7:00 A.M. until 6:00 P.M., but children arrive on a staggered schedule. *See* Exhibits A-3 and A-11; *see also* N.T., pp. 14, 17-18.

13. The Malvern School is proposed as a two (2) story building with nine (9) classrooms and three (3) outdoor playgrounds for children of various age groups. The playgrounds will be surrounded by a white vinyl fence, four (4) feet in height. *See* Exhibits A-7, A-7A, and A-7B; *see also* N.T., pp. 15, 63-64.

14. The Applicant will build a twelve (12) foot wide loading zone in front of the School to accommodate typical small daily deliveries of paper products and snacks. The Malvern School will not receive tractor-trailer deliveries. *See* Exhibits A-6, A-7, A-7A, and A-7B; *see also* N.T., pp. 15, 28, 40-41.

15. Approximately twenty-two (22) staff members would be on site at any one time, and parking would be provided for them onsite. *See* N.T., pp. 16, 48-50.

16. A dumpster will be located to the north side of the Malvern School site and will be screened with landscaping and fencing. A gate will block the dumpster from view. *See* Exhibits A-6, A-7 and A-7A; *see also* N.T., p. 29.

17. The Applicant agrees to comply in the land development process with landscaping and lighting as required by the Township. *See* Exhibit A-6; *see also* N.T., p. 23.

18. After the Township Engineer expressed concerns about the Applicant's plan for buffering between the daycare center and the nearby residential properties of Arborview, the Applicant proposed a landscape buffer in the ten (10) foot strip between the right-of-way of the proposed Connector Road and the Fair Share development. *See* Exhibit A-6; *see also* N.T., pp. 23-24.

19. Additionally, landscaping was built into the Arborview development in anticipation of the future development on the Fair Share Property. *See* Exhibit A-7A; *see also* N.T., pp. 24-25.

20. The light fixtures for the Property will be cutoff fixtures so as to eliminate glare. The Applicant also proposes sixteen (16) foot high light poles but will finalize its lighting plan during the land development process. *See* Exhibit A-3; *see also* N.T., pp. 26-27.

21. The Applicant presented evidence as to the topography of the site and a preliminary grading plan in order to demonstrate the feasibility of the building plan. *See* Exhibits A-6, A-7, and A-7A; *see also* N.T., p. 31.

22. Stormwater management for the Property will be accommodated through two (2) planned seepage, or recharge, beds of 90 feet by 30 feet by five (5) feet deep constructed out of stone beds with 36-inch diameter perforated pipes imbedded in them. Stormwater from the buildings and parking lots will be piped to these beds where the water will remain until it percolates into the ground, being released at a regulated rate equal to or less than what the Township stormwater ordinance allows. The stormwater management design may vary based on the results of the soil tests but the Applicant presented evidence that it can provide bed depth adequate to detain runoff from the development. *See* Exhibit A-5; *see also* N.T., pp. 32-33, 35-36, 37.

23. The Malvern School and office building each have a stormwater recharge bed to serve its portion of the Property. One (1) recharge bed will be located in the southwestern corner of the Malvern School parking lot, and the second recharge bed will be in the parking lot south of the office building. *See* Exhibits A-6, A-7 and A-7A; *see also* N.T., pp. 32-33, 35-36.

24. The Applicant proposes to build an aboveground stormwater basin to accommodate the stormwater runoff that will be generated by the additional impervious coverage of the Connector Road. The drainage from the Connector Road will be collected by storm inlets and piped through high-density polyethylene or concrete pipes to the basin on the south end of the Property where it will be released at a slower rate back across the street and into the existing pond. *See* Exhibits A-7 and A-7A; *see also* N.T., pp. 34-35, 37, 38.

25. The stormwater basin intended to accommodate the runoff from the Connector Road is proposed to be dedicated to the Township after construction. *See* N.T., pp. 38-39.

26. The Applicant presented expert testimony that the Property's stormwater management will not impact nearby wells, but if it does, it would positively affect the wells as the plan recharges the aquifer. *See* N.T., p. 36.

27. The planned office building will have loading areas on both sides of the building. *See* Exhibits A-6, A-7 and A-7a; *see also* N.T., p. 29.

28. While the Malvern School does not typically build LEED-certified construction, the company will consider it for this Property, as will TAG Builders for the construction of the office building. *See* Exhibit A-6; *see also* N.T., p. 43.

