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101 Commerce Drive
Exton, Pennsylvania 19341



Tel: (610) 363-9525
www.westwhiteland.org

APPLICATION FOR HEARING CONDITIONAL USE

Applicant's Name: _____
Mailing Address: _____

Telephone: _____ e-Mail: _____
The Applicant is: _____ Owner _____ Agent for Owner _____ Purchaser
_____ Other: _____

Project Name: _____
Property Address: _____

Project Description: _____

If the Applicant is NOT the Owner, the following information must be provided. Otherwise, this section may be left blank.

Owner's Name: _____
Mailing Address: _____

Telephone: _____ e-Mail: _____

You are not required to have legal representation, but many Applicants choose to have an attorney act on their behalf or be part of the project team. If you will have an attorney, we would like to have the following information. If you provide this information, the Township will assume that we may contact this individual regarding legal issues and questions relative to this application. This is likely to result in additional charges by the attorney to the Applicant. You are therefore not required to provide this information, but if you do not, the review process may be slowed as we will be required to resolve legal concerns through the Applicant or the plan preparer.

Continued on other side >

Name of Firm: _____
Name of Attorney: _____
Mailing Address: _____
Telephone: _____ e-Mail: _____

.....
The following section may be filled out by or with the assistance of Township Staff:

Zoning District(s): _____
Tax Parcel Number(s): _____
Will this project require review by the Historical Commission: _____ YES
_____ NO

Reason conditional use approval is required: _____

.....

Signature of Applicant

Signature of Owner
(if different from Applicant)

Date of Signature

Date of Signature

PLEASE NOTE: This Application will not be considered complete nor will it be accepted for review unless accompanied by (1) a check or money order payable to West Whiteland Township for the full amount of the Township review fee and (2) a completed Reimbursement Agreement.

TO BE COMPLETED BY TOWNSHIP STAFF:

I have reviewed this Application Form and accompanying documents and determined that it is sufficiently complete to be accepted for review.

Name of Staff member accepting Application

Date Application deemed complete

APPLICATION for CONDITIONAL USE HEARING

APPLICATION INSTRUCTIONS

Applicant: The individual or corporation that is submitting the application, that will be responsible for payment of Township charges related to the hearing and the administration of the process, and to which Township correspondence will be directed. If the Applicant is a corporation, the name of a specific contact person must also be provided.

You are the **Owner** if your name (or the name of your corporation) is shown on the deed for the subject property. Frequently, an attorney or engineer will act as **Agent for Owner**. This term includes any person or corporation that has a contractual obligation to or agreement for services with the Owner. We consider you the **Purchaser** if you are in the process of purchasing all or part of the subject property, or if you intend such purchase contingent upon approval of this plan. If none of these terms apply to you, indicate **Other** and explain your interest in the space provided.

Project Name: If this is a non-residential project, the name of the business or other agency that will occupy the site should be indicated here. If you do not have a specific name for this project and leave this space blank, we will refer to it by the name of the Applicant.

Property Address: If the project site does not have a street address, please provide a description of the location, including the name of the street that will be the principal point of access for the project and the nearest intersecting street.

Project Description: Briefly describe the project, including the approximate size of the property and a description of the intended use(s) of the property as well as any existing or proposed structures. If you are subdividing the property, indicate the number of lots to be created and their intended use.

Owner's Name: This section does not need to be filled out if the Applicant is the owner: just be sure that you have checked the proper line under "Applicant" to tell us that the Applicant is the Owner. Otherwise, this information **MUST** be provided and the Owner or their authorized representative **MUST** sign the application form.

Name of Attorney: As noted on the form, you are not required to have legal representation, although – in light of the formal nature of the hearing – the great majority of our Applicants choose to have an attorney as part of their project team. If you complete this part of the form, we will assume that we have your permission to contact the firm or individual named to respond to questions on legal matters regarding your application.

