Maidencreek Township Board of Supervisors
December 21, 2023
7:00 p.m.

Attending: David Franke, Heidi Fiedler, Joshua Meck, Eric Frey, Esq. of E. Kenneth Nyce, Chuck Hess, Systems Design Engineering, Inc.

Guests: Mike Schittler, David Tranquillo, Maureen Cortuzzo, Robert Wood, Charles Voorhies, Eric Bauman, I. Richard Wick, Steve Dymeck, Brian Dixon, Tim Wales, Donald Griest, and other members of the community.

David Franke called the regular meeting to order at 7:04 p.m. with the Pledge to the Flag.

Mr. Franke announced an executive session was held before the December 21, 2023, meeting.

APPROVAL OF THE AGENDA

Heidi Fiedler made a motion to approve the December 21, 2023, Agenda. Joshua Meck seconded the motion. Hearing no question on the motion, all members voted "Aye." Motion carried.

BUSINESS

Authorize the release of Letter of Credit #540003122 in the amount of $10,036.56 for the Schwab Dental Office Addition.

Heidi Fiedler made a motion to authorize the release of Letter of Credit #540003122 in the amount of $10, 036.56 for the Schwab Dental Office Addition. Joshua Meck seconded the motion. Hearing no questions on the motion, all members voted, "Aye." Motion carried.

PUBLIC COMMENT

Tim Wales, 216 Sofia Blvd.

Mr. Wales questioned if the job was complete for the Schwab Dental Office addition, stating there was a row of evergreen trees bordering the Lidia Lane side of the dental office parking lot before the expansion of the parking lot toward Lidia Lane. The trees were removed to expand the parking lot. Should similar trees have been replanted bordering the new edge of the parking lot? Note 25 of the approved plan for the Melrose Place Subdivision states, "Appropriate screening in accordance with Section 515.F.2.A of the SALDO will be required between the commercial lots and the residential lots at the time of land development of the commercial lots." Therefore, should a similar row of trees be replanted, and should this be done before the proposed release of credit? Plan #04-085-P00 sheet 1 of 13, with approval by the Board of Supervisors dated June 8, 2006, and recorded as Instrument #200905786 by the Berks County Recorder of Deeds.

Mr. Wales also asked about the erosion ditch near the dentist's office, stating due to erosion, a ditch has formed near the border between the dental office and commercial lot C-2. It is not obvious which property the erosion damage is situated on, but some or all may be on the dental office property. The water source for erosion appears to be discharge water from the downspout at the northeast corner of the addition of the dental building. The erosion ditch goes downhill toward the sidewalk along Anna Avenue. Should the Board of Supervisors make sure that the damage is not either on or due to the dental office property, and that if it is on or due to the dental office property the issue is corrected before the proposed release of credit.

Mr. Franke said the motion was to return money in Escrow and Mr. Franke will look into it and have an answer at the January Board of Supervisors Regular Meeting. The Board asked Chuck Hess to look into this.

COMMENCEMENT OF THE CONDITIONAL USE HEARING

Solicitor

The board took all evidence from the hearings which were closed in November and considered this at the executive session after the last Board of Supervisors meeting. The Board has an order prepared which he read.

AND NOW, this day of December 2023, the application of Maiden Creek Associates, L.P. for Conditional Use pursuant to Maidencreek Township Zoning Ordinance section 220-44.B(1) to allow a non-sort warehouse business, storage, and warehousing use, with accessory office, consisting of a nine hundred thirty thousand (930,000) square feet warehouse and related improvements, of the vacant property consisting of approximately eighty point seventy-seven (80.77) acres, located northwest of the intersection of Allentown Pike (Route 222) and Schaeffer Road, which is located within the C-2 Regional Commercial District, and is further designated as Berks County Parcel ID 61-5411-16-74-8787, is hereby APPROVED for the reasons stated in the decision, the Conditional Use is granted in accordance with the Application and plans submitted and expressly subject to the following conditions:

1. The development and the use of the Subject Property shall be in substantial conformance with the Application, testimony, and exhibits presented at the Hearings by the Applicant.