29. If the office building is used for medical offices, medical waste disposal will be accomplished through small containers outside each office that will be disposed of inside the building so that no outside special medical debris disposal area would be required. *See* N.T., p. 44.

30. A medical office building requires one (1) parking spot for every 150 square feet of building; as such, 112 parking spaces are needed for the proposed 16,800 square foot building. A non-medical office building requires one (1) parking spot for every 200 square feet of building space, resulting in a requirement of 84 spaces for that portion of the Property. *See* N.T., pp. 45-46, 67.

31. As a daycare, the Malvern School requires one (1) parking space for every fifteen (15) students; as such, eight (8) parking spaces are necessary to accommodate the anticipated student population of 120. *See* N.T., pp. 46, 52.

32. Testimony was presented that the Malvern School requires thirty-six (36) school parking spaces as a typical condition of its lease. *See* N.T., p. 52.

33. If a medical office building is constructed, the Property, in total, would require 148 parking spaces for that use and the Malvern School. If a non-medical office building is constructed, the Property would require 120 parking spaces in total. *See* Exhibit A-7B; *see also* N.T., pp. 80-83.

34. The Applicant proposes initially building 120 parking spaces and leaving twenty-eight (28) reserve spaces to be built in the future if deemed necessary by the Township based on actual use. *See* Exhibit A-7B; *see also* N.T., pp. 80-83.

35. The Applicant presented testimony that the Malvern School's traffic impact would add approximately 152 daily trips in the morning and 132 trips in the evening. *See* Exhibits A-3 and A-15; *see also* N.T., pp. 99-100, 120.

36. The Applicant proposes to build the Connector Road as required under its prior Conditional Use approval. The Connector Road will extend from West Pleasant Grove Road to Stetson Middle School Road. *See* Exhibits A-2, A-7, A-7A, and A-8; *see also* N.T., pp. 9, 93.

37. While the plans for the jug handle intersection between the Connector Road and Stetson Middle School Road are currently in the design phase, the Applicant proposes building the Connector Road to align with the existing driveway that leads back to Starkweather Elementary School. *See* Exhibit A-20; *see also* N.T., pp. 27-28, 103.

38. The Applicant proposes a jug handle intersection in which traffic flows freely from Route 202 towards Stetson Middle School and Starkweather Elementary School or south on the Connector Road towards West Pleasant Grove Road. Vehicles coming from the school driveways, traffic approaching the jug handle heading north on the Connector Road, and those cars headed south on the Connector Road from the schools will encounter stop-controlled intersections. *See* Exhibit A-20; *see also* N.T., pp. 103-106.

39. According to the plans presented by the Applicant, traffic entering the Stetson Middle School Drive from Route 202 will come upon a four (4) way intersection at which traffic at the other three (3) corners will stop so as to allow traffic to flow freely from Route 202 and prevent backups on that highway. Traffic entering the Stetson Middle School Drive will not be permitted to make a left-hand turn onto the Connector Road. *See* Exhibit A-20; *see also* N.T., p. 105.

40. The Applicant proposes installing way-finding signs in the area of the jug handle to provide direction towards the Malvern School and office building. *See* N.T., p. 104.

41. The Applicant proposes to build an extra right-hand turn lane on Stetson Middle School Boulevard towards Route 202 southbound. *See* Exhibit A-20; *see also* N.T., pp. 98, 108.

42. The Applicant will work with Township staff to consider adjusting the timing of the traffic light at the intersection of Route 202 and Stetson Middle School Driveway in order to alleviate congestion in the jug handle during morning drop-off and afternoon dismissal at the schools. *See* N.T., pp. 116-117.

43. Sidewalks and crosswalks will be provided throughout the Property, including a sidewalk that runs the length of the Connector Road and a striped crosswalk to allow pedestrians to enter onto the Property. *See* Exhibits A-7 and A-7A; *see also* N.T., p. 29.

44. The Connector Road is proposed to be dedicated to the Township after construction. *See* N.T., p. 30.

45. After consultation with the Township's engineers and the Township Planning Commission, the Applicant commissioned an updated traffic impact study to determine the impact of the proposed Connector Road and additional traffic from the Malvern School. The Applicant presented expert testimony that with the reconfiguration of the jug handle, the main intersection of Route 202 and Stetson Middle School Drive/Skiles Boulevard will not experience any additional impact due to the land development. *See* Exhibits A-13, A-14, and A-15; *see also* N.T., pp. 93-97.

