

This meeting is being audio recorded for the public record.

## Borough Council Worksession Meeting Agenda

October 18<sup>th</sup>, 2016 – 7:00 pm  
Borough Council Chambers, Municipal Building

1. Meeting call to order/Pledge of Allegiance.
2. Comments by Mayor and Council.
3. Comments, suggestions, petitions by residents in attendance regarding items not on the agenda
4. Presentations by building renovation architectural firm final candidates:
  - a. Goldstein Partnership
  - b. Architectural Concepts
  - c. Hammel Associates
5. Presentation regarding Campus Zoning Overlay Concept
6. Consider Resolution #16-2016, PEMA Winter Storm Reimbursement  
(Finance Committee recommend approval 2-0)
7. Consider request from Malcolm Johnstone from West Chester BID for use of some parking spaces in Lot 10 during the 5 weeks of water pipe replacement on Church Street.  
(Parking Committee recommend approval 2-0)
8. Consider parking on unit block of W. Biddle St.  
(Parking Committee recommend approval 2-0 to take no action until the Master Parking Plan is finished)
9. Consider award to Borough Manager for 2015 Performance Bonus
10. Presentation by Council person Diane LeBold concerning Dog Sheltering Ordinance
11. Consider appointing Deborah Enea for vacant WC Library Board Position  
(Public Works Committee recommend approval 2-0)
12. Consider Banner Permits:
  - a. Stanley's Dream – W. Gay St, 12-14-2016 – 1-8-2017
  - b. Cystic Fibrosis Foundation – W. Market St. 11-3-2016 – 11-17-2016  
(Updated info attached)

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13. Consider Special Event Permits
  - a. Cheseo Commissioners Color 5k – 11-5-2016
  - b. Veteran’s Day Parade – 11-6-2016
  - c. Brian’s Run – 12-11-2016

(Public Works Committee recommend approval 2-0, pending police approval)
14. Consider Marshall Square Park playground installation contract
15. Consider Street Tree Planting Bids  
(Public Works recommend approval 2-0 pending execution of said addendum)
16. Consider Barclay Park Donor Sign and proposed Tree Signs  
(Public Works recommend approval 2-0)
17. Consider 147;151-55 W. Gay Street – Reverse Subdivision  
(Smart Growth Committee recommend approval 2-1)
18. Consider 632 S. Matlack Street – 5 unit townhouse development  
(Smart Growth Committee recommended 3-0 to approve final preliminary/final subdivision with condition that our Solicitor prepare a deed restriction that prohibits student homes in any of the single family dwellings.)
19. Review Hickman Land Development Agreements Operation Maintenance Agreement
  - a. Stormwater (3-0 approved by Smart Growth)
  - b. Financial Security
  - c. Land Development
20. Consider Certificates of Appropriateness:
  - a. 120 N. Church St. – Grind Athletics  
Hanging sign on front façade’  
Approved as proposed with the changes that the background be off-white and the height consistent with existing signs on the building
  - b. 135 E. Gay St. – Zukin, Scott  
1<sup>st</sup> floor addition; 2<sup>nd</sup> and 3<sup>rd</sup> floor balcony addition.  
Approved as presented with the change that the windows will be 6 over 6 instead of 2 over 2 and windows and doors be wood.
  - c. 106 W. Market St. – Zukin, Scott  
Replace damaged shingled pent roof  
Approve as presented
  - d. 15 S. Church St. – Milks Law LLC  
Install hanging sign on front façade’  
Approve with conditions: sign to be mounted so that the bottom is 8 feet above sidewalk and door sign is not included in this motion
  - e. 134-36 E. Gay St. – Zukin, Scott

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Renovations to rear of building including installation of full view glass door, stucco knee wall will be constructed to separate tenant space from business space.

Approved as presented

- f. 200 N. High St. – Sutton Walters  
Building mounted sign on front façade'  
Approve as presented
  
- g. 1 S. High Street – Cee Jay Frederick  
Install gate on Market Street entrance.  
Approve with conditions; detailing on top and bottom of gates will flow consistently through all parts, 2 side panels will include flat top and have same detailing as what exists on the High Street gate
  
- h. 9 N. Church St. – Giannaccari, Alfredo  
1<sup>st</sup> floor façade renovation  
Approve with conditions; front door will be in the same plane as main façade with single pane glass and raised panel below, pilaster on left hand side door will extend to grade, panels below the picture window will be reconfigured from submission to allow for full height pilaster to left of the door, detailed arch trim match in design to 121 E. Gay St and drawing matching this description be provided to Board before October Council meeting
  
- i. 225 N. Church St. – Zukin, Scott  
Rear façade bedroom addition  
Approve with conditions; new dormer will mimic dormer previous constructed at 227 N. Church St. with exception that the windows be one over one and windows at 227 N. Church St. be changed to one over one, applicant will resubmit accurate plan elevation views before the October Council meeting

(Smart Growth Committee recommended 3-0 approval for items “a” – “g”)

- 21. Zoning Appeals:
  - a. Appeal #922 – Douglas Milbourne – 127 E. Miner St.
  - b. Appeal #923 – Kurt Martin – 508 S. Walnut St.(Smart Growth Committee recommended 3-0 to have the Solicitor's office appear on behalf of the Borough for Appeal #923; no action was taken on Appeal #922)
  
- 22. Consider approval of September minutes
  
- 23. Public Comment

**This meeting is being audio recorded for the public record.**

**UPCOMING MEETINGS:**

October 19<sup>th</sup>, 2016 - Proposed Ordinance # 12-2016 – Tree Commission - 6pm

October 19<sup>th</sup>, 2016 – Conditional Use – 29 S. Church St. – 6:30 pm

October 19<sup>th</sup>, 2016 – Council Meeting – 7pm

|                |                   |  |                |                         |
|----------------|-------------------|--|----------------|-------------------------|
| Monday         | 10-17-2016        | Historic Steering Commission             | 6:00 pm        | Room #240               |
| Tuesday        | 10-18-2016        | Council Worksession                      | 7:00 pm        | Council Chambers        |
| Tuesday        | 10-18-2016        | Planning Commission Worksession          | 6:30 pm        | Room #240               |
| Tuesday        | 10-18-2016        | Comprehensive Plan Committee             | 6:00 pm        | Caucus Room             |
| Wednesday      | 10-19-2016        | Conditional Use – 29 S. Church St.       | 6:30 pm        | Council Chambers        |
| Wednesday      | 10-19-2016        | Council Meeting                          | 7:00 pm        | Council Chambers        |
| Monday         | 10-24-2016        | Historic Steering Commission             | 6:00 pm        | Room #240               |
| Tuesday        | 10-25-2016        | Planning Commission                      | 6:30 pm        | Council Chambers        |
| <b>Tuesday</b> | <b>10-25-2016</b> | <b>Special Finance Committee Meeting</b> | <b>6:00 pm</b> | <b>Council Chambers</b> |
| Thursday       | 10-27-2016        | Sustainability Committee                 | 6:00 pm        | Council Chambers        |
| Thursday       | 10-27-2016        | HARB                                     | 7:00 pm        | Room #240               |
| Wednesday      | 11-2-2016         | Recreation Commission Committee          | 6:30 pm        | Room #234               |
| Wednesday      | 11-2-2016         | Shade Tree Commission                    | 6:00 pm        | Room #240               |
| Tuesday        | 11-8-2016         | BID Board                                | 8:00 am        | 119 N. High St.         |
| Wednesday      | 11-9-2016         | Shade Tree Commission Special Meeting    | 6:00 pm        | Room #234               |
| Wednesday      | 11-9-2016         | Public Safety Committee                  | 5:30 pm        | Council Chambers        |
| Wednesday      | 11-9-2016         | Finance Committee                        | 6:30 pm        | Council Chambers        |
| Wednesday      | 11-9-2016         | Smart Growth Committee                   | 7:30 pm        | Council Chambers        |
| Tuesday        | 11-10-2016        | Public Works/Recreation/ WW Committee    | 5:30 pm        | Council Chambers        |
| Tuesday        | 11-10-2016        | Kaizen Committee                         | 6:30 pm        | Council Chambers        |
| Tuesday        | 11-10-2016        | Parking Committee                        | 7:30 pm        | Council Chambers        |
| Monday         | 11-14-2016        | Zoning Hearing Board                     | 5:30 pm        | Room #240               |
| Tuesday        | 11-15-2016        | Council Worksession                      | 7:00 pm        | Council Chambers        |
| Wednesday      | 11-16-2016        | Council Meeting                          | 7:00 pm        | Council Chambers        |
|                |                   |  |                |                         |



