

**RESOLUTION 19-2024
EAST WHITELAND TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA**

**A RESOLUTION FOR CONDITIONAL PRELIMINARY/ FINAL LAND
DEVELOPMENT PLAN APPROVAL FOR
CHESTER COUNTY SCHOOL AUTHORITY,
40 MOORES ROAD**

WHEREAS, Chester County School Authority (the “Applicant”) seeks to construct a new school building along with auxiliary playground areas, parking facilities, access lanes, and associated improvements on a portion of property located at 40 Moores Road, Units 3 and 1B of a condominium association, in East Whiteland Township, Chester County, Pennsylvania, in the PO – Professional Office zoning district, more specifically identified as Chester County UPI Nos. 42-4-2.3 and 42-4-2.3B (the “Property”);

WHEREAS, the Applicant proposes to construct a new school building along with auxiliary playground areas, parking facilities, access lanes, and associated improvements (the “Project”); and

WHEREAS, Applicant has requested review and approval of a Preliminary/Final Land Development Plan entitled “Preliminary/Final Land Development Plans for Chester County School Authority Child and Career Development Center” prepared by T & M Associates, Inc., dated August 25, 2023, last revised January 12, 2024, and consisting of fifty-two (52) sheets.

NOW, THEREFORE, BE IT RESOLVED, by the East Whiteland Township Board of Supervisors, Chester County, this 13th day of MARCH, 2024, that said application for the Preliminary/Final Land Development Plan is **APPROVED WITH CONDITIONS**:

1. **Preliminary/Final Land Development Plan**: The Preliminary/Final Land Development Plan entitled “Preliminary/Final Land Development Plans for Chester County School Authority Child and Career Development Center” prepared by T & M Associates, Inc., dated August 25, 2023, last revised January 12, 2024, and consisting of fifty-two (52) sheets (the “Plan”). It is acknowledged that the Plan may be revised in order to demonstrate compliance with the following conditions of approval.

2. **Conditions of Preliminary/Final Plan Approval**: The Plan, as referenced in Paragraph 1 of this Resolution, is hereby approved subject to the following conditions. All conditions must be satisfied prior to recording of the Plan for the Project unless otherwise noted:
 - a. The Applicant shall address to the satisfaction of the Township the comments contained in the following letters:

- 1) ARRO Review Letter (Dated February 7, 2024)
- 2) Bowman Review Letter (Dated February 7, 2024)
- 3) LandConcepts Review Letter (Dated November 22, 2023)
- 4) Pennoni Associates, Inc. Review Letter (Dated November 11, 2023)

- b.** Prior to recording of the Plan, the Applicant must obtain any necessary sewer planning modules, permits, approvals, waivers, and/or reviews from all outside agencies, including, but not limited to, the Chester County Conservation District; Chester County Department of Health; Pennsylvania Department of Environmental Protection; Aqua Pennsylvania Wastewater, Inc.; Pennsylvania Department of Transportation; and U.S. Army Corps of Engineers (as applicable).
- c.** Any outstanding Township fees related to the Project, including but not limited to, all outstanding Township Engineers and Solicitor invoices, and any Township administrative costs which may be charged in connection with the Project, shall be paid in full prior to the Township's execution and recordation of any Plan for the Project.
- d.** The Applicant must complete and execute all covenants, easements, dedication agreements, maintenance agreements, and sewer agreements associated with the Project, and provide all applicable necessary legal descriptions, in forms satisfactory to the Township Solicitor, prior to or contemporaneously with the recording of any Plan for the Project. Such agreements include, but are not limited to, a Stormwater BMP and Conveyances Operation and Maintenance Agreement. Such easements include, but are not limited to, those related to existing and proposed sanitary sewer infrastructure and public access easements for the proposed multi-use trail improvements which is being undertaken by the Township.
- e.** Prior to recording the Plan, the Applicant shall execute an Improvements Agreement and a Financial Security Agreement to guarantee the installation of all public Improvements on a form drafted by the Township Solicitor. The amount and type of financial security posted shall be satisfactory to the Township and the Township Solicitor. If Applicant elects to utilize a bond for the required financial security for this Project, then the Township Solicitor shall have the unconditional right to review the bond and must approve the conditions and language of the bond. At a minimum, the bond shall be issued by an "A++" rated surety, or an equivalency, qualified to do business in Pennsylvania. Further, the bond shall contain language stating that the bond is to be payable upon demand, absolutely, and unconditionally, and in the event that payment is not made, that the bonding company shall be responsible for all attorneys' fees and costs that are incurred to collect on the bond, plus interest at the annual rate of twelve percent (12%), for so long as the bond remains unpaid. Additionally, the bond is required to automatically renew annually until the improvements detailed on the Plan are completed to the satisfaction of the Township

