

WEST WHITELAND TOWNSHIP
Planning Commission
Agenda
Tuesday, January 19, 2021
7:00 P.M.

This Meeting is be held via Zoom Teleconference

CALL TO ORDER

REVIEW OF MEETING MINUTES

1. Approval of Meeting Minutes: January 5, 2021

PUBLIC COMMENT/CONCERNS/QUESTIONS

PLANS

1. Dunwoody Drive Outdoor, LLC
Address: 1473 Dunwoody Dr.
Second Review: Conditional Use
Request: Construction of an electronic billboard
2. Boot Rd. Storage, LLC.
Address: 200 King Rd.
Second Review: Subdivision
Request: Subdivision to provide an existing dweeling on a commercial property with its own lot.

NEW BUSINESS

ANNOUNCEMENTS

ADJOURNMENT

Next Meeting: February 2, 2021

Directions to access the Zoom Meeting

Click this link to register:

<https://us02web.zoom.us/meeting/register/tZMpf--pqzorHNCfPU5xmXA9fPkjcPOUVpQ4>

Option by Phone:

Register and use your phone and call +1-646-558-8656. When asked, enter the Meeting and Password.

[Virtual Meeting Etiquette](#)

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MEMORANDUM

DATE: January 15, 2021
TO: Planning Commission
FROM: John R. Weller, AICP
Director of Planning and Zoning
SUBJECT: Dunwoody Drive Outdoor, LLC
Conditional use application

APPLICANT: Dunwoody Drive Outdoor, LLC
3400 West Chester Pk., Ste. 1000
Newtown Square, PA 19073

SITE ADDRESS: 1473 Dunwoody Dr.
West Chester, PA 19380

TAX PARCELS: 41-6-18.2A

ZONING: O/L, Office/Laboratory

DESCRIPTION: Construction of 2-sided billboard with a sign face area of 47' x 13' (611 sq.ft. each side) adjacent to the northbound lane of the U.S. Route 202 expressway. Placement of a billboard at this location is permitted by conditional use pursuant to §325-95.I of the West Whiteland Township Zoning Ordinance ("Zoning").

Background

The subject property has a gross area of 9.5 acres and is in the Glenloch corporate center along the south side of Dunwoody Dr., adjacent to the northbound lane of the U.S. Route 202 expressway. The property is owned by Univest National Bank & Trust and is the site of a 3-story building that Univest uses for administrative offices. The property has extensive steep slope areas and is further constrained by the FEMA-designated floodplain associated with a stream that runs the length of the property from south to north.

This property was affected by a Zoning amendment adopted in May 2019 that permitted billboards at this location as a conditional use subject to certain requirements which are reviewed below. The proposed billboard will have two 47' x 13' (611 sq.ft.) digital sign faces, which our regulations define as "visual communication technology," or "VCT." The billboard is to be placed near the northwest corner of the lot.

The Applicant first presented this application to the Planning Commission at the meeting of January 5, 2021. At that time, the Applicant (as represented by their attorney) stated that they were aware of and agreed to comply with the VCT operational regulations and prohibitions contained in §325-95.E and §325-95.J of the Zoning. The Applicant did not contest the Staff conclusion that the submission failed to demonstrate the conditional use

criteria in §325-124.C(1)(g) and (h) (see below). However, rather than agreeing to return to a future Commission meeting to address these issues, they responded that they would resolve the issue with the Board during the hearing. Members of the public expressed concern about the impact of billboard upon the environment and the nearest residential areas - essentially the same issues raised by the outstanding conditional use criteria.

Tonight is the Applicant's second presentation of this application to the Planning Commission.

Criteria for approval of a Conditional Use

The Applicant has not provided any additional information since the January 5 meeting. The comments in this section and those in the "Consultant Reviews" section that follows it are therefore the same as those in the Staff memorandum dated December 31, 2020. The review criteria for Conditional Use applications are in §325-124.C(1) of the Zoning:

- (a) The proposed use shall meet all of the specific standards and regulations for eligibility which appear in the section of the Zoning Ordinance authorizing the proposed conditional use.

Billboards are permitted as a conditional use at this location pursuant to seven criteria listed in §325-95.1 of the Zoning:

- 1) Billboards shall be permitted as a conditional use in the I-2 General Industrial and O/L Office/Laboratory districts when erected in such a way as to be primarily visible from a limited access highway and such that no part of the billboard is closer than 10 feet or farther than 75 feet from the right-of-way of the said highway.

Sheet 1 of the plan set shows the proposed location of billboard, and the "Zoning Data Table" on that same sheet states that it will be set back 10.3 feet from the right-of-way of U.S. Route 202 - a limited access highway - and will be 61.7 feet from that right-of-way at its farthest point. This criterion is met.

- 2) No part of any billboard shall be less than 3,000 feet from any part of another billboard, regardless of the side of the highway upon which it is being erected.

Staff has determined that the nearest billboard to the proposed location is approximately 3,700 feet to the northeast in the 600 block of Lancaster Ave. in East Whiteland Twp. This criterion is met.

- 3) No billboard shall exceed 625 square feet in area, and no part of a billboard shall be more than 35 feet higher than the closest paved surface of the limited access highway from which it is primarily visible.

The proposed billboard will have two sign faces, each of which will be 611 sq.ft. Since the faces are to be placed back-to-back at an internal angle of less than 45 degrees (see the definition of "sign, double-faced" in §325-8 of the Zoning), the size limit is applied to single face, not the total of the two faces, pursuant to §325-95.B(3) of the Zoning. The proposed billboard complies with this limit.

The "Zoning Data Table" on Sheet 1 of the plan states that the top of the billboard will be 34.6 feet above the closest paved surface of U.S. Route 202.

These criteria are met.

- 4) No part of any billboard shall be within 425 feet of any dwelling unit existing or finally approved for construction at the time of submission of the conditional use application for the billboard.

Staff has determined that the closest existing or approved dwelling unit is the single-family home at 2 Whitewoods La., which is approximately 1,000 feet from the proposed billboard location. This criterion is met.