## MEMORANDUM

**TO:** Borough Council  
Mayor Carolyn Comitta

**FROM:** Michael A. Cotter, Borough Manager

**DATE:** 13 October 2016

**RE:** **Building Renovation Design Requests for Proposals**

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We have completed our review of the information submitted in response to our request for proposals for architectural design services relate to the renovation of the Borough Municipal Building ("RFP"). Twelve proposals were received, and Council will engage with the three finalists identified by staff, based on the attached evaluation criteria.

There are four primary areas for evaluation:

1. Technical Expertise and Experience
2. Procedures and Methods
3. Cost
4. Interview

Details regarding these four areas are contained in the attached evaluation form. The semifinalist review team was comprised of Chief of Police Scott Bohn, Director of Building and Housing Mike Perrone, and Borough Manager Michael Cotter. Each team member independently ranked the proposals of the four semifinalist firms on items A and B in the evaluation form, and cost scores were completed by the Borough Manager. Those scores were then aggregated and weighted according to the evaluation process outlined in the RFP. The four semifinalists are:

- Hammel Associates (Lancaster, PA) Weighted Score – 35
- The Goldstein Partnership (Princeton, NJ) Weighted Score – 32
- Architectural Concepts (Exton, PA) Weighted Score – 32
- Speizle Associates (Media, PA) Weighted Score – 27

The intention was to have Council interview the two highest rated firms based on the review team's weighted scores. As you can see, there was a tie – therefore, we are presenting to Council the top three firms to interview, highlighted above.

The review team are currently checking references on the three firms noted, and results of those reviews will be made known to Council in time to inform its decision on which firm to award the design contract.

As noted above, the fourth step in the evaluation process is the interview/presentation to Council and the community. Below are the criteria and rating for the elements of the presentation to be graded. Please rate each presentation on those criteria after the presentation is complete. Forms to complete your evaluation will be provided to Council.

Interview (15 total points; 15% total)

All, or selected, firms submitting proposals may be invited to give an oral presentation explaining their proposal. The ENTIRE PROJECT TEAM, exclusive of consulting engineers, must be able to attend the interview which will be to the West Chester Borough Council, Mayor Chief of Police and Department heads in a public meeting. All presentations will be limited to thirty (30) minutes: twenty (20) minutes for a presentation and ten (10) minutes for Q&A. Presentations, if held, will be post the submittal date (1 August 2016).

1. Appropriate to Audience (0-3 pts)
2. Credible (qualified, trustworthy) (0-2 pts)
3. Understanding of Purpose (0-2 pts)
4. Organized (0-2 pts)
5. Development of Points (0-2 pts)
6. Clear content (0-2 pts)
7. Confident (practiced, fluent, as ease) (0-2 pts)

Rating

0 = not at all to poor (unfavorable, less than adequate)

1 = fair (sufficient but not ample)

2 = good (competent, skillful)

3 = very good to excellent (only applicable Appropriate to Audience)

## Presentation

Goldstein

Architectural  
Concepts

1. Appropriate to Audience (0-3 pts)
2. Credible (qualified, trustworthy) (0-2 pts)
3. Understanding of Purpose (0-2 pts)
4. Organized (0-2 pts)
5. Development of Points (0-2 pts)
6. Clear content (0-2 pts)
7. Confident (practiced, fluent, as ease) (0-2 pts)

### Rating

0 = not at all to poor (unfavorable, less than adequate)

1 = fair (sufficient but not ample)

2 = good (competent, skillful)

3 = very good to excellent (only applicable Appropriate to Audience)

## Evaluation

All proposals will be evaluated based in part on the technical and professional expertise and experience of the firm, the proposed method and the procedures for completion of the work and the cost of the proposal. The apparent ability of the firm to be independent and objective in performing the requested work will also be considered. West Chester reserves the right to add additional evaluation criteria as it deems appropriate. Rankings will be based on a weighted, 1-5 point ordinal scale. The total weighted score for the five semifinalist firms will be compared on items A-C, below. The top two firms will make a presentation to Council, with finalist selected after the presentation.

### A. Technical Expertise and Experience (15 points total; 35% total)

The technical expertise and experience of the firm will be evaluated using the following factors:

1. The overall experience of the firm in conducting work similar to that which is to be provided to the Borough (circle one ranking)
  - 5 = Experience on 6 - + projects of equivalent scope by primary associates and consultants
  - 4 = Experience on 3-5 projects of equivalent scope by primary associates and consultants
  - 3 = Experience on 1-2 projects of equivalent scope by primary associates and consultants
  - 2 = Experience on projects of equivalent scope by firm principal only
  - 1 = Experience projects of equivalent scope through consultants only
2. The expertise and professional level of the individuals proposed to conduct the work for the Borough (circle one ranking)
  - 5 = Experience on 6 - + projects of equivalent scope
  - 4 = Experience on 3-5 projects of equivalent scope
  - 3 = Experience on 1-2 projects of equivalent scope
  - 2 = Experience on projects of similar scope
  - 1 = Experience projects of equivalent scope through consultants only
3. The clarity and completeness of the proposal and the apparent general understanding of the work to be performed (circle one ranking).
  - 5 = excellent (more advantageous or effective)
  - 4 = very good (exceedingly competent, skillful)
  - 3 = good (competent, skillful)
  - 2 = fair (sufficient but not ample)
  - 1 = poor (unfavorable, less than adequate)

B. Procedures and Methods (15 points total; 30% total)

The methods and procedures proposed to be used to conduct the work requested as they relate to thoroughness and objectiveness will be of primary importance in evaluating proposals. This includes evaluation of the soundness of the approach relative to the techniques for collecting and analyzing data, sequence and relationships of major steps and methods for managing the work to ensure timely and orderly completion. Also evaluated will be the firm's method of soliciting involvement and participation.