## Discussion

In reviewing conditional use applications, the Board is governed by the provisions contained in §170-2009 of the Westtown Township Zoning Ordinance. Section 170-2009.D(1)(a) requires that the use be limited to those authorized as conditional use within the zoning district in which the parcel is situated. The R-3 Residence Office Zoning District permits a daycare center, as proposed, as a conditional use in §170-801.B(6) of the Township Zoning Ordinance. As required by §170-2009.D(1)(b) of the Zoning Ordinance, the Board is satisfied that the planned Malvern School is consistent with the Township Comprehensive Plan as part of the development of the Applicant's land along Route 202, particularly including the Applicant's willingness to build the Connector Road from the jug handle at the Stetson Middle School Drive to West Pleasant Grove Road. The Board also anticipates that the value of the adjacent property will be safeguarded during this development as required by §170-2009.D(1)(c).

Section 170-2009.D(1)(d) is inapplicable to the Board's consideration of this application as it applies to the development of more than one (1) building, and this application is generally limited to the replacement of an approved bank pad with a daycare center. To the extent that the Applicant's Property will be additionally developed with a medical office or other office building, the Board is satisfied that the buildings will consist of a harmonious grouping as required by the Zoning Ordinance. Additionally, the Applicant has presented evidence that it proposes to build the Malvern School in compliance with the conditions imposed herein and those contained in the Zoning Ordinance regardless of the development phase of the other building on the Property.

The Board is satisfied that the proposed use as a Malvern School will not inflict a strain on public services and facilities, including water, sewage, and emergency protection, as required by §170-2009.D(1)(f). The design of the planned Malvern School is compatible with the character of the surrounding development as required by §170-2009.D(1)(g). The Board believes that the Applicant has satisfied the requirement of Section 170-2009.D(1)(h) which requires credible evidence that the use will not result in or substantially add to significant traffic congestion and that the peak traffic generated by the development shall be accommodated in a safe and efficient manner. The Applicant presented testimony to the Board's satisfaction that plans for the proposed Connector Road and the Applicant's willingness to confer with Township staff and engineers demonstrates its interest in mitigating the existing traffic congestion at the location. The Applicant presented expert testimony that the traffic generated by the Malvern School will not significantly worsen existing conditions. In addition, the reconfiguration of the jug handle intersection of the proposed Connector Road and Stetson Middle School Driveway and possible changes to the timing of the light at the Stetson Middle School Driveway and Route 202 will additionally serve to alleviate traffic problems near the Property.

The Commonwealth Court has held that a condition of approval on a conditional use order may be changed only "if there has been a subsequent substantial change in conditions incident to the land itself." *Amoco Oil Company v. Zoning Hearing Board of Middletown Twp.*, 463 A.2d 103, 104 (Pa. Cmwlth. 1983). The Board is satisfied through the testimony presented at the hearings that the development of the land as a daycare center better serves both the land and Township than requiring a bank which, in consideration of current economic conditions and the changing priorities of bank customers and corporations, may not be built.

In consideration of the standards set forth therein, and based on a careful review of the evidence and testimony presented to the Board, it is determined that the Applicant has met the requirements of the Westtown Township Zoning Ordinance and that the relief sought shall not alter the essential character of the R-3 Residence Office District of the Township. Accordingly, the Applicant's request to amend a prior conditional use approval to substitute a daycare center for the approved bank pad at the northern end of the property located at 401 West Pleasant Grove Road, West Chester, Pennsylvania in the R-3 Residence Office Zoning District of the Township pursuant to §170-801.B(6) of the Westtown Township Zoning Ordinance, shall be GRANTED, subject to the conditions contained in the Order that follows.

#### **Conclusions of Law**

1. The hearing was duly advertised, all required notices were given, and the hearing was duly convened.
2. The Board has jurisdiction over this matter.
3. The Applicant has demonstrated that it is entitled to the conditional use relief which has been granted.