- 5) No part of any billboard shall be within 425 feet of any property in the R-1 Residential zoning district at the time of submission of the conditional use application for the billboard.

Staff has determined that the closest property in the R-1 zoning district is a vacant lot owned by PECO abutting the west side of the Reserve at GlenLoch community and is approximately 1,700 ft. from the proposed billboard location. This criterion is met.

- 6) Billboards shall be screened by an evergreen buffer planted between the billboard structure and the highway right-of-way. The screening shall consist of a minimum of three coniferous trees at least 35 feet tall when planted. When the use of trees is not feasible due to topography or other conditions, alternative methods of screening, such as structural barriers or earthen berms, shall be utilized. The screening provisions shall be shown on the plan accompanying the conditional use application for the billboard and shall be subject to review and approval by the Township prior to approval of the said application. Where the screening includes trees, the applicant shall agree to a condition of approval requiring their maintenance and replacement in the event they cease to be viable.

The required trees are shown on Sheet 2 of the plan set. This criterion is met insofar as possible at this time; the maintenance requirement should be carried forward as a condition of plan approval.

- 7) No billboard shall contain any element contained in Subsection J, Prohibited Signs.

This requirement should be carried forward as a condition of approval.

Since the digital faces of the billboard will be "VCT signs" as defined by the Zoning, they will be further subject to the regulations of §325-95.E for "changeable copy signs." The Zoning Officer has determined that the plan is consistent with paragraphs (1) through (6) of this subsection; paragraph (7) lists ten requirements specific to VCT signs. We note that these are all operational regulations addressing things like brightness and how the images change. Since these regulations do not affect the placement or dimensions of the billboard, compliance cannot be determined from the drawings. Staff suggests that the Commission confirm that the Applicant is aware of these regulations and that they will comply with them.

Staff concludes that these criteria have been met insofar as possible at this time. Remaining criteria - §325-95.E(7) and §325-95.I(7) of the Zoning in particular - are operational requirements and should be carried forward as conditions of approval.

- (b) The size, scope, extent, and character of the exception desired is consistent with the plan for future land use in West Whiteland, and with the spirit, purpose, and intent of the Zoning Ordinance.

The plan for future land use is an element of the Township Comprehensive Plan. The Plan is silent on the topic of billboards, so that aspect of this criterion is a moot issue.

The Township invoked a municipal curative amendment toward the end of 2018 in order to address the billboard regulations issues in the Zoning. As a result of this action, the Township adopted a Zoning amendment in May 2019 that established the billboard criteria of §325-95.I, which are reviewed above in (a).

Based upon the analysis in (a), Staff is satisfied that this criterion is met.

- (c) The suitability of the property for the use desired and the new or expanded use, if approved, will be susceptible of regulation or restriction by appropriate conditions and safeguards.

The Board of Supervisors has the right to attach reasonable conditions to any conditional use application and to make provisions for the enforcement of those conditions. This criterion has been met.

- (d) The public interest in, or the need for, the proposed use or change, and the proposal will serve the best interest of the Township, the convenience of the community (where applicable), and the public health, safety, morals, and general welfare.

The Township's Comprehensive Plan establishes what is meant by "the best interest of the Township;" §325-2.A of the Zoning states that its overall purpose is to promote, protect, and facilitate the public health, safety, morals, and general welfare. Based upon our conclusion above in (b), Staff is of the opinion that this criterion has been met.

- (e) Where pertinent, the effects of the proposal with respect to congestion on the roads or highways; the most appropriate use of land; conserving the value of buildings; safety from fire, panic, and other dangers; adequacy of light and air; the prevention of overcrowding of land, congestion of population, and adequacy of public and community services will not have a substantially adverse effect thereon.

The proposed billboard will have no effect upon road congestion, safety from the hazards named, adequacy of light and air, overcrowding, congestion, or public services. Given the distance to the nearest buildings, it seems unlikely that this billboard would have any impact upon their value. One may argue whether a billboard constitutes "the most appropriate use of land" but the location requirements in §325-95.I were written to restrict billboards to where they would be most appropriate, and this application complies with those requirements, as noted above in (a).

Staff is of the opinion that these criteria have been met.

- (f) The proposed change is reasonable in terms of the logical, efficient, and economical extension of public services and facilities including, but not limited to, public water, sewers, police and fire protection, transportation, and public schools.

This project will have no impact upon any of the cited services and facilities. Staff is of the opinion that these criteria have been met.

- (g) The natural features and processes characterizing the proposed site and its surroundings shall not suffer unmitigated degradation; that the management of stormwater, the provision of water and/or sewer service, and any other alterations to the site's predevelopment conditions shall be consistent with Township goals, practices, and plans in these regards and that demand for water and energy by the proposed use shall be minimized to the optimal extent.

Due to the nature of this project, many of the concerns cited here are moot issues: the project will not require stormwater management nor will it require water or sewer service. However, we note that the billboard is to be placed in a wooded area that is also a FEMA-designated floodplain that includes wetlands. While the impact upon flooding and the flood elevation will be negligible, we are concerned about the impact on the woodlands and wetlands. The plan does not show the extent of clearing nor is there any inventory of what trees within that area would be subject to our compensatory planting requirements. We expect that clearing will be required not only to accommodate the billboard, but also to provide access for its construction and to assure visibility from the expressway. Given that trees, ground cover, and wetlands all mitigate erosion caused by flooding, we are concerned about the impact of clearing related to site preparation for this project.

Staff is of the opinion that this criterion has not been met. We recommend that the Applicant be directed to provide additional information regarding the extent to which the site would be cleared, an assessment of the impact of such clearance upon the wetlands, floodplain, and nearby stream, and a description of how they propose to address such impacts, all of which would be reviewed by the Township Engineer. Staff further recommends that the conditions of approval include compliance with the compensatory planting requirements in §281-34 of the Township's Subdivision and Land Development Ordinance ("S/LDO").

- (h) The character and type of development in the area surrounding the location for which the request is made and the proposed change or modification, if permitted, will constitute an appropriate use in the area and will not substantially injure or detract from the use of surrounding property or from the character of the neighborhood.