1. Data Gathering & Analysis

5 = excellent (more advantageous or effective)

4 = very good (exceedingly competent, skillful)

3 = good (competent, skillful)

2 = fair (sufficient but not ample)

1 = poor (unfavorable, less than adequate)

Timely & Orderly Completion

5 = excellent (more advantageous or effective)

4 = very good (exceedingly competent, skillful)

3 = good (competent, skillful)

2 = fair (sufficient but not ample)

1 = poor (unfavorable, less than adequate)

2. Participation

5 = excellent (more advantageous or effective)

4 = very good (exceedingly competent, skillful)

3 = good (competent, skillful)

2 = fair (sufficient but not ample)

1 = poor (unfavorable, less than adequate)

C. Cost (15 points total; 20% total)

The cost will be weighed in relation to the other proposals received and shall be evaluated relative to the overall level of expertise of the specific firm's personnel proposed to do the work for the Borough, examples of similar successful projects, and reputation of the firm. Although this design project will be a fixed fee contract, the firm's hourly rates will be reviewed and considered should there be any changes in the scope of work and additional work is requested.

1. Deviation from Mean Total Cost

7.5 =  $\leq 7.5\%$

5.5 =  $\leq 2.5\%$  to  $\leq 7.5\%$  of mean

3.5 =  $\pm 2.5\%$  of mean

2.0 =  $\geq 2.5\%$  to  $\geq 7.5\%$  of mean

1 =  $\geq 7.5\%$

2. Hourly Rates Relative to Mean

7.5 =  $\leq 7.5\%$

5.5 =  $\leq 2.5\%$  to  $\leq 7.5\%$  of mean

3.5 =  $\pm 2.5\%$  of mean

2.0 =  $\geq 2.5\%$  to  $\geq 7.5\%$  of mean

1 =  $\geq 7.5\%$

D. Interview (15 total points; 15% total)

All, or selected, firms submitting proposals may be invited to give an oral presentation explaining their proposal. The ENTIRE PROJECT TEAM, exclusive of consulting engineers, must be able to attend the interview which will be to the West Chester Borough Council, Mayor Chief of Police and Department heads in a public meeting. All presentations will be limited to forty-five (45) minutes: thirty (30) minutes for a presentation and fifteen (15) minutes for Q&A. Presentations, if held, will be post the submittal date (1 August 2016). Should presentations not be held, the weight assigned to the Interview category (12.D) shall be equally assigned to categories in sections 12.A-12.C, above.

1. Appropriate to Audience? (0-3 pts)
2. Credible (qualified, trustworthy) (0-2 pts)?
3. Understanding of Purpose (0-2 pts)?
4. Organized (0-2 pts)?
5. Development of Points (0-2 pts)?
6. Clear content (0-2 pts)?
7. Confident (practiced, fluent, as ease) (0-2 pts)?

Rating

0 = not at all to poor (unfavorable, less than adequate)

1 = fair (sufficient but not ample)

2 = good (competent, skillful)

3 = very good to excellent (only applicable Appropriate to Audience)

**Municipal Building Renovation Design RFP Semi-finalist Scoring**

**The Goldstein Partnership**

|  | <u>Cotter</u> | <u>Bohn</u> | <u>Perrone</u> | <u>TOTAL</u> |
|--|---------------|-------------|----------------|--------------|
| Technical Expertise and Experience (15 pts total; 35% of weight) | 15            | 14          | 15             | 44           |
| Procedures & Methods (15 pts total; 30% of weight)               | 15            | 14          | 14             | 43           |
| Cost (15 pts total; 20% of weight)                               | 6.5           | 6.5         | 6.5            | 19.5         |
| Presentation (15 pts total; 15% of weight)                       |               |             |                |              |

**Goldstein Weighted Score 32**

| <b>Hammel Associates</b>   | <u>Cotter</u> | <u>Bohn</u> | <u>Perrone</u> | <u>TOTAL</u> |
|--|---------------|-------------|----------------|--------------|
| Technical Expertise and Experience (15 pts total; 35% of weight) | 14            | 14          | 14             | 42           |
| Procedures & Methods (15 pts total; 30% of weight)               | 12            | 12          | 13             | 37           |
| Cost (15 pts total; 20% of weight)                               | 15            | 15          | 15             | 45           |
| Presentation (15 pts total; 15% of weight)                       |               |             |                |              |

**Hammel Weighted Score 35**

| <b>Architectural Concepts</b>                                    | <u>Cotter</u> | <u>Bohn</u> | <u>Perrone</u> | <u>TOTAL</u> |
|--|---------------|-------------|----------------|--------------|
| Technical Expertise and Experience (15 pts total; 35% of weight) | 12            | 12          | 13             | 37           |
| Procedures & Methods (15 pts total; 30% of weight)               | 11            | 12          | 12             | 35           |
| Cost (15 pts total; 20% of weight)                               | 15            | 15          | 15             | 45           |
| Presentation (15 pts total; 15% of weight)                       |               |             |                |              |

**Architectural Concepts**

**Weighted Score** **32**

| <b>Spiezle Associates</b>  | <u>Cotter</u> | <u>Bohn</u> | <u>Perrone</u> | <u>TOTAL</u> |
|--|---------------|-------------|----------------|--------------|
| Technical Expertise and Experience (15 pts total; 35% of weight) | 12            | 12          | 12             | 36           |
| Procedures & Methods (15 pts total; 30% of weight)               | 11            | 13          | 10             | 34           |
| Cost (15 pts total; 20% of weight)                               | 6.5           | 6.5         | 6.5            | 19.5         |
| Presentation (15 pts total; 15% of weight)                       |               |             |                |              |
| <b>Spiezle Associates Weighted Score</b>                         |               |             |                | <b>27</b>    |

**Notes**

12 total RFPs submitted

Manager reduced field to 4 semi-finalists based on completeness of submission; total cost; experience relative to other firms; and depth of firm and consultant experience.

Semifinalists were independently ranked by Scott Bohn, Mike Perrone, and Michael Cotter based on evaluation form, items A-C.

Total Cost Range (Entire Building Renovation)



## MEMORANDUM

**TO:** West Chester Borough Council  
Mayor Carolyn Comitta  
West Goshen Township Board of Supervisors

**FROM:** Michael A. Cotter, Borough Manager

**DATE:** 4 October 2017

**RE:** **WCU Overlay Update**

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The purpose of the meeting is:

1. Review of existing conditions (see attached);
2. Identify issues of concern to address;
3. Gain consensus on the purpose the working group has identified relative to establishing a joint University Overlay District;
4. Agree upon models to inform the discussion; and
5. Identify next steps

The staff working group is comprised of:

- Casey LaLonde, Manager, West Goshen
- Derek Davis, Asst. Manager, West Goshen
- Bill Webb, Zoning Officer, West Goshen
- Mike Perrone, Director of Building & Housing, West Chester
- Kristin Camp, Solicitor
- Tim Cassidy, planning consultant
- Michael Cotter, Manager, West Chester

The working group has met four times to discuss the concept of creating the overlay. We have focused on the issues and purpose, and have begun examining the array of outcomes and potential solutions available to the communities and to the University to address the following:

### Issues Identified:

1. Uncertainty regarding growth/change of University
2. University planning approach to its growth
3. Inconsistent regulations (WCU Perspective) in communities
4. Student housing externalities
5. Multi-modal circulation and safety
6. Parking on and off campus