Engineer and the final release is issued by the Township, subject to partial releases being permitted in accordance with §509(j) of the MPC, and shall include a 90-day Evergreen Clause that substantively provides:

“It is a condition of this Bond that it will be extended automatically, without amendment, for additional periods of one (1) year from the present of each future expiration date, unless at least ninety (90) days prior to the then current expiration date, East Whiteland Township is notified in writing by overnight courier, at the Township municipal address of 209 Conestoga Road, Frazer, PA 19355, that there is an election not to renew this Bond for said additional period.”

f. The following conditions relate to the pending sale of the Township’s Sewer System to Aqua Pennsylvania Wastewater, Inc. (the “Sewer Sale”) and the required sanitary sewer tapping fee for the Project:

(i) In the event that the Sewer Sale is resolved in a manner to confirm the Sewer Sale, then no sanitary sewer tapping fee shall be due the Township.

(ii) In the event that the Sewer Sale is resolved in a manner to reverse the Sewer Sale, then the Applicant agrees, within forty-five (45) days of written demand from the Township, to purchase from the Township all required sanitary sewer EDUs at the current cost of \$4,000 per EDU, as outlined in the Township’s adopted Schedule of Fees (the “Required EDUs”). Such tapping fee for the Required EDUs is imposed in accordance with the Second Class Township Code, Municipality Authorities Act, and the relevant Township Ordinances imposing such tapping fees.

iii) In the event that the Sewer Sale is not resolved in a manner to confirm the Sewer Sale, then (i) Township will monitor the property’s usage for excess capacity usage and will bill Applicant for additional EDUs where applicable and, conversely, credit Applicant for the cost of any EDUs purchased but not utilized (ii) Applicant acknowledges that the Township may require flow meters and/or sampling manholes to be located on the property in order to monitor flows from the Property for billing, capacity calculations, and sampling of waste discharge, and (iii) Applicant acknowledges that all required flow meters and sampling manholes shall be of a type approved by the Township Engineer and shall be installed at the location specified by the Township.

iv) Applicant acknowledges that it is proceeding at its own risk if Applicant waits to file the Record Plan with the County Recorder of Deeds without first obtaining the Required EDUs. Applicant indemnifies and holds harmless the Township if the Required EDUs are not available at the time of the recording of the Plans or at the time of purchase. Additionally,

Applicant acknowledges that the sanitary sewer capacity reserved or purchased may be used only on the Property.

- g. The Applicant shall comply with the Conditional Use Decision and Order with conditions issued by the East Whiteland Township Board of Supervisors dated September 13, 2023 (see **Exhibit A**).
- h. The Applicant shall comply with the East Whiteland Township Planning Commission recommendations from the November 29, 2023 meeting.
- i. Prior to recording of the Plan, the Applicant shall pay the required Transportation Impact Fee of **\$77,274** (as summarized in the corresponding Traffic Engineering review letters by Bowman for the proposed 27 new trips during the afternoon peak hours).
- j. The Applicant shall comply with the “planned school operations and traffic characteristics” summarized in the letter from Joseph Lubitsky, Director of Administrative Services, dated November 6, 2023. Any material changes to the prescribed schedule outlined in the letter shall be reviewed with the Township prior to implementation (see **Exhibit B**).
- k. In furtherance of the conditions outlined in the corresponding Conditional Use Decision and Order, the Applicant shall continue to coordinate with the Township Chief of Police regarding safety protocols and security standards prior to construction of the Project. Following completion of the Project, the Applicant agrees to review and submit updated safety protocols and security standards upon request of the Township Chief of Police.
- l. As depicted on the Plans, the Applicant shall construct a paved trail connection to the adjacent Gunkle Mill property. Prior to construction of the trail, the Applicant shall stake out the alignment of the proposed trail for review and acceptance by the Township.
- m. Prior to recording of the Plan, the Applicant shall include a plan note which states: “Within eighteen (18) months following written notification from the Township, or at any time prior if so determined by the Applicant, the Applicant shall design and construct, at its sole expense, the required sidewalks and corresponding curb ramps along the Moores Road frontage of the Property. The design and construction of the sidewalks and associated improvements shall be in accordance with the Township Code and shall be subject to review, approval, and inspection by the Township Engineer and/or Building Code Official. In the alternative, and with agreement from

