

TOWNSHIP OF SOUTH WHITEHALL
LEHIGH COUNTY, PENNSYLVANIA
PLANNING COMMISSION

SPECIAL SESSION

MINUTES

MARCH 29, 2022

The Special Session of the South Whitehall Township Planning Commission was held on the above date in the Township Municipal Building located at 4444 Walbert Avenue, Allentown, Lehigh County, Pennsylvania.

Members in attendance:

William H. MacNair, Chairman
Brian Hite, Vice-Chairman
Alan Tope, Secretary
Diane E. Kelly
Mark Leuthe
David Wilson

Staff members in attendance:

Gregg Adams, Planner
David Manhardt, Director of Community Development
Laura Harrier, Zoning Officer
Anthony Tallarida, Assistant Township Engineer
Joseph Zator, Township Solicitor

AGENDA ITEM #1 – CALL TO ORDER

Chairman MacNair called the meeting to order at 7:31 p.m. He announced that all meetings are electronically monitored.

AGENDA ITEM #2 – PLEDGE OF ALLEGIANCE/ROLL CALL/MEETING RULES

Chairman MacNair led the assembled in the Pledge of Allegiance.

Mr. Adams called the roll and read the meeting rules.

AGENDA ITEM #3 – APPROVAL OF MINUTES

Chairman MacNair announced that there were no minutes for approval this evening.

AGENDA ITEM #3 – COMPREHENSIVE PLAN UPDATE SUMMARY

Director Manhardt stated that the Planning Commission survey of the Resource Protection Goals and Implementation Strategies has been completed and that staff will be synthesizing new goals based upon the survey results. He stated that staff will review the Overall Goals and create mapping for the Resource Protection discussion.

AGENDA ITEM #4 – SUBDIVISION REVIEW

**A. 1670 Church Road Padda Property LLC
Major Plan 2022-104
Request For Sketch Plan Review**

Chairman MacNair polled the audience for interested parties other than the developer regarding the application to further develop the property located at 1670 Church Road. There was no response.

At the request of Chairman MacNair, Mr. Adams read the Community Development Department's recommendation into the record. The Department recommended that the applicant utilize the comments of the reviewing agencies and those of the Planning Commission to assist in the preparation of the preliminary plans.

Engineer Kevin Markell of Barry Isett Associates accompanied Gurpreet and Navjot Padda to present the plan and answer questions. He stated that the project is a renovation of the existing building at 1670 Church Road to accommodate a Motor Vehicle Repair Facility. He noted that the site would have an underground stormwater management facility and spray irrigation. He noted that Church Road is classified as an Arterial Road with a 40-foot half-width. He stated that the plan shows the required improvements. He stated that, at the northeastern corner of the property, the adjoining property has no right-of-way improvements. He suggested tapering the proposed improvements on the Padda property to meet the existing street edge at the adjoining property line. He suggested that the full-width cartway to the end of the property line may create a safety concern, as it would immediately end at a one-way road seventeen feet in width. He also noted that the required improvements would require grading within the railroad right-of-way. He stated that the applicant is looking to reduce the right-of-way improvements along the southwest portion of the property.

Chairman MacNair inquired as to the possible placement of a cul-de-sac.

Engineer Markell suggested that a cul-de-sac may be feasible at the southern portion of Church Road. He inquired as to whether a full-width cartway would still be required in that case.

Chairman MacNair stated that the size of the cartway could be discussed.

Mr. Wilson inquired as to whether the applicant would be willing to create a sketch plan showing a possible cul-de-sac design.

Engineer Markell stated that he would be willing to explore the idea.

Mr. Leuthe inquired as to where the deferral of improvements would be proposed south of the driveway.

Engineer Markell stated that the right-of-way improvements would be constructed to the driveway and then taper down immediately afterward.

Mr. Hite inquired as to the gate proposed near the driveway mouth. He stated his concerns for trucks queuing onto Church Road.