7. Campus encroachment into neighborhoods
8. Connecting campus to Borough Town Center
9. Management of environment impacts of WCU (e.g. SWM)
10. Community and economic development opportunities

#### Purpose for Overlay

- Establish boundaries for future development of the University campus which crosses municipal boundaries and recognizes the existing areas of development;
- Plan for orderly, coordinated, unified development of the University campus with common standards and continuity of regulations in both affected municipalities;
- Strengthen and preserve neighborhoods and uses which surround or are immediately outside of the Campus boundaries;
- Establish standards for size, height, bulk, location and use of buildings, structures and land within the defined Campus District;
- Regulate the siting, density and design of development within the defined Campus District;
- Preserve, maintain and improve the existing housing stock in neighborhoods which surround the Campus District;
- Prevent overcrowding of land and congestion in vehicular and pedestrian travel and transportation;
- Promote safe and efficient movement of people on Campus;
- Require adequate planning and transportation improvements to improve vehicular and pedestrian circulation and avoid congestion and safety hazards;
- Require sufficient off street parking for all Campus uses and buildings;
- Streamline the procedure for approval of new buildings and additions to existing facilities on the Campus by providing clearly defined development standards

The working group is looking at two model town/gown communities for guidance on solutions and regulations:

1. Lancaster and Franklin & Marshall University
2. Newark, DE and University of Delaware

#### Next Steps

1. Meet informally with WCU at BUOG to review this memo
2. Meet with full elected bodies in WGT, EBT(?) and the Borough regarding this memo
3. Elected official consensus (public meeting) on moving forward with overlay concept relative to identifying outcomes and actions to support the purpose statement
4. Create broader working group (add elected officials, citizens, WCU rep)
5. Working Group to meet to develop outcomes and actions
6. Public meetings to review outcomes and actions
7. Draft formal overlay ordinance
8. Action on draft ordinance



Area Vicinity Map

**BERNARDON**

ARCHITECTURE  
INTERIORS DESIGN  
LANDSCAPE ARCHITECTURE

**WCU CAMPUS ZONING**

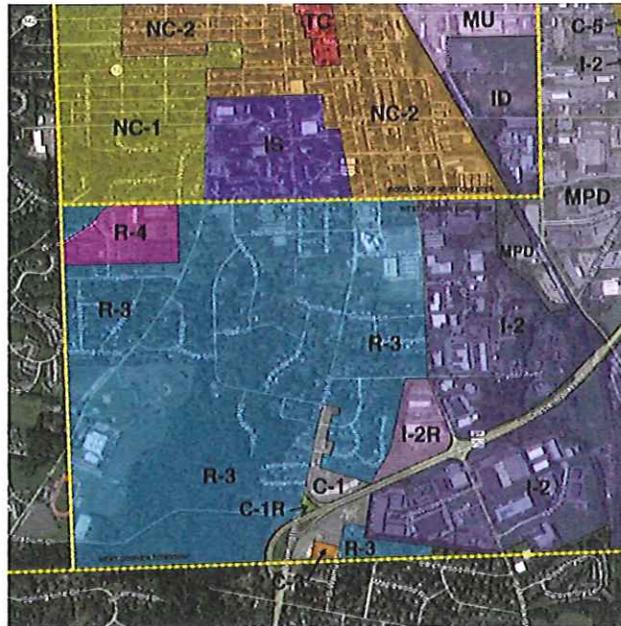
August 31, 2016



**BOROUGH OF WEST CHESTER**  
CHESTER COUNTY PENNSYLVANIA



**WEST GOSHEN TOWNSHIP**  
CHESTER COUNTY, PENNSYLVANIA



## Existing Zoning Districts

**BERNARDON**

ARCHITECTURE  
INTERIORS  
LANDSCAPE ARCHITECTURE

## WCU CAMPUS ZONING

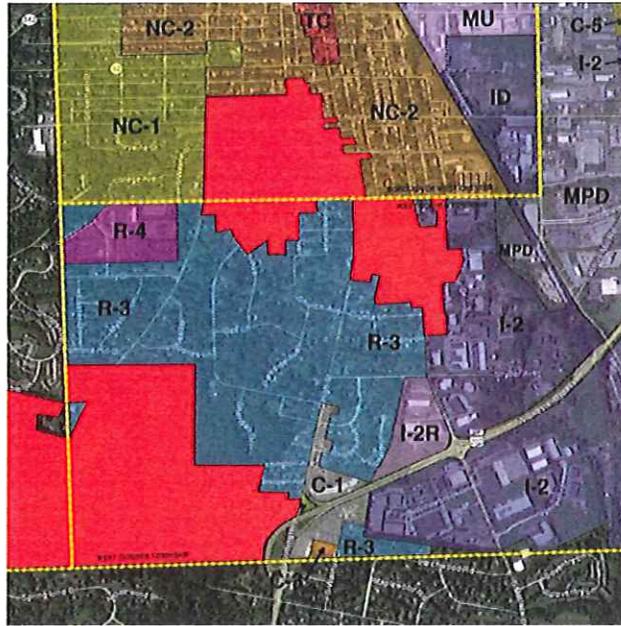
August 31, 2016



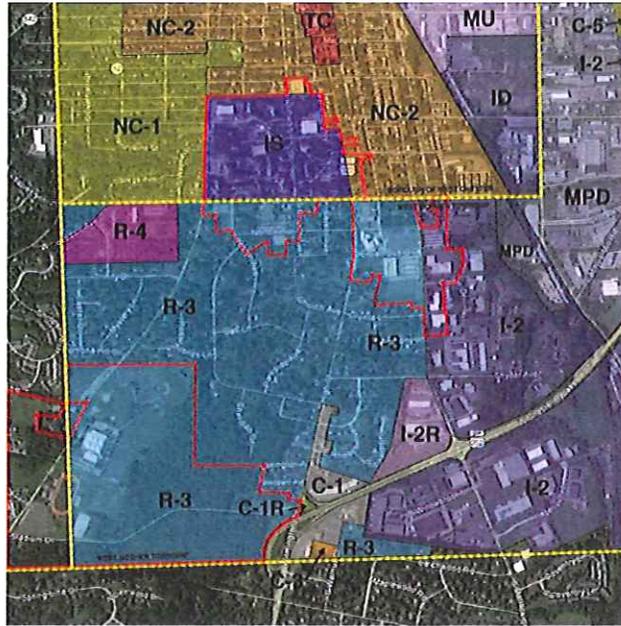
BOROUGH OF WEST CHESTER  
CHESTER COUNTY PENNSYLVANIA



WEST GOSHEN TOWNSHIP  
CHESTER COUNTY, PENNSYLVANIA



**Existing WCU Properties**



Existing WCU Properties & Zoning

**BERNARDON**

ARCHITECTURE  
INTERIOR DESIGN  
LANDSCAPE ARCHITECTURE

**WCU CAMPUS ZONING**

August 31, 2016



BOROUGH OF WEST CHESTER  
CHESTER COUNTY PENNSYLVANIA



WEST GOSHEN TOWNSHIP  
CHESTER COUNTY, PENNSYLVANIA

PEMA-DAP -2

DESIGNATION OF AGENT RESOLUTION

FOR: Winter Storm Jonas
(Enter Name of Disaster or Number)

BE IT RESOLVED BY West Chester Borough Council OF Borough of West Chester
(Governing Body) (Public Entity)

THAT Michael A. Cotter, Secretary/Treasurer
(Name of Applicant Agent) (Title)

IS HEREBY AUTHORIZED TO EXECUTE FOR AND IN BEHALF OF
Borough of West Chester, Chester County,
(Public Entity) (County)

a public entity established under the laws of the Commonwealth of Pennsylvania, all required forms and documents for the purpose of obtaining financial assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288 as amended by Public Law 100-707).