2. The Proposed Use shall be a wholesale business, storage, and warehousing use as set forth in 220-44.B(l) of the Zoning Ordinance, together with accessory office, as requested in the Application. Further, the Proposed Use shall be limited to a non-sort warehouse facility in accordance with the testimony and exhibits presented at the Hearings by the Applicant.

3. Compliance, in all other respects, with the provisions of all land use and other ordinances and regulations of Maidencreek Township applicable to the Proposed Development. Such compliance shall include but shall not be limited to (a) applying for and obtaining building and/or other permits required by Township ordinances; and (b) complying with all terms and conditions of such building and/or other permits.

4. As part of any site construction activities, earthmoving, grading, or utility installation, the Applicant and the Applicant's Site Construction Contractor shall submit a blasting plan to the Pennsylvania Department of Environmental Protection. The blasting plan shall prohibit the use of bulk blasting to remove rock in order to prevent the formation of sinkholes as a result of the on-site geology. The Applicant shall submit the blasting plan to the Township for review and comment. Any blasting shall be completed pursuant to a blasting permit issued by the Pennsylvania Department of Environmental Protection.

5. The idling of any trucks on the Subject Property shall be limited to no more than five (5) minutes in any continuous sixty (60) minute period as per Act 124 of 2008. The Applicant shall

provide sufficient plug-in locations as part of its design of the warehouse facility. If sufficient plug-in locations are not provided on the Subject Property, trucks shall be turned off if they idle for more than the time period set forth herein.

6. The Applicant shall instruct any tenant on the Subject Property that the Township does not permit off-site idling or parking on the roadways or rights of-ways within the Township, and there should not be any off-site idling and parking at a secondary site unless the same is and approved use and development for an alternative location within the Township.

7. The design and neutral color of the proposed warehouse facility building shall be substantially similar to the Graphic Representations of the Proposed Warehouse Building- consisting of three (3) different renderings (View 1, 2, and 3) that were provided as part of the Application. [See Exhibit A-15]. Notwithstanding the foregoing, Applicant shall install a parapet wall on the top of the front building facade facing Route 222 and both sides of the proposed warehouse building facade (but not the rear) to buffer any noise associated with the roof-mounted equipment. The parapet wall shall not be included in the calculation of the total warehouse building height.

8. Berming and landscaping shall be installed as shown on the Conditional Use Plans introduced by the Applicant as exhibits during the Hearings. The Applicant shall maintain in perpetuity all required planting berms, landscaping trees, shrubs, and other plant materials as shown on the various Landscape Plans provided as part of the approved Conditional Use Plans and as may be modified as part of the approved final land development plan. Any diseased or dead trees shall be removed and replaced, weather and season permitting, in a timely manner or within thirty (30) days if notified by Maidencreek Township.

9. The Applicant shall design and construct the stormwater management system for the Proposed Use with enhanced water quality measures in accordance with Pennsylvania Department of Environmental Protection stormwater regulations. The post-construction stormwater management plans approved as part of the NPDES permit for the Proposed Use shall include the following best management practices: water quality catch basin inserts within those drainage inlets that receive runoff from the trailer storage and loading areas; snout oil/water separators; landscaping; and meadow seed mixes to provide additional water quality and volume reduction benefits, as well as any other best management practices as may be requested by the Pennsylvania Department of Environmental Protection as part of the approved NPDES permit.

10. The Applicant shall enter into a stormwater facilities operations and maintenance agreement with the Township to require the annual maintenance of the stormwater improvements by the Applicant, at its sole cost and expense. Such agreement shall further allow the Township to inspect the Subject Property and to maintain the stormwater improvements, at the cost of the Applicant, tenant, or future owner of the Subject Property, if the same fails to properly maintain the stormwater improvements after reasonable notice from the Township.