Engineer Markell stated that the purpose of the gate is to add screening of the vehicles and trailers stored within the storage area, as well as segregate the stored vehicles from the employee parking.

Mrs. Padda stated that there would potentially be up to five trucks parked in the storage area overnight. She noted that a vehicle may wait five to seven business days for a part to arrive.

Mr. Leuthe inquired as to whether any of the spaces would be rented out.

Mr. Padda stated that they would not.

Mr. Leuthe inquired as to whether private automobiles would be repaired onsite.

Mr. Padda stated that no automobiles would be repaired, only trucks.

Mr. Leuthe inquired as to whether any relief was requested for the off-street parking requirements.

Engineer Markell stated that relief was not requested for parking, but that he was not part of the original zoning appeal. He inquired as to whether the Planning Commission would like to see a sketch plan of right-of-way improvements with a cul-de-sac.

Mr. Hite suggested also submitting a narrative of the operations proposed onsite.

Mr. Leuthe inquired as to the water and sewer utilities.

Engineer Markell stated that both water and sewer are proposed to connect to the main at Hausman and Church and bring down Church Road.

Mr. Leuthe inquired as to whether the property in between would be invited to connect.

Engineer Markell stated that he believes that Liberty Metals was hooked to the Chapmans Road extensions.

Mr. Hite requested an approximate number of vehicle trips per day that are to be expected. He inquired as to whether there are any existing underground tanks.

Mr. Padda stated that there are none.

Engineer Markell stated that he would add the traffic to the narrative.

**B. Ridge Farm Final Plan Phase 1A
Major Plan 2017-101
Request For Final Plan Approval**

Chairman MacNair polled the audience for interested parties other than the developer regarding the application to develop the properties located at Huckleberry Road PIN 548746422139. There was no response.

At the request of Chairman MacNair, Mr. Adams read the Community Development Department's recommendation into the record. The Department recommended that the Planning Commission recommend preliminary/final plan approval to the Board of Commissioners subject to the applicant complying with the following conditions:

1. That the applicant shall execute subdivision improvement, security, maintenance and indemnification agreements acceptable to the Township and its Solicitor, be executed, that sufficient security in a form acceptable to the Township be posted, such security shall be available for draws/presentation no further than 60 miles from the Township's office, and evidence of necessary insurance coverage shall be provided prior to the plan being recorded.
2. That the applicant addresses to the satisfaction of the Township Engineer, the comments of Mr. Anthony Tallarida, as contained in his review dated March 24, 2022.
3. That the applicant addresses to the satisfaction of the Township Geotechnical Consultant, the comments of Mr. Chris Taylor, as contained in his review dated March 4, 2022.
4. That the Applicant addresses to the satisfaction of the Township TND Consultant, the comments of Mr. Thomas Comitta, as contained in his review dated March 9, 2022.
5. That the applicant addresses to the satisfaction of the Community Development Department, the comments of Mr. Gregg Adams, as contained in his review dated March 24, 2022.
6. That the applicant addresses to the satisfaction of the Zoning Officer, the comments of Ms. Laura Harrier, as contained in her review dated March 25, 2022.
7. That the applicant complies with the January 10, 2022 recommendation of the Parks and Recreation Board.
8. That the applicant addresses all issues and obtains all approvals deemed necessary by the South Whitehall Township Board of Commissioners in so far as matters pertaining to the Township's water and sewer service are concerned.
9. If deemed to be necessary, that the applicant obtains a favorable review from the Lehigh Valley Planning Commission.
10. That the applicant obtains a letter from the Pennsylvania Department of Environmental Protection approving a sewage facility planning module or an exemption thereto.
11. That the applicant obtains highway occupancy permit(s) from the Pennsylvania Department of Transportation for the road and utility work within the right-of-way of Walbert Avenue.
12. That the applicant obtains highway occupancy permit(s) from the Pennsylvania Department of Transportation for the road and utility work within the right-of-way of Cedar Crest Boulevard.
13. That the Applicant shall dedicate additional right-of-way for Walbert Avenue to achieve an ultimate right-of-way for an arterial road. The dedication of road right-of-way shall occur prior to the plan being recorded. The dedication shall be by Deed of Dedication in a form acceptable to the Township Solicitor, and shall be provided to the Township, with an Opinion of Record Title prepared by

Applicant's counsel, that indicates the right-of-way is free and clear of liens and encumbrances that would adversely affect the Township's use of such right-of-way. Completed roads will be accepted upon fulfillment by Applicant of duties and responsibilities set forth in the agreement pursuant to Section 312-31 of the Subdivision and Land Development Ordinance.