Passed and approved this 28th day of September, 20 16.

Council Member
(Name) (Title) (Signature)

Council Member
(Name) (Title) (Signature)

Council Member
(Name) (Title) (Signature)

(Name) (Title) (Signature)

(Name) (Title) (Signature)

CERTIFICATION

I, Michael A. Cotter, duly appointed and Secretary/Treasurer
(Name) (Title)

of Borough of West Chester, do hereby certify that the above is a true and correct copy of
(Public Entity)

a resolution passed and approved by the West Chester Borough Council
(Governing Body)

of Borough of West Chester on the 28th day of September 20 16.
(Public Entity)

(Signature)

(Official Position)

(Date)

PEMA-DAP -2

DESIGNATION OF AGENT RESOLUTION

FOR: Winter Storm Jonas
(Enter Name of Disaster or Number)

BE IT RESOLVED BY West Chester Borough Council OF Borough of West Chester
(Governing Body) (Public Entity)

THAT Michael A. Cotter, Secretary/Treasurer
(Name of Applicant Agent) (Title)

IS HEREBY AUTHORIZED TO EXECUTE FOR AND IN BEHALF OF
Borough of West Chester, Chester County,
(Public Entity) (County)

a public entity established under the laws of the Commonwealth of Pennsylvania, all required forms and documents for the purpose of obtaining financial assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288 as amended by Public Law 100-707).

Passed and approved this 28th day of September, 2016.

Council Member
(Name) (Title) (Signature)
Council Member
(Name) (Title) (Signature)
Council Member
(Name) (Title) (Signature)
(Name) (Title) (Signature)
(Name) (Title) (Signature)

CERTIFICATION

I, Michael A. Cotter, duly appointed and Secretary/Treasurer
(Name) (Title)

of Borough of West Chester, do hereby certify that the above is a true and correct copy of
(Public Entity)

a resolution passed and approved by the West Chester Borough Council
(Governing Body)

of Borough of West Chester on the 28th day of September 2016.
(Public Entity)

(Signature) (Official Position) (Date)

To: William Scott, Esq.  
Borough Council Ward #1

pk

From: Residents of 1st block of W. Biddle St

Subject: A) Parking  
B) Traffic

Date: August 10, 2016

### A. Parking

Parking has become dangerous and extremely difficult for the residents of the 1st block of W Biddle St.

A large part of the cause is that the Borough seems to be misinterpreting the regulation and rules for Parking Zone D as they were originally enacted.

The first block of W Biddle St contains some of the most historic townhouses in north West Chester. These treasures were built individually between 1803 and 1833. The four townhouses each have sub-basements which were connected by underground passages. They then were connected to the Darlington home at the corner of Lafayette and High Sts. Those passages were once part of the Underground Railway but are now sealed.

Efforts have been made by the homeowners over the years to maintain the facades to the historic period of their construction. There are no off-street parking options and no way to reconfigure the properties to allow for off-street parking. Recognizing these unique assets of the Borough as well as the problems for the homeowners that maintaining them cause, Parking Zone D was enacted for the benefit of the homeowners on the block.

As implemented, however, we have noted a number of problems:

- residents of properties which front on Church and High Sts have been granted permits which adds additional vehicles to the already scarce number of available parking spaces.
- staff members of businesses on High and Church have been granted Zone D parking permits.
- customers of businesses on High and Church are routinely provided with visitor hangtags and use those to fill the available spaces which block

CC: Mac, Scott Bohn, Parking. 9/15/16.

\* Rec'd by Mayor Comitta via First Class Mail. (m) \*

residents from convenient parking sometimes for the whole day and into the evening.

- each of these businesses have street parking or off-street parking available to their staff and customers and yet they continue to occupy the scarce parking available to the W Biddle St homeowners.

Hence we are requesting a review of the utilization of the Zone D parking permit program for the coming year and a plan of correction including a revocation of those permits which are not in compliance.

## **B. Traffic**

Both East and West Biddle Sts have become the default commuter route through West Chester to avoid the congestion and traffic signals on Chestnut St. This has increased the volume of traffic tremendously. The speed of those entering the first block of W Biddle from both High St and from East Biddle St is dangerously fast and puts the homeowners and their families at risk. Drivers routinely accelerate from High St to the stop sign on Church. Then they "drift" through the stop sign.

There are any number of children including pre school age children who reside on this block. In addition we have long term homeowners who have now retired and are now compromised by disabilities and/or age. Our automobiles have been sideswiped and otherwise damaged by reckless drivers speeding down the block. Fortunately, none of we residents have actually been hit by one of these reckless drivers as yet. But we are holding our breath that none of the residents or god forbid children are injured in the future.

Therefore, we are seeking relief from this dangerous situation. We would suggest the following:

- add speed signs which dictate the speed limits
- add signs alerting drivers to pedestrians and children
- additional street lighting for safety ( there is only one for the whole block which is blocked by trees)
- add a speed bump mid block
- upgrade the sidewalks to eliminate the uneven nature of the brick walkways as the Borough has done further in town—many pedestrians walk on the street to avoid the uneven sidewalks.
- petition the State for an additional traffic signal at Biddle and High Sts.

In conclusion, we homeowners and taxpayers of West Chester in Ward 1 seek your best leadership to address these issues. Thank you in advance for your advocacy on our behalf.

- # 11 Wayne & Linda Stevenson 484-888-2330
- # 13 Paul and Christin Kobacke 484-354-3308
- # 15 David A. and Natalie Patten 610-368-6397

cc: Mayor  
Borough Manager  
Police Chief

## Judy Benes

---

**From:** Bill Scott <ward1scott@aol.com>  
**Sent:** Wednesday, October 05, 2016 11:52 AM  
**To:** Judy Benes  
**Cc:** lebold2003@hotmail.com; Michael A. Cotter  
**Subject:** Fwd: Dog protection ordinance  
**Attachments:** Pottstown animal ordinance relevant section.docx; Dog law PA.docx

Judy,

Please put on the Public Safety Agenda the following item:

**"Presentation by Council Representative Lebold concerning protecting abused dogs in the Borough."**

Also, please add to the Agenda copies of Diane's letter and the attachments above.

Thank you.

### Bill Scott

William J. Scott, Jr.  
405 North Franklin Street  
West Chester, Pennsylvania  
19380-2418  
**610 436 4644**

-----Original Message-----

From: Diane LeBold <dlebold@west-chester.com>  
To: Bill Scott <ward1scott@aol.com>  
Cc: Michael A. Cotter <macotter@west-chester.com>; Scott L. Bohn <sbohn@west-chester.com>  
Sent: Tue, Oct 4, 2016 1:20 pm  
Subject: Dog protection ordinance

Bill -- I'm hoping you'll be willing to add an agenda item to next week's Public Safety committee meeting to discuss creating some protections for dogs that are left essentially uncared-for with minimal protection in freezing cold and excessively hot weather.