Township Staff assistance: The information required in this section may not be readily available to you. Township Staff will be happy to assist you in identifying the applicable zoning district, the tax parcel number, and determining whether your project will need to be reviewed by the Township Historical Commission. As stated

in §325-84.D(7) of the Township Zoning Ordinance, the Historical Commission has the duty to review all conditional use applications where the property line of the project site is within three hundred (300) feet of the exterior walls of a structure identified by the Township as a historic resource. The locations of Township historic resources are shown on the "Historic Sites" map included in the reference work, "A History of West Whiteland Township." This section will also indicate the reason(s) why conditional use approval is required, identifying the pertinent sections of the Township Zoning Ordinance.

Signatures and dates: We must have the Applicant's signature as well as the signature(s) of the owner(s) if the Applicant is not the owner. These signatures do not need to be notarized. The Application will not be considered complete until an authorized Staff member has provided their name and indicated the date that the application has been found complete. Please note that the 60-day period within which we must schedule your hearing will not start until we have determined that your application is complete.

APPLICATION for CONDITIONAL USE HEARING

APPLICATION CHECKLIST

When you submit your application to the Township begin the review process for your project, the following items will be required in order for your application to be deemed complete; incomplete applications will not be accepted. Blank versions of the first three items are included with this application package.

- Completed application form
- Signed Reimbursement Agreement
- Signed Legal Counsel form
- Check made out to "West Whiteland Township" for Township review fee
- Complete copies of plan drawings. Seventeen (17) complete copies must be provided for all applications; if your project will be reviewed by the Township Historical Commission, ten (10) *additional* complete copies are required.
- Copies of supporting documentation, which may include but is not necessarily limited to reports and calculations supporting the design of proposed stormwater management facilities, traffic impact studies, or fiscal impact studies. Technical documents such as these are always reviewed by our consultants, but they are not always provided to the volunteer members of our boards and commissions. Township Staff will advise you as to what supporting documentation must be provided as well as the number of copies needed of each.

PLEASE NOTE: When you are ready to file your application, you must contact the Planning Secretary and make an appointment. If you do not have an appointment, no qualified personnel may be available to review the application and it may not be accepted. Final acceptance of an application is subject to review for completeness by the Township Manager or his designee.

APPLICATION for CONDITIONAL USE HEARING

DESCRIPTION of CONDITIONAL USE PROCESS

Introduction

In Pennsylvania, the authority to regulate the land development processes is given to the most local level of government (i.e., West Whiteland Township in our case) by the Pennsylvania Municipalities Planning Code, or Act 247 of 1968, which is commonly referred to as the "MPC." Among the regulatory tools permitted by the MPC is the Zoning Ordinance, and one of the principal functions of the Zoning Ordinance is to establish what uses of land are permitted in various parts of the Township. There are three principal classifications of permitted land use. The first is the "by right" classification. As the name implies, a use by right is permitted with minimal restriction, and in West Whiteland Township most permits for uses by right are issued by staff without the need for the Applicant to appear before any Township Board or Commission. The other permitted use types are the "special exception," which requires review and approval by the Township Zoning Hearing Board, and the "conditional use," which requires review and approval by the Township governing body, which is the Board of Supervisors. Special exceptions and conditional uses are similar in that the Board that grants final approval is permitted under the MPC to attach reasonable conditions to their approval. These conditions may be in response to issues brought to light during the review process and do not need to be anticipated or specifically required by any passage in the Zoning Ordinance. Whether a given use is permitted by right, by special exception, or by conditional use is completely at the discretion of the Township.

Getting started

Not every project requires approval as a conditional use. Specific types of development permitted as a conditional use are listed in the "use regulations" section for each zoning district in the Zoning Ordinance. Other types of development that require conditional use approval are found in the portions of the Zoning Ordinance that address floodplains, steep slopes, and historic preservation (Articles XIII, XIV, and XVI respectively). Finally, §325-124 lists project types that require conditional use approval regardless of which district the property is in:

- any subdivision that creates fifteen or more lots,
- any project (subdivision or land development) that will create fifteen or more dwelling units, and
- any project that will create 20,000 square feet or more of non-residential floor space.