14. That the Applicant shall dedicate additional right-of-way for Cedar Crest Boulevard to achieve an ultimate right-of-way for an arterial road. The dedication of road right-of-way shall occur prior to the plan being recorded. The dedication shall be by Deed of Dedication in a form acceptable to the Township Solicitor, and shall be provided to the Township, with an Opinion of Record Title prepared by Applicant's counsel, that indicates the right-of-way is free and clear of liens and encumbrances that would adversely affect the Township's use of such right-of-way. Completed roads will be accepted upon fulfillment by Applicant of duties and responsibilities set forth in the agreement pursuant to Section 312-31 of the Subdivision and Land Development Ordinance.
15. That the Applicant shall dedicate additional right-of-way along the frontage of Huckleberry Road to achieve an ultimate right-of-way for a collector road east of Cedar Crest Boulevard and to achieve an ultimate right-of-way for an arterial road west of Cedar Crest Boulevard. The dedication of road rights-of-way shall occur prior to the plan being recorded. The dedication shall be by Deed of Dedication in a form acceptable to the Township Solicitor, and shall be provided to the Township, with an Opinion of Record Title prepared by Applicant's counsel, that indicates the rights-of-way are free and clear of liens and encumbrances that would adversely affect the Township's use of such right-of-way. Completed roads will be accepted upon fulfillment by Applicant of duties and responsibilities set forth in the agreement pursuant to Section 312-31 of the Subdivision and Land Development Ordinance.
16. That the Applicant shall dedicate additional right-of-way along the frontage of Guth Road to achieve an ultimate right-of-way for a local road. The dedication of road rights-of-way shall occur prior to the plan being recorded. The dedication shall be by Deed of Dedication in a form acceptable to the Township Solicitor, and shall be provided to the Township, with an Opinion of Record Title prepared by Applicant's counsel, that indicates the rights-of-way are free and clear of liens and encumbrances that would adversely affect the Township's use of such right-of-way. Completed roads will be accepted upon fulfillment by Applicant of duties and responsibilities set forth in the agreement pursuant to Section 312-31 of the Subdivision and Land Development Ordinance.
17. That the Applicant shall dedicate additional right-of-way along the frontage of Focht Avenue to achieve an ultimate right-of-way for a local road. The dedication of road rights-of-way shall occur prior to the plan being recorded. The dedication shall be by Deed of Dedication in a form acceptable to the Township Solicitor, and shall be provided to the Township, with an Opinion of Record Title prepared by Applicant's counsel, that indicates the rights-of-way are free and clear of liens and encumbrances that would adversely affect the Township's use of such right-of-way. Completed roads will be accepted upon fulfillment by Applicant of duties and responsibilities set forth in the agreement pursuant to Section 312-31 of the Subdivision and Land Development Ordinance.
18. That the Applicant shall dedicate additional right-of-way along the frontage of Buchman Street to achieve an ultimate right-of-way for a local road. The dedication of road rights-of-way shall occur prior to the plan being recorded. The dedication shall be by Deed of Dedication in a form acceptable to the Township Solicitor, and shall be provided to the Township, with an Opinion of Record Title prepared by Applicant's counsel, that indicates the rights-of-way are free and clear of liens and encumbrances that would adversely affect the Township's use of such right-of-way. Completed roads will be accepted upon fulfillment by Applicant of duties and responsibilities set forth in the agreement pursuant to Section 312-31 of the Subdivision and Land Development Ordinance.
19. That the applicant shall dedicate to the Township a utility easement of sufficient size in an area acceptable to the Township for accessing the sanitary sewer lines to be dedicated to the Township. The dedication shall occur prior to the plan being recorded. The dedication shall be by Deed of Easement in a form acceptable to the Township Solicitor, and an Opinion of Record Title prepared