Because state dog law treats dogs essentially as property, the SPCA currently can't do much when a dog is left out in excessively cold or hot conditions if they appear to have access to food and water -- even if there's clearly no interaction with the animal and the animal is kept in what most of us would consider an inadequate shelter.

I've attached the relevant document -- an ordinance adopted in Pottstown in the fall of 2015, with the relevant sections on page 2 highlighted in yellow. I think these sections would apply to situations we occasionally encounter in the borough. They aren't frequent, but when they do occur, our police currently don't have much authority to resolve the problem. And, in my thinking, even one or two dogs left to bad treatment are too many.

Our dog ordinance in Chapter 37 of the code is clearly antiquated (it talks about a borough dog catcher!) and doesn't do anything to address the issue.

I've also attached a relevant section of the state dog law, which, as you can see, doesn't address the issue of adequate protection for dogs and doesn't even specify the length of the chain, if one is used. This document also includes a notice of the requirement to license every dog over 3 months, which could be another tool for dealing with the kinds of neglect we occasionally see in town.

I brought this forward earlier this year and Lt. Iacono kindly talked to the folks in Pottstown. If I remember correctly, Lt. Iacono's conclusion was that Pottstown was having a serious problem with abusive treatment of pit bulls, and developed the ordinance to back up creation of an animal enforcement officer position, so it wasn't entirely relevant to our situation.

It's true that we don't have that level of a problem, but when the problem does arise -- as it has on S. Matlack Street several times since I've lived here -- I think we need an ordinance with some real teeth (so to speak) so our police are able to deal with it effectively.

Thanks for any consideration you can give to this.  
Diane

From Pottstown animal ordinance

SECTION 7. Section 204, Shelter Standards, of Part 2, Keeping of Certain Animals, of Chapter 2, Animals, of the Code of Ordinances of the Borough of Pottstown, as amended, shall be amended to read as follows;

204. Shelter Standards.

All animals kept outdoors must have access to weatherproof shelter as prescribed below:

A. Animals shall be provided with access to shelter which protects them against inclement weather, keeps them dry and allows them to preserve a normal body temperature. -Animals shall be provided with a house or structure that is in good repair and complies with the following requirements:

1. The house or structure shall have a roof and at least three enclosed sides;
2. It shall be of a suitable size to accommodate the animal in both standing and lying positions;
3. It shall be moisture-proof, windproof, ventilated, and in cold temperatures shall promote the retention of body heat;
4. It shall be made of durable material with a solid, moisture-proof floor raised at least two inches from the ground;
5. It shall have a significant quantity of suitable clean bedding material consisting of hay, straw, cedar shavings or the equivalent to provide insulation and protection against cold and dampness;
6. All animals must be afforded one or more separate areas of shade large enough to accommodate the entire body of the animal at one time and protect it from the direct rays of the sun;
7. Drinking water must be available in a clean, liquid state. Snow or ice is not an acceptable water source;
8. The house or similar structure and the surrounding area shall be free from excessive dirt, trash, and waste. Tethering that does not allow an animal to defecate or urinate in an area separate from an area where it must, eat, drink, or lie down is prohibited;
9. Use of leashes or leads shall contain a swivel or be attached to a swivel and shall be placed and attached so that the animal cannot become entangled with the leash or lead of other animals or another object;
10. The lead shall be a type commonly used for the size and type of animal involved and shall be attached to the animal by means of a well-fitted buckle-type collar. The lead shall be at least three (3) times the length of the animal as measured from the tip of its nose to the base of its tail, but no less than fifteen (15) feet in length and shall allow the animal convenient access to the house or structure;
11. It shall be prohibited to put a heavy chain around an animal's neck, tie an animal using a huge logging chain, and/or put any kinds of weights on them including but not limited to weight vests, weighted collars, and weighted harnesses. A tether that weighs more than 1/a of the animal's body weight is prohibited;

12. It shall be prohibited to secure an unattended animal using aversive collar inclusive of but not limited to prong, pinch, and choke chain collars;
13. No animal may be housed on a temporary or permanent basis in any shelter constructed of uninsulated metal;
14. In severe weather conditions of high winds and/or heavy rains or frozen precipitation with temperatures above 32 degrees Fahrenheit, houses or similar structure shall have a windbreak at the entrance;
15. In extreme cold temperatures, if the temperature falls below 32 degrees Fahrenheit, animals may not be left outside for more than a half hour;
16. In extreme heat temperatures, if the temperature rises above 90 degrees Fahrenheit animals may not be left outside for more than a half hour.
17. Any animal confined within an outdoor enclosure/pen for more than two hours must have adequate space to exercise. A minimum of one hundred square feet is required for any animal. Dogs over 80 pounds must have an additional fifty (50) square feet. An additional fifty (50) square feet is required for each additional dog kept within the same enclosed area. The area must be maintained in a sanitary condition and be free from debris or stored material.

B. Garages, sheds, screened or enclosed porches, and alcoves may be considered shelter or protection from the weather provided:

1. During the spring and summer, the structure is ventilated so as to provide movement of air;
2. In a heated structure during fall and winter, an area must be provided for the animal that contains bedding (blankets, straw, etc.) sufficient to keep the animal insulated from the floor of the structure; and
3. In an unheated structure during fall and winter, an enclosure must be provided consisting of four walls and a top (which may be an igloo-type house), and is sufficiently large enough that the animal is able to stand up and turn around while inside; said enclosure is for the purpose of retaining the body heat of the animal; bedding (blankets, straw, etc.) must also be provided.

C. Any time that an animal is left outside, tethered or not, and the owner is absent from the property, a suitable structure (dog house, shed, garage, screened porch, alcove, or working pet door) must be provided as shelter for animal and if tethered, the tether must be positioned so the animal may enter the structure easily.

Dog Law of Pennsylvania Act of 1982

Section 305. Confinement and housing of dogs not part of a kennel.

(a) Confinement and control.--It shall be unlawful for the owner or keeper of any dog to fail to keep at all times the dog in any of the following manners:

- (1) confined within the premises of the owner;
- (2) firmly secured by means of a collar and chain or other device so that it cannot stray beyond the premises on which it is secured; or
- (3) under the reasonable control of some person, or when engaged in lawful hunting, exhibition, performance events or field training.

(b) Housing.--It shall be unlawful for the owner or keeper of a dog to house the dog for any period of time in a drum, barrel, refrigerator or freezer regardless of the material of which the drum, barrel, refrigerator or freezer is constructed.

(305 amended Oct. 9, 2008, P.L.1450, No.119)

From padoglicense.com

**Please be advised that Pennsylvania State Law mandates that all dogs 3 months of age or older must be licensed. Dog Licenses must be purchased by January 1st of each year REGARDLESS of when the license was purchased the previous year. State Dog Wardens are performing "License and Rabies Compliance Checks" throughout the Commonwealth using PADogLicense.com Real Time system to track unlicensed dogs. State Dog Wardens may issue fines up to \$300.00 plus court cost per dog for violation of this law.**

## Judy Benes

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**From:** Enea, Deborah J. <enead@pepperlaw.com>  
**Sent:** Monday, September 12, 2016 4:39 PM  
**To:** Judy Benes  
**Subject:** RE: West Chester Public Library Board  
**Attachments:** Enea Resume (2016).pdf

Ms. Benes,

Hope you had a good weekend. Just following up on my email below.