Township staff can help you to review the Zoning Ordinance if you are uncertain whether your project will require conditional use approval.

Although there are exceptions, most projects requiring conditional use approval will *also* require approval as a land development or subdivision. Please note that this is a *sepa-*

rate process. For projects that require both types of approval, you should start with the conditional use application. If your project does not fully comply with all of the provisions of the Zoning Ordinance (and you cannot modify it so that it does), then the project will also require one or more "variances" from the Zoning Ordinance. This too is an entirely separate process that requires a formal hearing before the Township Zoning Hearing Board. If your project requires a variance, we still recommend beginning with the conditional use process. The reason for this is that the Zoning Hearing Board is very specific about the limits of the variances they grant. The design of a project typically evolves during the course of a conditional use review, and it is possible that the variance required by the project design will change during conditional use process.

If your project will require approval as a subdivision or land development, or if you will be applying to the Zoning Hearing Board for a variance, we strongly recommend that you submit a Sketch Plan for discussion with Township Staff, the Planning Commission and the Board of Supervisors *prior to* submitting a conditional use application. A Sketch Plan review is an informal process that allows Township Staff, the Planning Commission, and the Board of Supervisors to raise concerns regarding a project prior to an Applicant having spent significant funds on design and engineering. There is a separate application form and process for Sketch Plan reviews.

Process

Regardless of whether a project will require review as a subdivision or land development, we recommend that conditional use Applicants provide some sort of plan of the project site showing the improvements that are proposed. This plan may look quite similar to a land development plan. Additional items required as part of the conditional use application are shown on the checklist provided with this application packet. As you prepare your application, you should review §325-124.C of the Township Zoning Ordinance, which lists the Township's standards for review for conditional use applications. It should be clearly evident from the information you provide that your project will comply with all of the items on the list. Many Applicants provide a written description of their project with their application that states how the project satisfies the conditional use standards.

Conditional use applications are submitted to the Director of Planning & Zoning through the Planning Commission Secretary. You must make an appointment with the Director in order to submit a conditional use application. Once the Director has determined that your application is complete, the Secretary will take receipt of all of the items you are submitting. The Township will then be responsible for transmitting your application to our various consultants for review and for scheduling your hearing before the Board of Supervisors. The MPC requires that we schedule your hearing not more than sixty days following our acceptance of your application. With rare exceptions, hearings are scheduled on the same night as a regular business meeting of the Board, so the Secretary will most likely schedule your hearing for the evening of the last Board meeting before the end of this sixty-day period. Before your hearing with the Board, your application will need to be reviewed by the Township Planning Commission and, depending upon the location of the project, by the Township Historical Commission. The Planning Commission Secretary will advise you of when you are scheduled to appear before the Planning

Commission and will coordinate with the Historical Commission Secretary to be sure that that Commission reviews your project in a timely manner. Neither Commission takes precedence over the other, so the first one you see will just depend upon the calendar and how full their respective agendas are. The Commission(s) will need to have passed a motion making a recommendation to the Board regarding your application prior to the beginning of your hearing. If the Commission(s) has/have not acted on your application by the hearing date, the Planning Commission Secretary will contact you about how to proceed.