by applicant's counsel indicating that the easement is free and clear of liens and encumbrances that would affect the Township's use of said property. The applicant shall furnish to the Township Solicitor a description for the easement that has been approved by the Township Engineer, a copy of the current deed for the property showing current ownership and cites the deed book volume and page reference.

20. That the applicant shall dedicate to the Township a utility easement of sufficient size in an area acceptable to the Township for accessing the water lines to be dedicated to the Township. The dedication shall occur prior to the plan being recorded. The dedication shall be by Deed of Easement in a form acceptable to the Township Solicitor, and an Opinion of Record Title prepared by applicant's counsel indicating that the easement is free and clear of liens and encumbrances that would affect the Township's use of said property. The applicant shall furnish to the Township Solicitor a description for the easement that has been approved by the Township Engineer, a copy of the current deed for the property showing current ownership and cites the deed book volume and page reference.
21. That the applicant shall dedicate a blanket easement for municipal stormwater inspection and maintenance to the Township. The dedication shall occur prior to the plan being recorded. The dedication shall be by Deed of Easement in a form acceptable to the Township Solicitor, and an Opinion of Record Title prepared by applicant's counsel indicating that the easement is free and clear of liens and encumbrances that would affect the Township's use of said property. The applicant shall furnish to the Township Solicitor a description for the easement that has been approved by the Township Engineer, a copy of the current deed for the property showing current ownership and cites the deed book volume and page reference.
22. That the bike/pedestrian paths along Walbert Avenue and Cedar Crest Boulevard located on private property be placed within a bike/pedestrian easement that ensures public access, places the maintenance responsibilities on the property owner or Homeowner's Association, and guarantees the Township the right, but not obligation, to maintain the path at the expense of the property owner or Homeowner's Association.
23. That the street trees along Walbert Avenue and Cedar Crest Boulevard located on private property be placed within a bike/pedestrian easement that places the maintenance responsibilities on the property owner or Homeowner's Association and guarantees the Township the right, but not obligation, to maintain the trees at the expense of the property owner or Homeowner's Association. In addition, the ordinance and/or plan approval obligation for maintaining and replacing street trees also shall apply to the trees being placed within the bike/pedestrian easement.
24. That the Applicant shall agree, upon satisfactory completion of all storm sewer, water, and sanitary sewer facilities shown on the plan as intended for dedication to the Township, to execute formal Bills of Sale for said facilities, so as to convey said facilities to the Township for nominal consideration.
25. That the Applicant address to the satisfaction of Township CD Director, Township Engineer and Township Solicitor that all rights deemed necessary by them for road access, road connections and rights of way indicated on the plans in the area of Buchman Street and Dawes Street have been obtained by Developer, and that opinions of record title, where deemed advisable by the Township Solicitor or Engineer, be provided.
26. That a Declaration of Covenants and Easement for Maintenance of Stormwater Management Facilities prepared by the Township Solicitor be executed for the maintenance of the on-site stormwater management facilities.
27. If deemed to be necessary, that the Applicant shall ensure that the Township's right to enforce the speed limit on all private roads to be maintained by the HOA be guaranteed to the satisfaction of the Township.