11. With respect to the provision of public water and public sewer for the Proposed Use, the Applicant shall satisfy Maidencreek Township Authority with regard to its applicable rules, regulations, and requirements as part of the final design and construction of the necessary

improvements to the public water and sanitary sewer systems to ensure adequate services are provided for the Warehouse. To that end, Applicant shall:

a. Submit and obtain approval for the public sewer and water system plan for the Project from the Maidencreek Township Authority; and

b. Obtain sufficient water and sewer conveyance and treatment capacity for the Proposed Use from the Maidencreek Township Authority.

12. The Applicant shall construct and maintain ADA-compliant pedestrian facilitates along the site abutting Allentown Pike (Route 222) to accommodate pedestrian traffic. This shall include an asphalt pedestrian path extending across the entire frontage of the Subject Property, starting at the existing limits of the pedestrian system located along the north side of Allentown Pike (Route 222) just east of the Tamarack Boulevard/Genesis Drive intersection at the property line to the northeastern property line beyond the Schaeffer Road roundabout. Such improvements shall include painted crosswalks across the internal access drives and provisions for extensions (stubbed sidewalks/pedestrian path and grading) to accommodate the future connections with any future sidewalks/ADA ramps and crosswalks at the Schaeffer Road roundabout. The Applicant shall only be responsible for installing pedestrian improvements on the Subject Property or within the immediately adjacent state-owned Route 222 public right of way (subject to the review and approval of the Pennsylvania Department of Transportation). The final design of the pedestrian facilities shall be completed as part of the final approved land development plan for the Proposed Development.

13. The Proposed Warehouse building shall be designed and constructed with a fire suppression system and associated appurtenances in accordance with all applicable local, county, state, and federal laws including, but not limited to, the NFPA 13 code and design requirements. The fire suppression system shall be reviewed and approved by the fire marshal, at the expense of the Applicant, as part of the building permit process prior to any use and occupancy permit for the Proposed Use. The Proposed Development shall at all times comply with the regulations for Fire and Explosive Hazards and Radioactive Materials, as set forth in Maidencreek Township Zoning Ordinance Sections 220-63.D and 220-63.E. Any use which includes the storage of flammable or explosive hazards shall comply with any and all PaDEP, NFPA, Occupational Health and Safety Administration ("OSHA"), Department of Transportation ("DOT"), or other regulatory agency having jurisdiction over the same, regulations and permitting requirements related to the storage of flammable or hazardous materials.

14. All signage shall comply with the Township's Zoning Ordinance. The Applicant shall obtain Permits for all proposed free-standing monument signs or building wall-mounted signs per the applicable Zoning Ordinance requirements prior to the installation of any signs. (Zoning Ordinance Sections 220-46.K(S) and referencing 220-62).

15. The Applicant shall install and maintain all proposed site lighting facilities in accordance with the various Lighting Plans included as part of the approved Conditional Use Plans, as may be modified in the final approved land development plans in accordance with applicable

provisions of Chapter 186, Streets and Sidewalks, Article VII, Lighting Standards of the Township Code in effect at the time of filing of the Application including, but not limited to, the requirement that all outside lighting shall be LED lighting as shown on Plans. Streetlights and/or additional lighting facilities shall be provided at adequate levels along the entire length of the proposed five (5) feet asphalt walking path located along the frontage of the Subject Property, and the same shall be further designed and approved as part of the land development approval for the Proposed Development. After the construction/installation of the proposed site lighting, if the light levels are measured to be in excess of the levels indicated on the various Lighting Plans or produce glare or spillover light onto adjacent properties in excess of what is permitted under Chapter 186, Streets and Sidewalks, Article VII, Lighting Standards of the Township Code in effect at the time of filing of the Application, then the Applicant shall install cut-off shields, glare control devices, or other measures to reduce the impacts of the site lighting. Any glare or light spillover off the Subject Property and onto the public right-of-way of Route 222 resulting from the walking path streetlights and/or additional lighting facilities shall not be considered a violation of any applicable Township Ordinance or Code.

16. The Applicant shall, during the land development review, update the Transportation Impact Study to reflect the anticipated tenant for the Proposed Development.