The current billboard regulations were carefully crafted in 2019 to allow billboards at locations that had high visibility but were also not readily visible from residential areas. Compliance with these location requirements therefore assure that a billboard would be "an appropriate use in the area" within the meaning of this section, and, as more fully described above in our analysis of item (a), the billboard proposed here does in fact so comply.

We conclude that the proposed billboard is an appropriate use for this location, but we have remaining concerns regarding its impact upon the character of the neighborhood due to the clearing that will be necessary for its construction, placement, and functionality, as described above in (g). Staff suggests that provision of the information required pursuant to (g), as described above, along with compliance with the compensatory planting requirements in §281-34 of the S/LDO, would be sufficient to satisfy this criterion.

- (i) Development of highway frontage insofar as possible has been designed so as to limit the total number of access points, reduce the need for on-street parking, and encourage the frontage of buildings on parallel marginal access roads or on roads perpendicular to the highway.

The proposed billboard will not require any additional driveway access or parking; it is not a "building" as defined by §325-8 of the Zoning.

These criteria are moot issues relative to this project.

- (j) The probable effects of proposed development on highway congestion have been considered, and adequate access arrangements are provided in order to protect major highways from undue congestion and hazard.

The proposed billboard will not generate any additional traffic; occasional access as may be required for maintenance purposes will not cause congestion or hazard.

Staff is satisfied that this criterion is met.

- (k) The impact upon on-site and adjacent historic resources of the Township has been mitigated.

There are no identified historic resources within three hundred feet of the proposed location of the billboard; this is a moot issue.

- (l) Where the property or a portion of the property that is the subject of the application is improved at the time of the conditional use application, the Township may require that any existing development and/or uses on the property comply with all previous conditions of approval of a land development, subdivision, conditional use, special exception, zoning variance, or waiver of any provision of Chapter 281, Subdivision and Land Development, previously granted for the property.

There are no such conditions relative to the existing development on the subject property; this is a moot issue.

In conclusion, Staff is of the opinion that the conditional use criteria have all been satisfied except for (g) and (h).

Consultant Reviews

Due to the nature of this application, Staff did not request any review from our traffic engineer, Traffic Planning and Design. We note that the Applicant will need to provide information that will be reviewed by our lighting consultant, Stubbe Consulting, to determine compliance with the operational standards in §325-95.E(7) of the Zoning.

- **Spotts, Stevens, and McCoy (“SSM”) review dated December 15, 2020.** Similar to the Staff analysis, SSM notes the need for additional information about landscaping and assurance of compliance with the operational and permitting requirements.
- **Theurkauf Design & Planning (“Theurkauf”) review dated December 15, 2020.** Comments #1 and #4 express concerns similar to those in the review of the conditional use criteria in §§325-124.C(1)(g) and (h), above. Comment #2 questions the suitability of the trees to be planted in the wetland area, and comment #3 reviews the buffer requirements, noting that the use-specific requirements in §325-95.I(6) should apply in place of the standard screen buffer requirement.

Staff Comment

In conclusion, Staff finds that the location of the proposed billboard is consistent with all Township regulations pertinent to billboard placement. However, billboards are permitted only as a conditional use, and we are not satisfied that all conditional use criteria have been met. As described above in greater detail, Staff is of the opinion that the criteria found in §325-124.C(1)(g) and §325-124.C(1)(h) of the Zoning have not been satisfied since the Applicant has not quantified the impact of the billboard and its construction upon natural features and the neighborhood.

We were disappointed in the Applicant’s response to these concerns when raised by the Commission at the January 5 meeting as well as their statement that they did not find it

necessary to get a recommendation of approval from the Commission before proceeding with the hearing before the Board. The Applicant has not provided the Township with an extension to the review period to allow the Commission to resolve these concerns prior to the Board hearing, so the hearing is scheduled to begin at the Board's meeting on January 27.

Unless the Applicant is able to satisfy our concerns in the course of our meeting tonight, Staff does not recommend any action by the Commission to endorse the application. If the Commission wishes to make a motion, Staff suggests that it simply state the Commissions concerns without making a recommendation. We offer the following for your consideration.

The Planning Commission has the following concerns regarding the application of Dunwoody Drive Outdoor, LLC for placement of a billboard at 1473 Dunwoody Dr.

- 1. While the Applicant is not proposing a new building or enclosure, the placement of a billboard still falls within the definition of a "land development" as per §325-8 of the Zoning. Should the Board approve this application, it should be clear that the project will still need to be reviewed and approved as a land development.*
- 2. The Commission finds that the application does not satisfy the conditional use criteria set forth in §325-124.C(1)(g) and §325-124.C(1)(h) of the Zoning.*
- 3. Should the Board approve this Application, such approval should be conditioned upon the billboard being operated in complete compliance with the provisions of §325-95.E(7) and §325-95.I of the Zoning.*
- 4. Any other concerns that may arise in the course of tonight's discussion.*

Attachments

1. SSM review dated December 15, 2020.
2. Theurkauf review dated December 15, 2020.
3. Plan set by E.B. Walsh & Associates dated November 20, 2020, no revision date.
4. Billboard structure details by Productivity Fabricators dated November 11, 2020, no revision date.

Plans\ABC\Catalyst-Dunwoody\PC memo - 210115.doc



December 15, 2020

Mr. John R. Weller, AICP
Director of Planning and Zoning
West Whiteland Township
101 Commerce Drive
Exton, PA 19341

RE: Dunwoody Drive Outdoor, LLC
Conditional Use Application
SSM File 101008.0349

Dear Mr. Weller:

We have reviewed the above-referenced submission consisting of the following:

- Site Plan for Proposed Billboard Location – 1473 Dunwoody Drive (2 Sheets), prepared by Edward B. Walsh & Associates Inc., dated November 20, 2020;
- Detail Sheet of Proposed Billboard – Dunwoody Drive Outdoor, LLC, prepared by Productivity Fabricators, dated November 23, 2020;
- Deed for Tax Parcel 41-6-18.2A prepared by United Commercial Abstract, dated October 11, 2007; and
- Display Lease Agreement Between Univest Bank and Trust Co. and Dunwoody Drive Outdoor, LLC, dated October 5, 2020

Dunwoody Drive Outdoor, LLC, the “Lessee” on 1473 Dunwoody Drive, proposes to erect a billboard on the property owned by Univest Bank and Trust Company, the “Lessor”, which would be primarily visible from the Route 202 Bypass. The property is located in the O-L Office/Laboratory zoning district and has an existing 3-story office building structure on a 15.575 acre parcel. The proposed billboard is permitted under the Township zoning ordinance as a Conditional Use.