28. That the Applicant shall secure all public improvements and execute all required agreements prior to the recording of the Plan. The Applicant shall restrict, by Deed Restriction or similar instrument approved by the Township Solicitor's office, the portion of the Ridge Farm tract proposed to be developed under the TND Residential Cluster Overlay beyond that which is to be constructed under the Final Plan Phase 1A to remain Open Space in perpetuity. Said open space is to be maintained by the HOA until such time that the Final Plan for the next Phase or sub-Phase is recorded. This Final Plan Phase 1A shall not be permitted to be recorded if this plan will cause the portion of the Ridge Farm tract proposed to be developed under the TND Residential Cluster Overlay as a whole to no longer comply with the TND Residential Cluster Overlay District regulations.
29. That this Final Plan Phase 1A shall meet the Active Open Space requirements of Section 350-31(f)(2)(C)(i)(a) by a means acceptable to the Township prior to the recording of the plan.
30. That, prior to the issuance of a temporary or permanent Certificate of Occupancy for the proposed medical office building, the Applicant shall complete to the satisfaction of PENNDOT the traffic improvements required by the PennDOT-approved HOP Plan which are associated with the medical office building being approved by Ridge Farm Final Plan Phase 1A (particularly including but not limited to the Office Center Road intersection signalization) or, alternatively, substantially complete traffic improvements required by the PennDOT-approved HOP Plan as determined by Township staff to be needed to address traffic generation of the medical office building.
31. As to any matters requiring solicitor review and approval of homeowner association (HOA) documentation or which Township staff or solicitor determine to be advisable for inclusion in such HOA documentation, the Plan may be recorded upon solicitor review and approval of language addressing such issues without actual recording of the HOA documentation in the office of the Recorder of Deeds of the Declaration of Planned Community or Declaration of Condominium containing such language. However, such Declaration shall be recorded to the satisfaction of the Township solicitor prior to a certificate of occupancy (temporary or permanent) being issued for the medical office building.
32. That the applicant reconciles all open invoices for Township engineering and legal services prior to the plan being recorded.
33. The applicant shall meet all conditions of the Preliminary/Final Plan approval, and the Record Plan will be recorded within twelve (12) months of Conditional Preliminary/Final Plan approval, and the applicant agrees that if such conditions are not met, the conditional Preliminary/Final Plan approval will be considered void, and the application for Preliminary/Final Plan approval will be considered void and withdrawn unless otherwise approved by the South Whitehall Township Board of Commissioners.
34. If for any reason any condition or conditions of this Resolution (or any portion(s) thereof) shall be held by a forum of competent jurisdiction to be invalid, illegal, void, or unenforceable in any respect or to any extent: (i) this Resolution shall automatically be deemed to be null and void in its entirety and shall be deemed to have been immediately and automatically repealed as if it had never been passed; (ii) this Resolution shall automatically be deemed to be a resolution denying the application due to the fact that the application does not comply with those sections of the SALDO (or other applicable ordinance(s)) listed herein or in any review letters referred to herein, including any section relating to waivers or deferrals; and (iii), the Applicant is waiving any right to proceed with an action seeking a deemed approval of the plan based upon the automatic repeal of this Resolution identified in this condition. The Applicant acknowledges that each and every term and provision hereof is an essential, material component to the Township's approval of the Applicant's plan.
35. In the event that the Township becomes involved in litigation of any kind relating to the major subdivision other than a direct appeal by the Applicant of the Township's approval of this Resolution, such as an appeal of this Resolution by an adjoining property owner or a third party, or an attempt to collaterally challenge any conditions of this approval by means other than a timely

appeal of this Resolution, the Applicant, on behalf of itself and its agents, representatives, successors and assigns, hereby agrees to exonerate, indemnify, protect, defend (through legal counsel of Township's choice) and save harmless the Township and its boards, committees and commissions (including the individual members thereof), their elected and appointed officers and officials and their employees, contractors, other professional consultants, engineers, solicitors, managers, representatives, advisors, predecessors, successors, agents, independent contractors, insurers and assigns (collectively, the "Township Representatives"), from any and all claims, lawsuits, proceedings, actions, disputes, causes and rights of action, expenses, losses, allegations, demands, charges, injuries, costs (including, without limitation, attorneys' fees, engineers' fees and other costs and expenses incurred, including expert witness fees), damages (including, without limitation, compensatory, consequential or punitive damages), sanctions, and liabilities of every kind, character and manner whatsoever, in law or in equity, civil or criminal, administrative or judicial, contract, tort (including, without limitation, negligence of any kind) or otherwise ("Claims"), pertaining to, relating to, resulting from, caused by or arising out of the Township's approval of the application as evidenced by this Resolution and/or the Township taking any action contemplated by the conditions hereof.