Kind regards,

Deborah

**Deborah J Enea**  
Associate

**Pepper Hamilton LLP**  
Attorneys at Law

400 Berwyn Park | 899 Cassatt Road  
Berwyn, Pennsylvania 19312-1183  
p: 610.640.7813 | f: 800.856.5310 | [bio](#)

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**From:** Enea, Deborah J.  
**Sent:** Wednesday, September 07, 2016 11:09 AM  
**To:** 'jbenes@west-chester.com'  
**Subject:** West Chester Public Library Board

Ms. Benes,

I received your contact information from Matt Holliday, who suggested that I email you regarding my interest in serving on the Board of the West Chester Public Library. I grew up in West Chester and have returned after many years away. Now, as a resident of the Borough, I would like to be active in our community, specifically by supporting the West Chester Public Library as a board member.

Professionally, I am a finance attorney with Pepper Hamilton, representing lenders and corporate borrowers in banking and finance transactions. I have extensive board experience including as Chair of the Arts Commission of the City of Roswell (appointed by the Mayor and City Council of Roswell, Georgia), as Board Member of the City of Roswell Convention and Visitors Bureau, as Vice-Chair of the Board of the Roswell Arts Fund, as President of the Temple University Atlanta Alumni Association, and as Regional Vice President of the Colgate University Alumni Council, among other volunteer work.

I graduated with honors from Emory University School of Law, and earned an M.A. in art history from the Tyler School of Art at Temple University and a B.A. in art history from Colgate University from which I received the District Clubs Award for Distinguished Individual Alumnus. I am also a graduate of Leadership Buckhead (Atlanta) and the Atlanta Regional Commission's Arts Leaders of Metro Atlanta programs.

Personally, my husband, daughters and I visit the library frequently, and have taken advantage of many of the programs and events throughout the county library system, from the mini-golf fundraiser at the West Chester branch to the

mother-daughter book club at the Henrietta Harkin branch to the science programs and camps at the West Chester, Downingtown and Phoenixville branches. I would like to specifically support the West Chester Public Library as a board member because of its rich architectural heritage and its history in the community. I can contribute my time and my experience in finance, law and the arts to help the West Chester Public Library serve its mission and meet its goals.

Matt suggested scheduling an interview with the committee of our West Chester Borough Council. Please let me know what is convenient for the committee. I attach my resume and look forward to hearing from you.

Kind regards,

Deborah

**Deborah J. Enea**  
Associate

**Pepper Hamilton LLP**  
Attorneys at Law

400 Berwyn Park | 899 Cassatt Road  
Berwyn, Pennsylvania 19312-1183  
p: 610.640.7813 | f: 800.856.5310 | [bio](#)

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# Deborah J. Enea

## EXPERIENCE

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### PEPPER HAMILTON LLP Philadelphia, PA and Berwyn, PA

Finance Associate Attorney

May 2015 | Present

- Represent creditors, investors, national and regional banks, finance companies, and public and private companies in financing transactions in a variety of industries.
- Draft documentation for credit facilities, acquisition financings and other leveraged financings.
- Supervise junior associates and staff.
- Negotiate extensively with opposing and local counsel.
- Associates Committee Liaison

### KING & SPALDING, LLP Atlanta, GA

Finance Associate Attorney

2010 | May 2015

- Represented creditors, investors, national and regional banks, finance companies, and public and private companies in financing transactions in a variety of industries.
- Drafted documentation for credit facilities, recapitalizations and other leveraged financings.
- Negotiated extensively with opposing and local counsel.
- Publications:
  - Client Alert: *A "Third Rail" for Secured Creditors: Filing a Competing Bankruptcy Plan during a Debtor's Exclusivity Period*; and
  - State Bar CLE: *Legal Transactions of Genesis & Modern Professionalism Insights*.

### U. S. SECURITIES AND EXCHANGE COMMISSION Atlanta, GA

Field Placement Clerk

Spring 2009

- Reviewed and commented on bankruptcy disclosure statements / chapter 11 reorganization plans.

### PRESIDIO (F/K/A SOLARCOM / SUNDATA) Atlanta, GA

Finance Program Manager

2003 | 2006

Leasing and Finance Credit Analyst

1999 | 2003

- Managed leasing programs earning 15% of gross revenues for a middle-market tech company.
- Developed and managed capital relationships with banks and finance companies.
- Negotiated buy rates, lease agreements and purchase of paper contracts.

### THE CIT GROUP (EQUIPMENT, VENDOR AND FRANCHISE FINANCE GROUPS) Atlanta, GA

Credit Analyst

1997 | 1999

Transaction Coordinator

1996 | 1997

- Rendered 250+ credit decisions and managed credit functions for key corporate accounts.
- Managed loan documentation and UCC financing statement filing processes.
- Supervised staff.

## ADMISSIONS

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Georgia Bar

Pennsylvania Bar

# Deborah J. Enea

## EDUCATION

---

### Emory University School of Law

J.D. with Honors 2009

- 3.715 GPA #12 out of 216
- Order of the Coif (Top 10% of Class)
- Emory Law Journal, Articles Editor

### Tyler School of Art, Temple University

M.A. Art History 1995

### Colgate University

B.A. Art & Art History 1991

## LEADERSHIP, COMMUNITY SERVICE & AWARDS

---

Chair and Board Member, City of Roswell, GA Arts Commission 2012 | 2015

Vice-Chair and Counsel, Roswell Arts Fund 2014 | 2015

Board Member, City of Roswell, GA Convention and Visitors Bureau 2015

President and Board Director, Temple University Atlanta Alumni Association 2006 | 2015

Graduate, Atlanta Regional Commission - Art Leaders of Metro Atlanta 2013 | 2014

Volunteer, Pro Bono Partnership of Atlanta Non-Profit Legal Check-up 2010 | 2013

Southeast Regional Vice-President, Colgate University Alumni Council 2002 | 2006

- District Clubs Award for Distinguished Individual Alumnus

Board Member, Tyler School of Art Board of Directors 2001 | 2003

Graduate, Leadership Buckhead (Atlanta) 2000 | 2002

Assistant Manager, Language Services, Baseball Stadium, Atlanta Olympic Games 1996

## Judy Benes

---

**From:** Matthew Holliday <matthewm.holliday@gmail.com>  
**Sent:** Tuesday, September 13, 2016 10:06 AM  
**To:** Judy Benes  
**Subject:** Re: Library Board

Karen Reitano and Damon Kletzien both resigned. They told me they informed the borough and I thought Victoria had as well.