Issues regarding landscaping and buffering; and lighting will be addressed by Theurkauf Design and Stan Stubbe respectively. We have the following comments.

COMPLIANCE WITH CONDITIONAL USE STANDARDS

1. The Board of Supervisors may impose additional conditions that are reasonably necessary to assure that the intent of the Zoning Ordinance is complied with, Section 325-124.C.(2).

COMPLIANCE WITH ZONING ORDINANCE

2. Where the screening includes trees, the applicant shall agree to a condition of approval requiring their maintenance and replacement in the event they cease to be viable, Section 325-95.I.(6).



3. The applicant shall indicate what is being advertised on the proposed billboard to provide assurance to the Township that the elements prohibited by Sections 325-95.J.(1-9) will not be part of the billboard, Section 325-95.I(7).
4. No building permit for a sign shall be issued without a valid sign permit, Section 325-120.C.(6). Detailed drawings and details and, if applicable, calculations sealed by a Pennsylvania Professional Engineer shall be submitted to West Whiteland Township as part of the building permit application.

If you have any questions please feel free to call me.

Sincerely,
Spotts, Stevens and McCoy

A handwritten signature in blue ink, appearing to read "Kent D. Morey", is written over the typed name.

Kent D. Morey, P.E., CBLP
Senior Engineer
kent.morey@ssmgroup.com

cc: Mark Stabolepszy, P.E.



MEMORANDUM

TO: John Weller, AICP, West Whiteland Township Director of Planning and Zoning
Justin Smiley, AICP, Township Planner
Daniel H. Daley, P.E., Edward B. Walsh & Associates, Inc.

FROM: Edward A. Theurkauf, RLA, ASLA, APA
Kelsey Stanton Murphy, ASLA

DATE: December 15, 2020

SUBJECT: **1473 DUNWOODY DRIVE BILLBOARD**
CONDITIONAL USE PLAN DATED 11-20-20

Please note our review comments pertaining to the following documents received by email on 11-24-20 and to a site visit on 12-7-20:

- Conditional Use plan consisting of 3 sheets from Edward B. Walsh & Associates, Inc.; and
- Conditional Use application dated 11-20-20 consisting of 6 sheets.

**1473 DUNWOODY DRIVE BILLBOARD
CONDITIONAL USE PLAN DATED 11-20-20**

December 15, 2020

1. Conditional Use Requirements – Billboards are permitted as a conditional use in the Office/Laboratory zoning district subject to the standards of section 325-95.I of the zoning ordinance (ZO). Section 325-124.A (ZO) requires that the conditional use plan demonstrate feasibility of compliance with all pertinent requirements, including screening and landscaping. Further, the following specific standards apply:
 - a. Section 324-124.C.1.g (ZO) requires that the natural features on the site and its surroundings do not suffer unmitigated degradation. The Township Engineer shall evaluate the plan’s proposed improvements in and adjacent to wetlands (comment 2b).
 - b. Section 324-124.C.1.h (ZO) requires the proposal to constitute an appropriate use in the area and to not substantially injure or detract from the use of surrounding property or from the character of the neighborhood. The plan shall demonstrate adequate visual screening between the proposed billboard and Route 202 (comment 2) and adjacent office building (comment 3b).

2. Billboard Evergreen Buffer – Section 325-95.I.6 (ZO) requires billboards to be screened by an evergreen buffer planted between the billboard structure and the highway right-of-way. The screening shall consist of a minimum of three coniferous trees at least 35 feet tall when planted.

The plan indicates the required coniferous tree screen. The following shall be addressed prior to conditional use approval:

- a. The proposed trees are in a wetland. Species adapted to wetland conditions, such as Atlantic White Cedar, Eastern Arborvitae, or Loblolly Pine shall be specified. The applicant shall also identify sources that can supply the trees at the required minimum 35-foot height.
- b. The planting of required trees or allowable alternative screening measures would disturb the wetland. The plan shall be revised to eliminate wetland disturbance, or necessary disturbance permits shall be obtained with required mitigation.
- c. In the event that a tree buffer is not feasible, the plan shall propose strategies to screen a 48-foot-tall supporting billboard structure from Route 202.

Revisions are required for the plan to demonstrate feasible compliance with billboard screening requirements.

3. Screen Buffer – Section 281-35 of the subdivision and land development ordinance (SLDO) requires 50-foot-wide vegetated screen buffers between incompatible uses and along the higher classified street right-of-way on reverse frontage non-residential lots. Thus, screen buffers are required along Route 202, between the billboard and the Univest office building, and along the common drive serving the office campus. Plantings in accordance with section 281-35.D (SLDO) are required as follows:

**1473 DUNWOODY DRIVE BILLBOARD
CONDITIONAL USE PLAN DATED 11-20-20**

December 15, 2020

<u>Buffer/ Length</u>	<u>Plant Type</u>	<u>Required</u>	<u>Proposed</u>
Route 202/ 35 LF	Shade Tree	1	0
	Evergreen Tree	2	3
	Large Shrub	4	0
Office Bldg/ 50 LF	Shade Tree	1	*
	Evergreen Tree	2	0
	Large Shrub	5	*
Common Drive/ 35 LF	Shade Tree	1	*
	Evergreen Tree	2	0
	Large Shrub	4	*

* Requirement met by existing woodland

- a. Route 202 Buffer – The plan does not indicate the required screen buffer along Route 202. Since billboards are required to provide screening along highways per section 325-95.1.6 (ZO), we would not object to a waiver from the Route 202 screen buffer requirement.
- b. Office Building Buffer - Existing woodland fulfills the buffer shade tree and shrub requirement. The plan shall demonstrate compliance either by providing the required evergreen buffer trees, or by demonstrating that the woodland provides adequate year round buffering between the billboard and the office building.
- c. Common Drive Buffer - The common drive functions as a private street, and there are no adjacent uses that would be visually impacted. Thus, we would support a waiver from the screen buffer requirement here.