Attorney James Preston, Engineer Jason Englehart and Traffic Engineer Robert Hoffman were present to present the plan and answer questions. Attorney Preston stated that he had no issues with the conditions, including the two new conditions recently added.

Mr. Leuthe made a motion to recommend preliminary/final plan approval to the Board of Commissioners subject to the applicant complying with the following conditions:

1. That the applicant shall execute subdivision improvement, security, maintenance and indemnification agreements acceptable to the Township and its Solicitor, be executed, that sufficient security in a form acceptable to the Township be posted, such security shall be available for draws/presentation no further than 60 miles from the Township's office, and evidence of necessary insurance coverage shall be provided prior to the plan being recorded.
2. That the applicant addresses to the satisfaction of the Township Engineer, the comments of Mr. Anthony Tallarida, as contained in his review dated March 24, 2022.
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7. That the applicant complies with the January 10, 2022 recommendation of the Parks and Recreation Board.
8. That the applicant addresses all issues and obtains all approvals deemed necessary by the South Whitehall Township Board of Commissioners in so far as matters pertaining to the Township's water and sewer service are concerned.
9. If deemed to be necessary, that the applicant obtains a favorable review from the Lehigh Valley Planning Commission.

10. That the applicant obtains a letter from the Pennsylvania Department of Environmental Protection approving a sewage facility planning module or an exemption thereto.
11. That the applicant obtains highway occupancy permit(s) from the Pennsylvania Department of Transportation for the road and utility work within the right-of-way of Walbert Avenue.
12. That the applicant obtains highway occupancy permit(s) from the Pennsylvania Department of Transportation for the road and utility work within the right-of-way of Cedar Crest Boulevard.
13. That the Applicant shall dedicate additional right-of-way for Walbert Avenue to achieve an ultimate right-of-way for an arterial road. The dedication of road right-of-way shall occur prior to the plan being recorded. The dedication shall be by Deed of Dedication in a form acceptable to the Township Solicitor, and shall be provided to the Township, with an Opinion of Record Title prepared by Applicant's counsel, that indicates the right-of-way is free and clear of liens and encumbrances that would adversely affect the Township's use of such right-of-way. Completed roads will be accepted upon fulfillment by Applicant of duties and responsibilities set forth in the agreement pursuant to Section 312-31 of the Subdivision and Land Development Ordinance.
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20. That the applicant shall dedicate to the Township a utility easement of sufficient size in an area acceptable to the Township for accessing the water lines to be dedicated to the Township. The dedication shall occur prior to the plan being recorded. The dedication shall be by Deed of Easement in a form acceptable to the Township Solicitor, and an Opinion of Record Title prepared by applicant's counsel indicating that the easement is free and clear of liens and encumbrances that would affect the Township's use of said property. The applicant shall furnish to the Township Solicitor a description for the easement that has been approved by the Township Engineer, a copy of the current deed for the property showing current ownership and cites the deed book volume and page reference.
21. That the applicant shall dedicate a blanket easement for municipal stormwater inspection and maintenance to the Township. The dedication shall occur prior to the plan being recorded. The dedication shall be by Deed of Easement in a form acceptable to the Township Solicitor, and an Opinion of Record Title prepared by applicant's counsel indicating that the easement is free and clear of liens and encumbrances that would affect the Township's use of said property. The applicant shall furnish to the Township Solicitor a description for the easement that has been approved by the Township Engineer, a copy of the current deed for the property showing current ownership and cites the deed book volume and page reference.
22. That the bike/pedestrian paths along Walbert Avenue and Cedar Crest Boulevard located on private property be placed within a bike/pedestrian easement that ensures public access, places the maintenance responsibilities on the property owner or Homeowner's Association, and guarantees the Township the right, but not obligation, to maintain the path at the expense of the property owner or Homeowner's Association.
23. That the street trees along Walbert Avenue and Cedar Crest Boulevard located on private property be placed within a bike/pedestrian easement that places the maintenance responsibilities on the property owner or Homeowner's Association and guarantees the Township the right, but not obligation, to maintain the trees at the expense of the property owner or Homeowner's Association. In addition, the ordinance and/or plan approval obligation for maintaining and replacing street trees also shall apply to the trees being placed within the bike/pedestrian easement.
24. That the Applicant shall agree, upon satisfactory completion of all storm sewer, water, and sanitary sewer facilities shown on the plan as intended for dedication to the Township, to execute formal Bills of Sale for said facilities, so as to convey said facilities to the Township for nominal consideration.