The Board, therefore, enters the following:

## ORDER

AND NOW, this 2<sup>nd</sup> day of March, 2015, upon the application of Fair Share Properties, L.P., to amend a prior conditional use approval to substitute a daycare center for the approved bank pad at the northern end of the property located at 401 West Pleasant Grove Road, West Chester, Pennsylvania in the R-3 Residence Office Zoning District of the Township pursuant to §170-801.B(6) of the Westtown Township Zoning Ordinance, IT IS HEREBY ORDERED that the relief requested shall be GRANTED, subject to the following conditions:

1. The Applicant shall prepare and submit a compliant conditional use plan within six (6) months of the date of the Decision and Order of the Board of Supervisors. This compliant conditional use plan shall demonstrate satisfaction with all stated conditions of the Order.
2. After its demolition, the Applicant shall incorporate stone taken from the former Orvis house into the overall design of the redeveloped site, where practicable.
3. The Applicant shall grant the Westtown Township Historical Commission access to the Orvis house prior to issuance of any demolition permit to fully document and photograph the property to maintain as part of the Township historic registry. Historical Commission officials seeking to schedule this access must in all cases contact and arrange the visit with the Applicant and may not make unscheduled or unapproved site entry.
4. The Applicant shall fully comply with the requirements of the Township's landscaping ordinance(s) and further provide for adequate screening between the proposed commercial buildings and existing residences during land development.
5. As part of land development, the Applicant shall demonstrate compliance with "Additional Comments" 1 and 5 of the McCormick Taylor February 3, 2015 Traffic Review letter (Exhibit A-18). Final additional traffic counts shall be deferred until construction of the traffic improvements, at which time said counts can be used to adjust traffic light timing at the existing traffic signal at US 202 and Stetson Middle School Drive/Skiles Blvd.
6. Prior to issuance of a Certificate of Occupancy for any use on the subject property (UPI #67-4-23), the Applicant shall, at its sole expense and subject to final approval of the Township Traffic Engineer:
  - a. Construct the "Connector Road" between West Pleasant Grove Road and Stetson Middle School Drive in general conformance with Exhibit A-7, last revised December 30, 2014 and prepared by InLand Design;
  - b. Reconstruct the jug handle in general conformance with Exhibit A-20, last revised February 4, 2015, as designed by Transportation Planning and Design, Inc.;

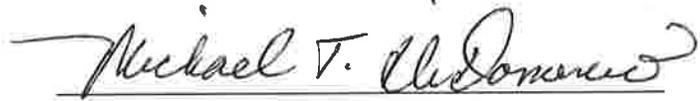
- c. Make reasonable modifications to West Pleasant Grove Road to provide a smooth transition between roads consistent with generally accepted design standards;
  - d. Provide way-finding signage, including overhead signage if required by PennDOT, along US 202 South directing vehicles to the “Connector Road” and Stetson Middle School Drive, if required;
  - e. Provide signage along Stetson Middle School Drive prohibiting westbound left turns to the “Connector Road”;
  - f. Modify eastbound Stetson Middle School Drive approaching US 202 to provide a new dedicated right turn lane, including pavement marking and signage; and
  - g. Modify the existing traffic signal at US 202 and Stetson Middle School Drive/Skiles Blvd. to accommodate the previously noted improvements.
7. As directed by the Board of Supervisors and subject to Township Engineer review and approval, the design of the “Connector Road” will include:
- a. Provisions for non-vehicular travel from Hidden Pond Way to the multi-use trail referenced in Condition 13 as determined by the Board of Supervisors; and
  - b. Modifications to Hidden Pond Way to either provide a typical vehicular intersection with the “Connector Road,” or to provide for emergency access in a manner also approved by the Fire Marshal.
8. The Applicant shall provide for reasonable site modifications resulting from the turning template analysis to demonstrate that the internal configuration permits Fire Company and EMS equipment reasonable access to the proposed buildings.
9. The Applicant shall coordinate with the Township Engineer during land development to select the vegetation and landscaping that will best assist the Township to reach the goals and requirements of the Pennsylvania Department of Environmental Protection (PADEP) MS4 Program. Such provisions will address concerns regarding water quality such as phosphorous reduction in the watersheds.
10. The Applicant shall confirm with the Township’s Sewer Engineer and PADEP that there is adequate capacity for the proposed facilities.
11. The Applicant shall acknowledge that every effort shall be made to balance the cut and fills at the site, to avoid the unnecessary import or export of soils during construction.