Revisions are required for the plan to demonstrate feasible compliance with screen buffer requirements.

4. Tree Protection and Compensatory Plantings – Section 281-34.A (SLDO) requires the preservation of mature trees and other significant existing vegetation. Compensatory plantings per section 281-34.G (SLDO) are required for mature trees that are removed.

There are woodlands surrounding the proposed billboard as well as a number of trees in the wetland. There is adequate space on the lot for mitigation plantings for any trees to be removed.

Feasibility of compliance with compensatory planting requirements is demonstrated for conditional use purposes. The land development plan shall show trees to be removed by size, species, and condition in order to determine compensatory planting requirements.

**1473 DUNWOODY DRIVE BILLBOARD
CONDITIONAL USE PLAN DATED 11-20-20**

December 15, 2020

5. Street Trees – Section 281-36 (SLDO) requires one street tree for every 50 feet of right-of-way or frontage in addition to required buffer plantings. Section 281-36.E (SLDO) permits the street tree requirement to be waived where there is sufficient existing preserved vegetation.

Existing trees in the wetland along Dunwoody Drive exceed the street tree requirement. Thus we would support a waiver from the street tree requirement.

6. Conclusion – The following shall be resolved prior to conditional use approval:
 - a. Demonstrate feasible buffering between proposed billboard and Route 202 (comment 2)
 - b. Provide screen buffer evergreen trees or demonstrate adequate buffering between proposed billboard and existing office building (comment 3b)
 - c. Waivers for screen buffer plantings along Route 202 and the common office campus drive (comments 3a and 3c)
 - d. Waiver for Dunwoody Drive street trees (comment 5)

Please contact our office with any questions.



MEMORANDUM

DATE: January 15, 2021
TO: Planning Commission
FROM: John R. Weller, AICP
Director of Planning and Zoning

SUBJECT: **Boot Road Storage / Lexington, Ltd.**
Subdivision plan

APPLICANT: BNP Boot Road, LLC
c/o Richard A. Bates
P.O. Box 1454
Exton, PA 19341

SITE ADDRESS: 200 King Rd.
Exton, PA 19341

TAX PARCEL: 41-5-271

ZONING: R-3, Residential

DESCRIPTION: Subdivision to provide an existing dwelling on a commercial property with its own lot.

EXPIRES: February 1, 2021

Background

The subject property is the site of Extra Space Storage, a self-storage facility at the intersection of Boot and King Rds., near the Exton Station residential community and directly across the road from the West Chester Gun Club. The existing irregularly shaped lot covers 6.2 acres and includes an existing single-family house fronting Boot Rd. in addition to the self-storage operation, which has access from King Rd. The property has some man-made steep slopes between the storage buildings, but there are no FEMA-designated floodplains, special flood hazard areas, or any other environmental constraints.

On April 25, 2000, the Board of Supervisors approved the conditional use application of Lexington, Ltd. for construction of the self-storage facility. At that time there were two buildings on the property with frontage on Boot Rd. The western building, since demolished, was a garage with an apartment on the second floor; the eastern building was the single-family detached dwelling that remains today. Condition 2 of the Decision and Order (“D&O”) approving the conditional use stipulated the demolition of the western building and the creation of a separate, conforming lot for the eastern building following the approval of the land development plan for the self-storage facility, which occurred on October 17, 2000.

Single-family detached dwellings are permitted by right in the R-3 Residential zoning district pursuant to §325-11.B(1) of the West Whiteland Township Zoning Ordinance (“Zoning”). Since the residence has (and will continue to have) on-site water supply and sewage disposal, §325-

11.C(10)(a) of the Zoning requires the lot to comply with the standards of the R-1 district. For this reason, the “Zoning” chart on the drawing properly features the R-1 standards in the “Required” column. The proposed residential lot satisfies the applicable standards: we note that the dwelling does not comply with the front yard setback requirement, but this is an existing condition that is not affected by the proposed subdivision, so no relief is required. Similarly, the self-storage facility on proposed Lot 2 will not conform with the applicable building and impervious coverage limits, but the creation of the lot will lessen the existing non-conformity, so no relief is required for this aspect either.

The Applicant first presented this plan to the Commission on October 6, 2020. The Commission took no action that night since it was not clear from the plan drawing that the proposed lots would comply with the Zoning; this concern has been resolved. The Commission also considered the issue of sidewalks, which is reviewed in greater detail below. Tonight is the Applicant’s second presentation to the Planning Commission.

Consultant Reviews

Since the plan proposes only a subdivision and no physical improvements, Staff found no reason to request reviews from any of our consultants. The review from the Chester County Planning Commission dated October 23, 2020 is attached. The County states that the project is consistent with the County Comprehensive Plan and acknowledges the 2000 conditional use D&O. They note that the plan drawing lacks information required by our Subdivision and Land Development Ordinance (“S/LDO”), but they do not object to the subdivision as proposed.

Staff Comment

The Applicant has resolved our previous concerns regarding Zoning compliance and water supply for Lot 1. Regarding the latter, the Applicant has advised that an easement will be provided for Lot 1 to allow access to the well on Lot 2. As noted below, Staff suggests that this provision be noted on the plan drawing.

The Commission may recall that we discussed the matter of sidewalks at the October 2020 meeting. The Township’s 2019 Bicycle and Pedestrian Plan and the Official Map both show sidewalks along the entire Boot Rd. frontage as well as the King Rd. frontage between Boot Rd. and Bonnie Blink Dr. S/LDO §281-31 also states that “sidewalks shall be required for all residential and non-residential development.” The Staff memo dated October 2, 2020 suggested that sidewalks be required along the Boot Rd. frontage and along King Rd. as far as the storage facility driveway - a total distance of approximately 450 feet. Rather than require a short segment along the King Rd. frontage leading to Bonnie Blink Dr., Staff suggests it would be preferable to have the Applicant make a contribution to the sidewalk fund equivalent to the construction cost of that segment, pursuant to Township practice.