25. That the Applicant address to the satisfaction of Township CD Director, Township Engineer and Township Solicitor that all rights deemed necessary by them for road access, road connections and rights of way indicated on the plans in the area of Buchman Street and Dawes Street have been obtained by Developer, and that opinions of record title, where deemed advisable by the Township Solicitor or Engineer, be provided.
26. That a Declaration of Covenants and Easement for Maintenance of Stormwater Management Facilities prepared by the Township Solicitor be executed for the maintenance of the on-site stormwater management facilities.
27. If deemed to be necessary, that the Applicant shall ensure that the Township's right to enforce the speed limit on all private roads to be maintained by the HOA be guaranteed to the satisfaction of the Township.
28. That the Applicant shall secure all public improvements and execute all required agreements prior to the recording of the Plan. The Applicant shall restrict, by Deed Restriction or similar instrument approved by the Township Solicitor's office, the portion of the Ridge Farm tract proposed to be developed under the TND Residential Cluster Overlay beyond that which is to be constructed under the Final Plan Phase 1A to remain Open Space in perpetuity. Said open space is to be maintained by the HOA until such time that the Final Plan for the next Phase or sub-Phase is recorded. This Final Plan Phase 1A shall not be permitted to be recorded if this plan will cause the portion of the Ridge Farm tract proposed to be developed under the TND Residential Cluster Overlay as a whole to no longer comply with the TND Residential Cluster Overlay District regulations.
29. That this Final Plan Phase 1A shall meet the Active Open Space requirements of Section 350-31(f)(2)(C)(i)(a) by a means acceptable to the Township prior to the recording of the plan.
30. That, prior to the issuance of a temporary or permanent Certificate of Occupancy for the proposed medical office building, the Applicant shall complete to the satisfaction of PENNDOT the traffic improvements required by the PennDOT-approved HOP Plan which are associated with the medical office building being approved by Ridge Farm Final Plan Phase 1A (particularly including but not limited to the Office Center Road intersection signalization) or, alternatively, substantially complete traffic improvements required by the PennDOT-approved HOP Plan as determined by Township staff to be needed to address traffic generation of the medical office building.
31. As to any matters requiring solicitor review and approval of homeowner association (HOA) documentation or which Township staff or solicitor determine to be advisable for inclusion in such HOA documentation, the Plan may be recorded upon solicitor review and approval of language addressing such issues without actual recording of the HOA documentation in the office of the Recorder of Deeds of the Declaration of Planned Community or Declaration of Condominium containing such language. However, such Declaration shall be recorded to the satisfaction of the Township solicitor prior to a certificate of occupancy (temporary or permanent) being issued for the medical office building.
32. That the applicant reconciles all open invoices for Township engineering and legal services prior to the plan being recorded.
33. The applicant shall meet all conditions of the Preliminary/Final Plan approval, and the Record Plan will be recorded within twelve (12) months of Conditional Preliminary/Final Plan approval, and the applicant agrees that if such conditions are not met, the conditional Preliminary/Final Plan approval will be considered void, and the application for Preliminary/Final Plan approval will be considered void and withdrawn unless otherwise approved by the South Whitehall Township Board of Commissioners.
34. If for any reason any condition or conditions of this Resolution (or any portion(s) thereof) shall be held by a forum of competent jurisdiction to be invalid, illegal, void, or unenforceable in any respect or to any extent: (i) this Resolution shall automatically be deemed to be null and void in its entirety