Once your hearing date has been established, you are responsible for providing written notice of the hearing to the owners of all of the property within three hundred feet of the project site as well as to all individuals who have specifically requested to receive such notices. This application packet includes a sample letter and the list of the residents who have requested notification. Township Staff can provide you with a list of all the properties within the three hundred feet limit and their owners' mailing addresses. ***PLEASE NOTE:*** *You will actually need to send the notice letter TWICE, once by regular first class mail and again by certified mail, return receipt requested. Both letters must be sent at least two weeks prior to the date of your hearing.*

Your meetings with the Planning Commission and (if required) the Historical Commission will be similar to a presentation for a land development plan. You will be given an opportunity to present your project, and the Commission will discuss their concerns with you. Prior to these meetings, Staff will have prepared a memorandum of Staff and consultant concerns. Copies of this memorandum will be provided to you and to each Commission member several days before the meeting. If your project is large, complex, or has numerous concerns, it may take more than one meeting to complete your discussion with the Commission(s). Once each Commission is satisfied that their concerns have been addressed, they will pass a motion recommending that the Board approve your conditional use application. These motions typically suggest conditions of approval to the Board as that Commission deems appropriate.

In contrast to the meetings with the Commissions, your presentation to the Board of Supervisors is a formal *hearing*. The arrangement is similar to a courtroom, with the Board acting as "judge." You will be asked to present testimony, to enter exhibits, and to document what you are proposing and how it complies with our conditional use standards. The Board will discuss any remaining concerns with you as well as items that they may make conditions of approval. The Board will also invite comments from any members of the public who may be present. There will be a court stenographer present who will make a verbatim record of the proceedings. Nearly all of our conditional use applicants choose to be represented by an attorney at their hearing, even if they did not have one for their presentation to the Commission(s). Once you have completed your testimony and the Board has no further questions, the Board will direct the Township Solicitor to prepare a draft version of their Decision and Order ("D&O") regarding your application. If the decision is to approve your application, the D&O will state that and will include all conditions of approval. Copies of the draft D&O will be provided to you prior to your next meeting with the Board.

At your next meeting with the Board – officially still part of the hearing – you will have an opportunity to discuss any concerns or questions you may have about the draft D&O. Once any remaining issues have been resolved to the satisfaction of all, the Board will take action on the D&O. In most cases, the Board will pass a motion to approve the D&O with revisions as may be necessary to address the prior discussion. Once the motion passes, the conditional use is approved subject to the conditions listed in the D&O, the hearing is concluded, and the process is complete.

APPLICATION for CONDITIONAL USE HEARING

HISTORIC RESOURCES

Article XVI of the West Whiteland Township Zoning Ordinance regulates activities affecting historic resources in the Township. If your conditional use application is for a project on a property that includes or is within three hundred (300) feet of the exterior walls of a Township-designated historic resource, then the Township Historical Commission has the duty and obligation to review and make a recommendation to the Board of Supervisors regarding the application. If your project will also require approval as a subdivision or land development, please be aware that you may be required to submit a Historic Resource Impact Study as more fully described in §325-92 of the Zoning Ordinance.

The historic resources that trigger Historical Commission review are mapped in the current Comprehensive Plan for the Township. This map is also included in the publication "A History of West Whiteland Township." If you are unsure about whether your project will affect a historic resource, Township staff will be happy to help you make this determination. Staff will also review your project for impacts upon historic resources at the time that you submit your application.

If your project requires review by the Historical Commission, Township staff will place it on the agenda of the next available Commission meeting. The Commission currently meets at 7:00 p.m. on the first Thursday of each month at the West Whiteland Township Building. It is important that you attend this meeting, so advise Township staff if the meeting date is not convenient for you. Please note that if you are scheduled for a meeting and do not attend, the Commission may still discuss your project and pass a motion recommending action to the Board of Supervisors.

While the presence of a historic resource will require you to attend at least one additional meeting, it should not prolong the overall review period. The Historical Commission and the Planning Commission are both advisory to the Board of Supervisors: neither takes precedence over the other. Which commission you meet with first depends upon how the meeting dates fall following Township receipt of your complete application.

If you have questions concerning the regulations affecting historic resources or anything you have read here, contact John Weller, Director of Planning and Zoning (jweller@westwhiteland.org) or Roberta Eckman, Historical Commission Secretary (reckman@westwhiteland.org). Ms Eckman and Mr. Weller may also be contacted by calling 610-363-9525 or faxing 610-363-5099.