the Applicant, the Township may elect to have the funds for design and construction of the sidewalk and associated improvements posted in escrow for future use by the Township for sidewalk and pedestrian improvements in the vicinity of the Project or elsewhere in the Township.

- n. Prior to the recording of the Plan, and in furtherance of the conditions outlined in the corresponding Conditional Use Decision and Order, the Applicant shall depict the public access easements for the proposed multi-use trail improvements which being undertaken by the Township, along the eastern portion of the Property.
- o. The Applicant acknowledges that, with the exception of those improvements immediately surrounding the school building or within fenced areas, all sidewalks, trails, and other pedestrian facilities shall be open for the use and enjoyment by the general public.
- p. In furtherance of the conditions outlined in the corresponding Conditional Use Decision and Order, the Applicant shall minimize tree removal for the proposed driveway entrance to only those noted for removal on the Plans. Care shall be taken during the construction process to minimize impacts to the root structures to assist in ensuring the long term viability of the trees.
- q. In furtherance of the conditions outlined in the corresponding Conditional Use Decision and Order, the Applicant agrees to make reasonable accommodations or modifications to the proposed site lighting, including, but not limited to shielding, screening, selective dimming or extinguishment, and other operational controls, to reduce impacts on surrounding properties following construction.
- r. Prior to construction of the proposed sanitary sewer improvements associated with the Project, the Applicant shall stake out the alignment of the proposed sewer line and/or manhole locations, as well as flag any trees which are proposed for removal in order to accommodate construction.
- s. In support of potential future stormwater management projects that may be undertaken by the Township, including but not necessarily limited to, tree installation, establishment of riparian buffers and vegetative cover, streambank restoration, and related activities, the Applicant hereby expresses a willingness to cooperate with the Township and provide access to the Property for the purposes of undertaking such projects. It is understood that this offer of

cooperation is non-binding and that the Applicant reserves the right to evaluate such projects and determine whether access to the Property can be accommodated.

- t. Unless otherwise noted, the Applicant shall demonstrate compliance with all conditions outlined herein prior to the recording of the Plan and prior to the submission of the required building permits for the Project.

3. **Waivers:** The Applicant has requested the following waivers from the East Whiteland Township Subdivision and Land Development Ordinance (Chapter 175) and the East Whiteland Township Stormwater Management Ordinance (Chapter 170). Based upon the reasoning set forth in the October 26, 2023 letter from T & M Associates, Inc. and the recommendations of the Township engineers and consultants, ARRO Consulting, Inc., Bowman, and Land Concepts, the following waivers are hereby **GRANTED:**

- a. A waiver from § 175-18.A, requiring the submission of the Final Plan be made within 1-year of approval of the Preliminary Plan. A waiver is appropriate because all of the information required for submission of a Final Plan is provided on the same plan set that includes the Preliminary Plan information.
- b. A partial waiver from § 175-23.B, which requires that the conservation plan shows and designates with explanatory notes the total tract boundaries of the property being subdivided or developed and the site features set forth in the Ordinance both within the proposed development and at least 300 feet beyond its boundaries. The waiver is appropriate because there has been submission of an aerial photograph of the project site and a PA state topography map of up to 300 feet of the project site, and the boundaries of the sixty-two (62) acre site that includes the development area is well documented and a survey of which is included on the Existing Conditions Plan.
- c. A waiver from § 175-27.H, which requires that cut or fill be minimized to below five (5) feet. This waiver is appropriate because the terrain of the site, while relatively level in the center and east of the development area, drops off to the west making fills over five feet for the new access drive, building, and front parking area a necessity to access the site with the driveway and create a level area for the building, parking, and pedestrian circulation areas. Further, behind the proposed building adjacent to Route 202, the grade drops off down to the road, making fills over five feet necessary. In addition, in order to reduce the need to export excess soil off the site, berms have been created in various locations around the proposed improvements.