and shall be deemed to have been immediately and automatically repealed as if it had never been passed; (ii) this Resolution shall automatically be deemed to be a resolution denying the application due to the fact that the application does not comply with those sections of the SALDO (or other applicable ordinance(s)) listed herein or in any review letters referred to herein, including any section relating to waivers or deferrals; and (iii), the Applicant is waiving any right to proceed with an action seeking a deemed approval of the plan based upon the automatic repeal of this Resolution identified in this condition. The Applicant acknowledges that each and every term and provision hereof is an essential, material component to the Township's approval of the Applicant's plan.

35. In the event that the Township becomes involved in litigation of any kind relating to the major subdivision other than a direct appeal by the Applicant of the Township's approval of this Resolution, such as an appeal of this Resolution by an adjoining property owner or a third party, or an attempt to collaterally challenge any conditions of this approval by means other than a timely appeal of this Resolution, the Applicant, on behalf of itself and its agents, representatives, successors and assigns, hereby agrees to exonerate, indemnify, protect, defend (through legal counsel of Township's choice) and save harmless the Township and its boards, committees and commissions (including the individual members thereof), their elected and appointed officers and officials and their employees, contractors, other professional consultants, engineers, solicitors, managers, representatives, advisors, predecessors, successors, agents, independent contractors, insurers and assigns (collectively, the "Township Representatives"), from any and all claims, lawsuits, proceedings, actions, disputes, causes and rights of action, expenses, losses, allegations, demands, charges, injuries, costs (including, without limitation, attorneys' fees, engineers' fees and other costs and expenses incurred, including expert witness fees), damages (including, without limitation, compensatory, consequential or punitive damages), sanctions, and liabilities of every kind, character and manner whatsoever, in law or in equity, civil or criminal, administrative or judicial, contract, tort (including, without limitation, negligence of any kind) or otherwise ("Claims"), pertaining to, relating to, resulting from, caused by or arising out of the Township's approval of the application as evidenced by this Resolution and/or the Township taking any action contemplated by the conditions hereof.

Mr. Tope seconded, and the motion passed unanimously, 6-0.

AGENDA ITEM #6 – TRANSPORTATION INFRASTRUCTURE UPDATE

Mr. Tallarida stated that he had nothing new to report.

Director Manhardt stated that he met with representatives of PennDOT on the PA Route 309 Betterment Project and learned that the project is moving forward and has been pushed up due to the infrastructure bill. He stated that PennDOT has agreed to an open house public meeting, which they are now scheduling. He noted that the signal plan for Mauch Chunk Road Corridor is also moving forward. He stated that PennDOT will forward a plan to the Township, which will be posted on the Township website when it arrives.

Mr. Wilson inquired as to the Mauch Chunk Road Corridor meeting.

Director Manhardt stated that his impression is that it will be an open comment period with plans shown and comments being accepted on a website.

Mr. Wilson inquired as to the timeline of the PA Route 309 Betterment Project meeting.

Director Manhardt stated that the project is now working through the stormwater issues. He stated that the Township wants to make sure that the HOP office and the Engineering office are coordinating. He stated that both offices are now aware of the new development proposed along the project corridor.

AGENDA ITEM #7 – COMPREHENSIVE PLAN UPDATE

Director Manhardt stated he had nothing to add to his preview presentation.

AGENDA ITEM #8 – COURTESY OF THE FLOOR

None.

AGENDA ITEM #9 – ADJOURNMENT

Chairman MacNair requested a motion to adjourn at 8:17 p.m. Mrs. Kelly made the motion, Mr. MacNair seconded the motion and it passed unanimously.

ADOPTED THIS DATE: April 21, 2022

ATTEST:

Secretary

Chairman