APPLICATION for CONDITIONAL USE HEARING FEES

The Township Board of Supervisors establishes a fee for the review of conditional use applications at their reorganization meeting held at the beginning of each calendar year. The current application fee is **\$1,500.00** and covers your first hearing, but please note:

- The application fee includes the cost of one (1) copy of the transcript (i.e., the written verbatim record prepared by the court stenographer) for the first meeting of your hearing. **Please note: a single hearing typically takes place over the course of several meetings.** You will be charged for transcripts for all meetings comprising your hearing after this first meeting. The charge will vary depending upon the length of the meeting(s) and court stenographer's own fee schedule.
- If – as typically occurs – your hearing is not completed in a single meeting, it will be "continued on the record" to a specific date. If you appear as scheduled and are prepared for the hearing on that date, the only additional charge to you will be for the transcript, as noted above. However, if you are not prepared to appear or to provide testimony on a night that you previously agreed to, we will continue the hearing again, and you will be charged for the court stenographer's appearance. The amount of the appearance charge varies according to the stenographer's fee schedule and whether or not other conditional use applicants appeared – or were scheduled to appear – that same night.
- The application fee is in addition to fees payable under the provisions of the Reimbursement Agreement, which is included in this application package and must be submitted with your application.
- If you withdraw your conditional use application from consideration sufficiently early in the process, you may be eligible for a refund or partial refund of this fee. Any refund will be subject to receipt of applicant request for a refund and will require a determination that Township costs relative to the administration of the plan up to and including the date of such request have not exceeded the fee amount. You are not entitled to any refund if you complete the process and the Board ultimately denies your application.

In addition, there is an **optional fee of \$275.00** to advertise the conditional use decision after the completion of the hearing. This fee covers the cost of publishing the Board's final decision in the Daily Local News and assures that their decision cannot be legally challenged after the appeal period.

APPLICATION for CONDITIONAL USE HEARING
REIMBURSEMENT AGREEMENT

The undersigned, a duly authorized representative of the Applicant for the plan identified below, hereby authorizes and directs the staff and consultants of West Whiteland Township ("Township") to review the said plan, together with all pertinent supporting documentation, and to prepare a report of their findings and recommendations with respect to same for Township use for the purpose of advising the Township in the course of the review process. In addition, the Applicant hereby authorizes and directs the Township's consultants to perform all inspections required, both during and following construction, to confirm that all improvements are constructed in full conformance with the plan as may be approved. Such reviews and reports and any services relative thereto shall be carried out in accordance with good engineering practices and the requirements of the ordinances of the Township.

The Applicant hereby authorizes and directs the Township's solicitor to review such portion of the plans and documents submitted in conjunction with the application as the Township may require, and to prepare such additional documentation, including reports, agreements, easements, and other legal documents necessary to insure compliance with the provisions of the ordinances of the Township.

The undersigned hereby agrees to reimburse the Township for all costs, expenses, charges, and fees pursuant to such review as may be incurred by the Township. Such costs, expenses, charges, and fees shall be in compliance with the hourly rates established for the staff and consultants for the applicable calendar year by resolution of the Township Board of Supervisors.

The Township reserves the right not to commence processing the Applicant's submission until this agreement has been signed. If the Township elects to begin such processing prior to signature of this agreement, such action shall in no way be deemed a forfeiture of the Township's right to reimbursement as described herein for costs attributable to such processing, including those costs incurred prior to the date of signature.

This agreement shall in no way require the Township, its staff, its consultants, or its solicitor to approve or to recommend approval of the Applicant's plan as originally submitted or as may be subsequently modified.

Signature of Applicant or Representative

Printed Name

Project Name

Continued on other side >

Address of Applicant

Applicant's Telephone Number and e-Mail Address

Date

APPLICATION for CONDITIONAL USE HEARING
LEGAL COUNSEL

Please review the following statements and check the appropriate box. If you would like an explanation, you may consult with Township Staff or your own attorney.