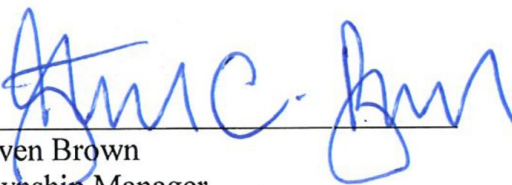
- d. A waiver from § 175-31.A(2), requiring a 14-foot wide curb lane on local roads. A waiver is appropriate because of the need to add a southbound left turn lane to Moores Road at the proposed driveway, and 12 feet and 13 feet widths are proposed for the new lanes to be consistent with the existing lane widths.
- e. A waiver from § 175-41.C(4), requiring that no more than 20% of the trees on any wooded lot may be cut or removed and that trees removed in excess of 20% be replaced at a tree for tree basis with a minimum 3-inch caliper tree. This waiver is appropriate because the existing trees within the Valley Creek floodplain in the southwestern corner of the site, the existing trees along Route 202, and existing trees surrounding the unnamed tributary to Valley Creek in the southeastern corner of the site will remain and are well out of the project area. These trees were not individually surveyed while in the project vicinity, 122 trees were surveyed, and 45 trees will be removed. A total of 21 required replacement trees have been proposed. As a result, it is likely that if all the trees on the site were individually surveyed, the tree removal would result in less than 20% removal.
- f. A partial waiver/deferral from § 175-41.2.A, which requires that sidewalks be installed along both sides of all existing and proposed public and private streets. The partial waiver/deferral is specifically to defer construction of the sidewalk and related features. The partial waiver/deferral is appropriate because there are no existing sidewalks along Moores Road. This waiver is granted subject to the terms of **Condition 2.m** (above).
- g. A waiver from § 170-306, requiring a minimum of 0.5 inches of runoff to be infiltrated. A waiver from this section is appropriate due to site soils not to be conducive to infiltration. Further, extensive soil testing has revealed that due to poor infiltration characteristics and the risk of sinkholes in some areas of the site, a stormwater infiltration design is not advisable. Instead, a Managed Release Concept (MRC) stormwater management design will be implemented and installed to the satisfaction of the Township Engineer and the Pennsylvania Department of Environmental Protection.

{signature pages follow}

In the event that the Resolution is not delivered to the Township within ten days from receipt, it shall be deemed that the Applicant does not accept these conditions, and approvals conditioned upon this acceptance are revoked, and the application shall be considered to be denied for the reasons set forth in the review letters listed in paragraph two (2).

RESOLVED AND APPROVED this 13th day of March 2024.

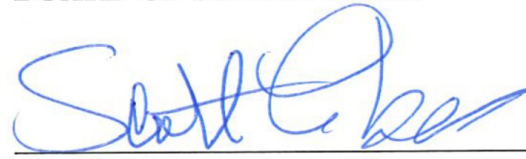
Attest:



Steven Brown
Township Manager

By:

**EAST WHITELAND TOWNSHIP
BOARD OF SUPERVISORS**



Scott Lambert
Chairperson

ACCEPTANCE OF CONDITIONS

I, JOE LUBITSKY, being an authorized signatory for the **Applicant**, do hereby acknowledge and accept, on behalf of the Applicant, approval for the Preliminary/Final Plan issued by the East Whiteland Township Board of Supervisors and accept the conditions contained therein, as recited above.

APPLICANT:

CHESTER COUNTY SCHOOL AUTHORITY

Attest:

Donna Wikert
Donna Wikert, Township Secretary

By:

[Signature]
Name: JOE LUBITSKY
Title: Dir. of Administration

3/14/24
Date