17. The Applicant shall support the establishment of public transit service to the Subject Property with the Berks Area Regional Transportation Authority (BARTA) provided the following: (a) Maidencreek Township and BARTA request that public transit service to the Subject Property be established; and (b) there is an appropriate location along the Subject Property's Route 222 frontage within the PennDOT state-owned right of way for a public transit service stop, and: (c) a public transit stop along the Subject Property's Route 222 frontage within the PennDOT state-owned right of way is allowed/approved by the Pennsylvania Department of Transportation. If the above preconditions are satisfied, then the Applicant shall install an open aired bus waiting area along the Subject Property's Route 222 frontage within the PennDOT state-owned right of way.

18. The site access at the Schaeffer Road traffic circle shall be maintained as a full-access roadway. The second access, designed to be a right-out only, shall prohibit vehicles from turning left onto Route 222 (to travel northbound). To that end, the Applicant shall place signage on the Subject Property to direct all traffic desiring to travel northbound on Route 222 to the Schaeffer Road traffic circle access.

19. The Applicant shall conduct a geophysical survey, in accordance with the Preliminary Geotechnical Investigation submitted by the Applicant to the Township as part of the Application to identify potential subsurface voids, unstable areas with respect to foundation construction, and areas of the site where blasting will likely be required. The Proposed Development's construction methods shall include the following:

> a). A final subsurface investigation of the Subject Property shall be conducted closer to, but prior to the start of, the commencement of construction and once the civil and structural plans for the Proposed Development are finalized;

b). There shall be geotechnical oversight during the construction of the Proposed Development, if and when it may be needed; and

c). Remediation techniques shall be followed should a sinkhole be encountered during the construction of the Proposed Development.

20. During construction, all Karst-related features encountered during construction activities within the approved limits of a disturbance area that are determined by the Applicant's geologist/geotechnical engineer to be in need of remediation shall be repaired in accordance with sound engineering practices under the guidance of a professional geologist or geotechnical engineer, all at the sole cost and expense of the Applicant. The Township shall be notified that such has been encountered and how it was remediated.

21. As part of developing the site and accommodating various forms of transportation, the Applicant shall install and maintain at least one (1) bicycle rack in a convenient location for use by employees and visitors to the Proposed Use.

22. The Applicant shall ensure the Subject Property and all required improvements will be maintained and the Proposed Use and Proposed Development shall comply with the applicable provisions of Section 220-63 [Performance Standards] in effect at the time of filing of the Application. At all times, the Proposed Use and Proposed Development shall adhere to the use and operation of the proposed warehouse as described within the Environmental Ordinance Review - Proposed Maidencreek Warehouse Development (report dated July 20, 2022, as prepared by Pennoni Associates, Inc.) as submitted by the Applicant in support of the Application to ensure the environmental impacts covered by the Township's Performance Standards (Zoning Ordinance, Section 220-63) in effect at the time of the filing of the Application are not violated.

23. The Applicant shall respond to the comments offered by the Berks County Planning Commission as part of the Township's land development plan approval process.

24. As part of routine operations for the Proposed Use, the Applicant shall promptly and periodically collect and dispose of any wind-blown trash or refuse on the Subject Property, including any that may escape from the interior of enclosures that provide screening around the trash compactor and collection facilities.

25. So long as the sound study is submitted to the Township by the Applicant as set forth in Condition 26 below, the Township shall interpret its Code consistent with the following:

a. Given the existing ambient noise levels surrounding the Subject Property are currently seventy (70) dBa during the daytime (6:00 a.m. until 10:00 p.m.) and sixty-seven (67) dBa during the nighttime (10:00 p.m. until 6:00 a.m.), the Proposed Use shall be permitted to generate a maximum noise level of seventy (70) dBa during the daytime and sixty-seven (67) dBa during the nighttime along all property lines of the Subject Property and so long as the Proposed Use complies with such levels, it shall be deemed to comply

with Chapter 133, Noise, Sections 133-3.A, 133-3.B, 133-3.D, and 133-4.A(S) of the Township Code;

b. To the extent the ambient noise levels measured surrounding the Subject Property increase above seventy (70) dBa during the daytime and sixty seven (67) dBa during the nighttime without including any noise generated by the Proposed Use, then the Proposed Use shall be permitted to generate such increased noise levels without any mitigation by the Applicant; and

c. If the Proposed Development, at any time in the future, violates the noise standards of Chapter 133, Noise, of the Township Code, as clarified in this Condition, then Applicant shall mitigate the same as set forth in Condition 26, below.