12. The Applicant shall provide 120 parking spaces and shall maintain an additional 28 supplemental parking spaces as “reserved parking” as illustrated in Exhibit A-7B, dated February 17, 2015 as designed by InLand Design. The final design and location of the additional 28 supplemental parking spaces held in reserve shall be determined in land development. The reserved parking spaces shall only be completed at such time as deemed necessary by the Board of Supervisors, based on the overall parking needs of the user at that time, subject to the final approval of the Township Engineer, and at the sole expense of the owner of the property. During land development, the Applicant shall demonstrate the proposed stormwater management can accommodate all parking spaces, including those held in reserve.
13. The Applicant shall provide an eight (8) foot wide asphalt paved multi-use trail from West Pleasant Grove Road to Stetson Middle School Drive, and connection to the existing trail located at the Arborview subdivision open space.
14. Following the design and construction process, the Applicant shall install a bi-directional amplifier within the daycare use if determined to be necessary by the Chief of Police of the Westtown – East Goshen Police Department.
15. During land development the Applicant must address fire and life safety concerns as identified in Exhibit A-17, a letter dated January 26, 2015 from Brian Gallagher of Bureau Veritas. Additional consideration shall be given to the selection of vegetation around the buildings which will not interfere with firefighting activities.
16. The Applicant shall install bollards or similar prevention system along the parking spaces adjacent to the daycare facility to inhibit motorized vehicles from entering the proposed daycare center and fenced play areas. The future proposed safety feature shall be reviewed by the Township for approval.
17. The Applicant shall install a guiderail system along the Stetson Middle School Drive jug handle and connector road or similar prevention system that safeguards the daycare center. The future proposed safety feature shall be reviewed by the Township for approval.
18. The Applicant shall provide a detail and construct a fence that is durable and child safe in the play areas associated with the daycare. The fence shall have gated accesses, discourage climbing, and prevent entrapment or associated injuries.
19. Additionally, those conditions approved as part of the original Conditional Use Decision and Order, dated August 6, 2007, shall be incorporated as part of this Amended Order and as stated herein, and specifically excluding those conditions regarding the “Connector Road.” These incorporated conditions include:
  - a. The proposed development of the Property shall be in accordance with the testimony and exhibits presented to the Board, except as modified by these conditions.
  - b. The development of the Property shall be made subject to compliance with comments 1 through 5 as set forth in the Westtown Township Planning Commission letter dated May 1, 2007 (Exhibit A-10) and the review comments of URS Corporation dated April 20, 2007 set forth in Exhibit A-13.

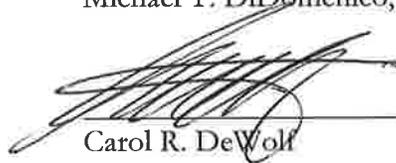
- c. The waiver requests 1 through 7 (with an adjustment to waiver vii) set forth in the forgoing Discussion are approved. The waiver requests include:
- i. §170-402.D(2): Applicant proposes to do grading and construction in prohibitive slopes to the extent of 3,100 square feet (2.1% of gross lot area);
  - ii. §170-802.D(2)(b)[1]: Applicant proposes to reduce building setback from 100 feet to 25 feet for the proposed office building;
  - iii. §170-802.D(2)(b)[2]: Applicant proposes a 10-foot rather than 50-foot minimum buffer setback from the R-1 Zoning District boundary;
  - iv. §170-1510(B)(3): Applicant seeks approval to have a 190-foot separation between Hidden Pond Way and the driveway intersection with the Connector Road rather than a 300-foot distance;
  - v. §170-1701(D): Applicant proposes a 10-foot setback for front yard parking rather than the required 50-foot setback;
  - vi. §170-1703(B)(2): Applicant proposes a 10% rather than a 5% parking space slope for 23 reserved parking spaces; and
  - vii. §170-1707: Applicant proposes to have 43 parking spaces held in reserve (this parking condition and waiver is hereby adjusted to be in conformance with Condition 12 of this 2015 Decision and Order)
- d. This approval shall not be construed to be a waiver of any other provision of the Westtown Township Zoning Ordinance, Subdivision and Land Development Ordinance or any other ordinance or requirement, it being the intention of the Board that the use and development of the Property shall comply with all applicable ordinances and requirements, except to the extent modified hereby.
20. Posting of financial security for the public improvements described herein shall be a condition of the recording of any finally approved land development plan. Completion of the Connector Road shall be a condition precedent to the issuance of any certificates of occupancy for any building development on UPI 67-4-23 (Lot 36).

21. The proposed construction and use of the subject property shall be in conformance with the plans, specifications, testimony and evidence presented to the Board.

BOARD OF SUPERVISORS  
WESTTOWN TOWNSHIP



Michael T. DiDomenico, Chairman



Carol R. DeWolf



Thomas F. Haws, Jr.