The Applicant questioned whether this requirement was affected by the conditional use D&O, which is silent on whether sidewalks should be required; the Township did not require the developer of the storage facility to provide sidewalks. Staff consulted the Township Solicitor on this matter, and they advised that - while this subdivision is required by the D&O - we should apply the regulations in effect when THIS plan was filed and there is “...no indication that the D&O intended to serve to grandfather a yet to be submitted plan.”

Since the last meeting with the Commission, the Applicant’s attorney has also provided the attached correspondence expanding on his position that sidewalks cannot be required. He

first notes that no sidewalk was required when the storage facility was approved (and §281-31 was in effect) and characterizes requiring sidewalks now as “attempting to re-write that history.” Staff is of the opinion that this line of reasoning again suggests that the lack of sidewalks is somehow grandfathered, and, based upon the Township Solicitor’s advice above, is not valid. His second point notes that the S/LDO requires sidewalks for “development” rather than “land development.” “Land development” is a defined term that includes subdivisions such as what is proposed here, and the Applicant states that since the sidewalk requirement does not specify a *land* development, the requirement should not apply. In other words, the Applicant claims that there is a distinction between a “development” and a “land development.” Staff does not find this convincing.

Staff’s earlier recommendation regarding the sidewalk stands. Of course, the Commission may choose to waive all or some of this requirement should the Applicant make a compelling argument that it presents a hardship.

Staff notes that since no new development or dwelling units are being proposed, this plan is not subject to either a traffic impact fee or any open space requirement. We have no objection to Commission action on this plan tonight, and we offer the following draft motion and conditions for your consideration:

To recommend that the Board of Supervisors approve the subdivision plan entitled “Lexington, Ltd.” for the property at 200 King Rd. as depicted on the single-sheet plan prepared by Edward B. Walsh & Associates, Inc. dated July 15, 2020 and most recently revised December 11, 2020 (the “Plan”) with the following waivers and subject to the following conditions:

1. The Plan is approved as a final plan pursuant to §281-10.H of the West Whiteland Township Subdivision and Land Development Ordinance (“S/LDO”).
2. Waiver of various provisions of §281-17.D of the S/LDO such that the information shown on the Plan shall be deemed sufficient.
3. A note shall be provided on the plan stating that Lot 1 is guaranteed the use of and access to the existing well on Lot 2.
4. Sidewalks shall be provided consistent with §281-31 of the S/LDO and the Township Bicycle and Pedestrian Plan: sidewalk shall be constructed along the entire Boot Rd. frontage of the tract and the adjacent portion of the King Rd. frontage as far as the driveway into the self-storage facility; in lieu of construction of the non-contiguous segment extending westward along the north King Rd. frontage from the Bonnie Blink Dr. intersection to the property line, a contribution to the sidewalk fund equivalent to the cost of the construction of said segment shall be accepted.
5. Execution of a Developer Agreement and a Financial Security Agreement pursuant to Township practice for the construction of the sidewalks required in condition #3. The amount of such security shall be based upon a construction cost estimate for the sidewalk, to be provided by the Applicant, which shall be reviewed and deemed sufficient by the Township Engineer. If the Applicant makes no material revisions or additions to the standard form of the said agreements, then the Board of Supervisors should authorize the Township Manager to sign the forms on behalf of the Township.
6. Any other conditions as may be agreed to in the course of tonight’s meeting.
7. Payment of all outstanding Township invoices within thirty days of the date of final plan approval.

Attachments

1. Plan drawing by Edward B. Walsh & Associates, Inc. dated July 15, 2020, most recently revised December 11, 2020.
2. Letter from MacElree Harvey (Applicant's attorney) dated December 15, 2020.
3. Chester County Planning Commission review dated October 23, 2020.

Plans\JKLM\Lexington\PC memo 210115

December 15, 2020

John R. Weller AICP
Director of Planning and Zoning
West Whiteland Township
101 Commerce Drive
Exton, PA 19341

Via Electronic Mail to jweller@westwhiteland.org

**RE: BNP Boot Road, LLC – Application for Subdivision and/or Land Development Approval
200 King Road, Tax Parcel Number: 41-5-271**

Dear John,

I enclose a copy of the revised plan for the above referenced subdivision. I have also included the report on the open issues per your email of November 2, 2020. I have included your comments below in italics, with my responses in bold.

The first is the interpretation of yard setbacks. As shown on the plan submitted to us, the proposed property lines of concern will be rear lot lines for both the storage facility property and the residential property – so that's a 40-foot setback for both. The plans we have from 2000 indicate that the smallest distance between the house and the closest storage facility building is just over 90 feet, so it appears that it's possible to draw a new lot line that will be 40 ft. from both structures. In fact, what's shown on the current plan MAY be compliant (the house setback is labelled 42.5 ft.) – we just can't tell since that plan doesn't show any of the storage facility buildings.

The plan has been revised show the improvements and demonstrates compliance with the setback requirements.

The second issue is sidewalks. While my memo dated October 2, 2020 cited the 2019 Bike & Ped Plan as the basis for requiring a sidewalk along the frontage, please note that we require sidewalks pursuant to Sec. 281-31.A of our S/LDO, which – in its entirety – states, "Sidewalks shall be required for all residential and non-residential development. Locations of sidewalks shall be approved by the Board." We've had that requirement in the S/LDO since at least 1991: the 2019 B&P Plan simply clarifies a long-standing policy.

We still need to see a plan drawing that documents that the new rear lot line(s) will be at least 40 ft. from all existing structures – including the closest storage building. We also want that sidewalk as described in my memo: installed (5 ft. wide, set back at least 2 ft. from edge of cartway) along the southern lot line frontage (Boot Rd. and around the corner to include a segment of King Rd. up to the PECO property

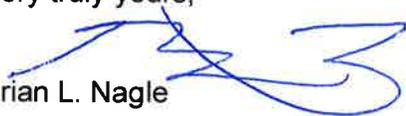
line); we'd be open to payment of a fee to the sidewalk fund in lieu of the short segment (PECO prop line to Bonnie Blink intersection – abt 180 ft.) of the northern frontage.