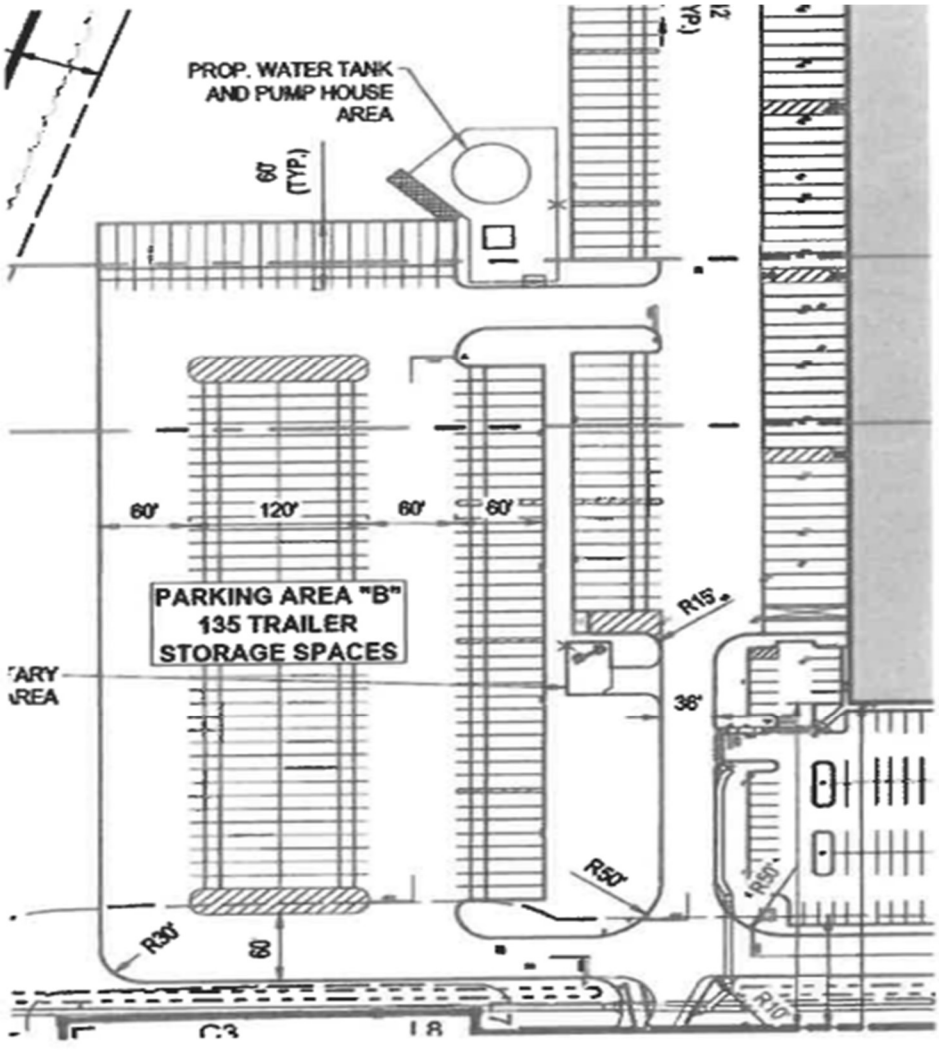
26. The Applicant shall, within six (6) months of the issuance of the use and occupancy permit, complete a follow-up Environmental Sound Study and submit the same to Maidencreek Township for review to confirm the noise generated by the Proposed Development complies with the noise levels set forth in Condition 25 above. Such Study shall be conducted in the same method and manner, with the same type of analysis, as the Environmental Sound Study (dated August 30, 2022, revised July 11, 2023) prepared by Metropolitan Acoustics and submitted in support of the Application by the Applicant. If the noise levels in the follow-up Sound Study exceed the noise levels set forth in Condition 25 above, the Applicant shall mitigate the excess noise generated by the operation of the Proposed Use by installing additional landscaping, berms, and or site improvements on the Subject Property, modification in warehouse operations or other noise reduction measures.