Regarding this Application for conditional use, the attendant conditional use hearing, and the decision ultimately to be rendered by the Board of Supervisors:

- I hereby authorize the Township Solicitor to represent both the Board of Supervisors in its adjudicative (i.e., decision-making) capacity and West Whiteland Township as an interested party in the Application. I understand that the representation of the Township ay include cross-examination of the Applicant's witnesses and presentation of the witnesses on behalf of the Township. By this authorization, I hereby waive any conflict of interest that exists or may arise in the Solicitor's representation of both the Board of Supervisors and West Whiteland Township.

- I hereby request the appointment of independent legal counsel to represent West Whiteland Township as in interested party in the Application.

- I hereby defer this decision until the time of the hearing.

Signature

Date

APPLICATION for CONDTIONAL USE HEARING NOTIFICATION REQUIREMENT

Section 325-124.B(6) of the West Whiteland Township Zoning Ordinance requires conditional use Applicants to send written notification of their hearing to all property owners within three hundred (300) feet of the property that is the subject of the application. The Township interprets the term "property owner" to be the record owner of a property as documented by the tax records of the Chester County Tax Assessment Office. The Township interprets this notification requirement such that Applicants are NOT required to notify owners of easements or rights-of-way owned by private entities, public utilities, or the Commonwealth of Pennsylvania. Upon request, Township staff can provide the list of properties as well as the owners' names and mailing addresses needed to fulfill this requirement.

A sample notification letter is provided in this packet, which you may adapt as necessary for your project. The same notice must also be provided to the following individuals, who have registered their names and addresses with the Township Zoning Officer in accordance with §325-124.B(7) of the Zoning Ordinance:

William J. Herbert
488 Cassatt Ct.
West Chester, PA 19380

Diane Snyder
1181 King Rd.
West Chester, PA 19380

Specific directions regarding the notification requirement are provided in §325-124.B(6) of the Zoning Ordinance. One of the most critical requirements is in §325-124.B(6)(c): the notice must be sent by both regular, first class mail AND certified mail, return receipt requested. The notice must be mailed a minimum of two weeks prior to the date of the hearing before the Board of Supervisors. At the hearing, you will be required to provide a copy of EACH notification sent as well as all of the certified mail receipts (i.e., the "green cards") you will have received. Determination of compliance with this notification requirement is at the sole discretion of the Township.

Please note that the complete, up-to-date text of all Township ordinances – including the Zoning Ordinance – is available on-line, free of charge, as a link from the Township website at www.westwhiteland.org.

APPLICATION for CONDITONAL USE HEARING
SAMPLE NOTIFICATION LETTER

Date

*** SENT VIA CERTIFIED MAIL AND REGULAR U.S. MAIL ***

Name of property owner

Address

City, State ZIP

Dear Neighbor:

This letter is to advise you that I have filed a conditional use application with West Whiteland Township. You are receiving this notice, as required by §325-124.B(6) of the West Whiteland Township Zoning Ordinance, because you own property within three hundred feet of (**street address of the subject property**), which is where I intend to (**briefly describe your project**).

The conditional use hearing before the Township Board of Supervisors has been scheduled for 6:30 p.m. on (**date of your hearing**) at the West Whiteland Township Building, which is located at 101 Commerce Drive, Exton, PA.

The conditional use application will also be reviewed by the Township Planning Commission at least one time prior to the hearing. The Planning Commission generally meets on the first and third Mondays of each month at 7:00 p.m. at the West Whiteland Township Building. All agendas for upcoming meetings are provided on the Township website at www.westwhiteland.org, or you can call the Township at 610-363-9525 to confirm meeting dates and when this project is to be discussed.

You are not required to attend the hearing or any other meeting, but these are all open to the general public and you are welcome to attend if you are interested. This is the only notice you will receive regarding this project.

Sincerely,

Your name