I have two issues with this position. The plain language of township code requires sidewalks for “all residential and non-residential development.” The storage facility was developed years ago. At the time, the township did not require that sidewalks be installed despite the then existing policy, probably because sidewalks there make no logical sense. The township should not be attempting to re-write that history now. Also, the residential lot that is being split off pursuant to the prior conditional use order was developed long ago with the existing single family home. There is no development proposed as part of this application, therefore, under the plain language of the code, sidewalks are not required. The SALDO does not define the term “development.” Under the plain meaning of that term, this project includes no development. Note that the code does not use the term “land development”, which would include a subdivision. But that term is not used in the code. That being said, to resolve this issue, my client would agree to install sidewalks or pay a fee in lieu for the one acre house lot at the time that the house is reoccupied or the lot is redeveloped.

Finally, the revised plan shows the rear lot line and the required 40 foot separation from all structures. The one nuance there, which I mentioned to you previously, is the cesspool. We are proposing that the cesspool be removed. The residential house is not occupied. The lot will likely be redeveloped, but in any event, we have added a note to the plan which states “The prior cesspool that served the single family home, located on the storage facility lot, shall be decommissioned. The existing single family residence shall not be occupied or otherwise utilized until such time as a new permitted septic system, cesspool, or appropriate system has been permitted and installed, or the lot is connected to public sewer pursuant to any required permits and fees.”

Thank you for your ongoing attention to this matter. We request that the Planning Commission make a recommendation of approval of the Application at its January 2021 meeting.

Very truly yours,


Brian L. Nagle

BLN/com

cc: BNP Boot Road, LLC, *[Via Electronic Mail to bates@lexingtonltd.com]*
Andy Eberwine, P.E. *[Via Electronic Mail to Andye@ebwalshinc.com]*
Justin Smiley, AICP, Township Planner *[Via Electronic Mail to jsmiley@westwhiteland.org]*



THE COUNTY OF CHESTER



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October 23, 2020

John R. Weller, AICP, Director of Planning & Zoning
West Whiteland Township
101 Commerce Drive
Exton, PA 19341

Re: Preliminary/Final Subdivision - Lexington, LTD
West Whiteland Township – SD-09-20-16486

Dear Mr. Weller:

A Preliminary/Final Subdivision Plan entitled "Lexington, LTD", prepared by Edward B. Walsh and Associates, Inc., and dated July 15, 2020, was received by this office on September 23, 2020. 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 subdivision for your consideration.

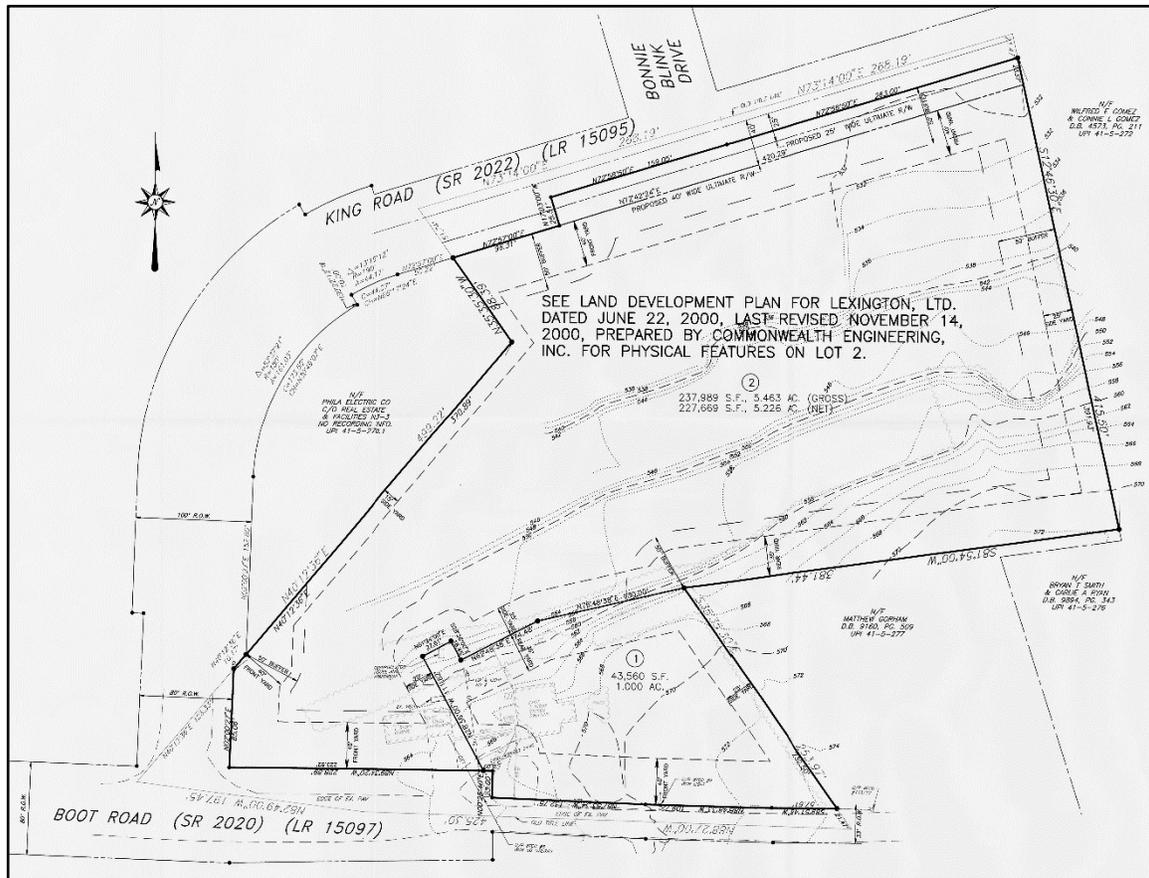
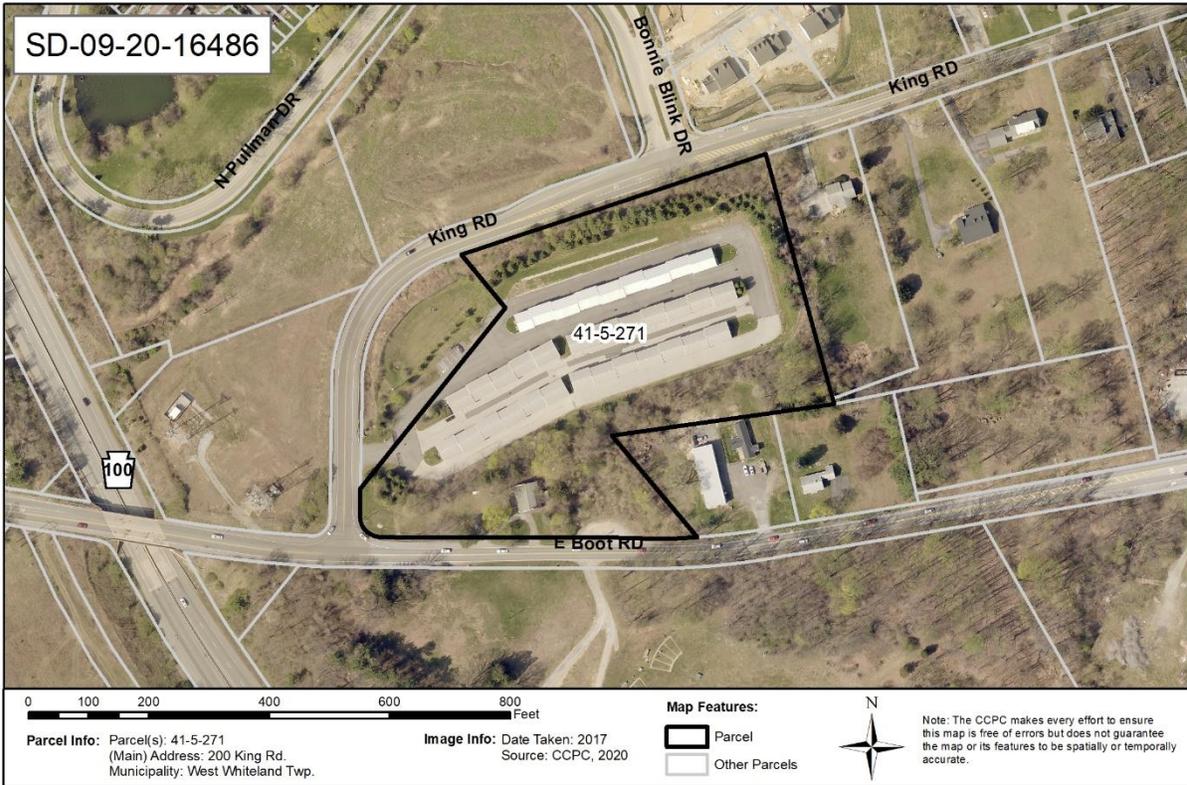
PROJECT SUMMARY:

Location:	east side of King Road, north side of East Boot Road
Site Acreage:	6.22
Lots/Units:	2 Lots
Non-Res. Square Footage:	0
Proposed Land Use:	Lot 1-Single Family Residential; Lot 2-Commercial
New Parking Spaces:	0
Municipal Land Use Plan Designation:	Medium Density Residential
UPI#:	41-5-271

PROPOSAL:

The applicant proposes the creation of 2 lots. There is an existing residence on Lot 1, and an existing self-storage facility on Lot 2. No development activity is proposed as part of the plan submission. The project site is located in the R-3 Residential zoning district.

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



Site Plan Detail, Preliminary/Final Subdivision - Lexington, LTD

BACKGROUND:

1. General Note 8 states that this subdivision plan was authorized by condition #2 of the conditional use approval granted by the Township on April 25, 2000. The County Planning Commission reviewed the conditional use application for the construction of the self-storage facility on proposed Lot 2 of the current subdivision plan on November 22, 1999 (CCPC# 2759). We acknowledge that a copy of the April 25, 2000 conditional use decision was included with the current plan submission. We also acknowledge that condition #2 of the conditional use decision states that the “easternmost existing single family dwelling may remain if a lot conforming to the requirements of the Township Zoning and Subdivision and Land Development Ordinances is created after final land development approval of the proposed self storage development.”
2. The Chester County Planning Commission subsequently reviewed the land development plan for the self-storage facility on proposed Lot 2 on July 19, 2000 (CCPC# 10767). According to our records, the land development plan was approved by the Township on November 14, 2000.

COUNTY POLICY:

LANDSCAPES:

3. The project site is located within the **Suburban Landscape** designation of [Landscapes3](#), the 2018 County Comprehensive Plan. The vision for the **Suburban Landscape** is predominantly residential communities with locally-oriented commercial uses and facilities, accommodating growth at a medium density that retains a focus on residential neighborhoods, with enhancements in housing diversity and affordability. The proposed subdivision is consistent with the objectives of the **Suburban Landscape**.

ADMINISTRATIVE ISSUES:

4. We recommend that the Township, in its review of the proposed subdivision plan, determine if a waiver is required from the Plan Requirements set forth in Article III of the Township Subdivision and Land Development Ordinance, pertaining to the depiction of existing buildings, and other significant man-made features on the tract. We note that, instead of depicting the existing features on Lot 2, the site plan contains a plan note referring to the previously approved land development plan instead.
5. A minimum of four (4) 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.

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Re: Preliminary/Final Subdivision - Lexington, LTD
West Whiteland Township – SD-09-20-16486

This report does not review the plan for compliance to all aspects of your ordinance, as this is more appropriately done by agents of West Whiteland 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 black ink that reads "Paul Farkas". The signature is written in a cursive, slightly slanted style.

Paul Farkas
Senior Review Planner

cc: BNP Boot Road, LLC
Edward B. Walsh and Associates, Inc.