27. The Applicant shall reimburse the Township up to Seventy-Five Thousand Dollars ($75,000.00) for all Township professional legal, engineering, and third-party consulting costs incurred by the Township related to the review, processing, and conducting of the Hearings for the Application. Payment to the Township will be due and payable from the Applicant, as follows: (i) Thirty-Seven Thousand Five Hundred Dollars ($37,500.00) at the time of building permit issuance; and (ii) Thirty-Seven Thousand Five Hundred Dollars ($37,500.00) at the time of use and occupancy permit issuance. The Township shall provide the Applicant with the total amount of such costs and the receipts, invoices, etc. that substantiate the costs incurred within thirty (30) days after the conditional use becomes final and unappealable.

28. The maximum height of the building shall be sixty (60) feet measured from the average finished grade around the proposed building (not including any loading areas) to the top of any portion of the building, including, but not limited to, utility equipment, antennae, and/or any

architectural elements, but not including any parapet walls required to screen or attenuate any sound generated by rooftop equipment.

29. The location of the proposed accessory water tank and pump house shall be relocated to the following area on the Subject Property: (to the west (left) side of the proposed building, rear parking area B).



As part of the building permit process, the Applicant shall conduct a geotechnical evaluation to confirm the suitability of the proposed water tank location and design the footings based upon such geotechnical evaluation at this location.

30. The water tank shall include the use of an agitator or other approved mechanism to reduce the chance of freezing. Further, the Tank shall be maintained and certified by an independent third party on an annual basis. Such certifications shall be supplied to the Township each year.

31. The water tank/pump house and the interior fit-out of the fire suppression system for the Proposed Development shall be fully designed as part of the building permit process. All required certifications of the same shall be completed prior to any use and occupancy of the Proposed Development.

32. Any storage of rechargeable lithium-ion batteries shall require the installation of the appropriate building fire suppression system in accordance with applicable IFC regulations as approved by the Fire Marshal.

33. The Proposed Development shall comply with all applicable DEP, OSHA, PennDOT, Uniform Construction Code/lBC, and IFC codes and regulations.

Joshua Meck stated before continuing on the motion that the Conditional Use Hearing has been going on for over a year and weighs heavily on all of us. He said he has done extensive research to find a reason to deny it. If we denied it, we would have lost the chance on the list of conditions.

Ms. Fiedler stated she would not second the motion, believing the Applicant has not shown compliance standards with the warehouse. She said she did research and found that they do not comply with the noise ordinance, and stormwater ordinance, and the warehouse is not consistent with the neighborhood and would have a detrimental effect on the health, safety, and welfare of the Township.

Dave Franke said when the criteria are met required by law, our decision is not based on emotion, rather it is based on the evidence presented. He said they had to look at the legal ramifications, the extent of the property, and the uses of the property. It was a long hearing lasting a year and the decision that the items added to the Conditional Use is what would protect the residents of Maidencreek Township.

Joshua Meck made a motion to accept the Conditional Use Hearing Conditions set forth and read by Eric Frey. Dave Franke seconded the motion. Heidi Fiedler voted, “Nay.” The motion passed 2 to 1.

Mr. Frey addressed questions from the audience that all the parties will have a copy of the Conditional Use Decision mailed to them and all parties will have a 30-day notice to appeal against the decision. It will be posted on the Maidencreek Township website.

ADJOURNMENT

A motion to adjourn the meeting was made by Joshua Meck and seconded by Dave Franke. The meeting was adjourned at 7:33 p.m.

Respectfully Submitted,

Christina Hafer
Township Secretary