~Matt

Sent from my iPhone

On Sep 13, 2016, at 9:32 AM, Judy Benes <[jbenes@west-chester.com](mailto:jbenes@west-chester.com)> wrote:

### West Chester Library Board

|                    |
|--------------------|
| Lance Nelson       |
| Damon Kletzien     |
| Christina Faccioli |
| Richard May        |
| Scott Kirkland     |
| Ann Hess           |
| Rachel Kagan       |
| Howard Sundwall    |
| Mary Brooks        |
| Jean Speiser       |
| Marita Barber      |
| Karen Reitano      |
| Matt Holliday      |

*Judy K. Benes*

Judy K. Benes  
Executive Assistant to Borough Manager  
**Borough of West Chester**  
[jbenes@west-chester.com](mailto:jbenes@west-chester.com)  
610-344-3246 (W)  
610-436-0009 (F)

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9/27/16  
TE

Borough of West Chester  
401 East Gay Street  
West Chester, PA 19380  
610-692-7574  
[www.west-chester.com](http://www.west-chester.com)

2016  
~~2015~~ BANNER APPLICATION

**General:** Banners shall be permitted to promote community events only (e.g., non-profit, charitable, educational, fraternal, civic, or service organizations). Banners promoting business and commercial enterprises are not permitted.

Installation dates will not be reserved until the application is completed in its entirety and submitted at least 45 days in advance of desired date. **A banner application requires approval by Borough Council at a public meeting.**

**Applicant Information:**

Name: Hannah Vogelsong  
Organization: Delta Phi Epsilon  
Address: 230 E. Rosedale, Apt. 109, West Chester, PA  
Phone: (484)-888-2365 Email: hannahvogelsong@yahoocom 19382

An application executed on behalf of a corporation, partnership, association or a not-for-profit must be executed by the Chief Executive.

**Requested Dates:**

Requested Installation Date: November 3, 2016  
Requested Removal Date: November 17, 2016

**Installation Information:**

Organization responsible for Installation and Removal of Banner: Delta Phi Epsilon  
Contact Person: Hannah Vogelsong  
Phone Number: 484-888-2365  
E-Mail: hannahvogelsong@yahoo.com

**Content & Text Description:** (Include Picture of proposed banner. Exact wording required)

\* Picture is attached.

**Requested Location Information:**

(any of them, whichever is free)

3 West Gay Street (28' 3")



22 West Market Street (42' 10")

2 North High Street (45' 3")



36 East Market Street (36' 1")

Distances are measured from "pole to pole". All banner lengths should be 6 feet less than the length listed to allow for tying off at each end.

**BANNER CONSTRUCTION DESIGN REQUIREMENT**

1. Minimum/Maximum height: 24 inches to 36 inches
2. All banners will be created of at least 18 ounce vinyl.
3. Metal grommets installed at all four corners and across the top edge of the banner to secure the banner to the guide line.
4. Grommets should be spaced no more than 30 inches apart across the top edge of the banner.
5. All banners should have reinforced corners to protect against wind damage.

**REGULATIONS AND CONDITIONS DISPLAY OF BANNERS**

By signing below, the Applicant agrees that he or she has read and agrees to fully comply with the following Regulations and Conditions and agrees that any banner displayed by the Applicant is subject to the following regulations and conditions:

1. Hanging and displaying of banner must be in complete conformance with the application as submitted and approved by Borough Council and in accordance with the Regulations and Conditions stated herein.
2. Installation of the banner will be in compliance with all applicable state and local policies and regulations is the **sole responsibility of the applicant and organization(s)**.
3. No banner may be hung lower than **fifteen (15) feet** over the street or public way. Banners are not permitted to be attached to traffic signal standards.
4. After approval, the banner may not be hung more than fourteen (14) days prior to the date of the event being advertised and must be removed no later than seven (7) days following the concluding date of the event being advertised.
5. A banner not removed within seven (7) days after the advertised event has concluded may be removed by the Borough with the sponsoring person(s) and organization held liable for the actual cost of the removal.
6. Banners hung without proper approval must be removed within two (2) working days after the Applicant or sponsoring organization(s) responsible have been notified by any means of communication. Failure to remove the banner after notification shall result in the Borough removing same at a charge to the Applicant and/or organization(s) of the actual cost of removal. Further, unauthorized hanging of a banner may subject the Applicant or sponsoring organization(s) to fines levied per local Ordinance.

7. Applicants and the sponsoring organization(s) and applications assume sole and exclusive liability in connection with any and all aspects of the banner, including but not limited to its content, installation, removal, and maintenance.
8. The Applicant and the sponsoring organization(s) hereby agree to indemnify, defend and save and hold harmless the Borough of West Chester, its officers, employees, agents, Council members and their successors and assigns (collectively, the Indemnified Party) from and against, and to reimburse the Indemnified Party with respect to, any and all claims, demands, causes of actions, losses, damages, liabilities, costs and expenses (including reasonable attorney's fees and expenses and court costs) asserted against or incurred by the Indemnified Party by reason or arising out of the Applicant's and the sponsoring organization(s) display of a banner across a street or way in the Borough of West Chester.
9. The Borough of West Chester is not responsible or liable for ripped, torn, or otherwise damaged banners. It is the responsibility of the applicant to secure a company to hang and take down their banner on the approved dated.

\* If a banner becomes dislodged, falls down, rips, tears, or otherwise is not hanging in its intended position it is the responsibility of the banner permit recipient to have the banner taken down immediately at the recipient's cost.

**The Applicant has reviewed each of the above eight regulations and conditions for display of banners, and agrees to adhere to and be bound by such regulations and conditions.**

*Nannah Vogelsson*

**Applicant Signature**

*9/27/16*

**Date**

**For Borough Use Only:**

Approved

Denied

Borough Manager Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## Judy Benes

---

**From:** Hannah Vogelsong <hannahvogelsong@yahoo.com>  
**Sent:** Thursday, October 13, 2016 1:06 PM  
**To:** Judy Benes  
**Subject:** Banner Request

Judy-

The banner will look something like the attached image. It will state:  
West Chester University's Delta Phi Epsilon is hosting their annual Deeper Dude competition to benefit the Cystic Fibrosis Foundation on Wednesday, November 16th at 7PM in Asplundh Concert Hall, West Chester University!

All are welcome! \$6 for students \$8 for adults!

For more information e-mail [hannahvogelsong@yahoo.com](mailto:hannahvogelsong@yahoo.com)

Thank you so much for your time!  
I look forward to hearing back from you soon!

**Hannah Vogelsong**  
West Chester University 2018  
*Communication Studies*

*Delta Phi Epsilon Invites You...*

# **DEEPHER DUDE**

**HE'S THE ONE THAT WE WANT**



*November 16<sup>th</sup>, 2016 at 7:00pm*

*Asplundh Concert Hall, West Chester University*

**ALL PROCEEDS BENEFIT  
THE CYSTIC FIBROSIS FOUNDATION**

**Hannah Vogelsong**  
West Chester University 2018  
*Communication Studies*



September 2016

To Whom It May Concern:

Please be informed that Hannah Vogelsong and the sisters of Delta Phi Epsilon are soliciting for their Deeper Dude Event being held at West Chester University on November 16, 2016 which will benefit the Cystic Fibrosis Foundation. We are asking for your help by donating items or gift certificates that can be used for auction or sale during the event. Any funds that you donate will help in our effort to raise monies for research to find a cure for Cystic Fibrosis, and help children with this progressive and fatal disease live a healthier life.

Your support will make an impact! Cystic fibrosis is a life-threatening genetic disease that affects the lungs and digestive systems of approximately 30,000 children and adults in the United States (70,000 worldwide). More than 10 million Americans are symptomless carriers of the defective CF gene. Using the same results-driven approach of a for-profit company, The CF Foundation created a robust pipeline of therapies; including treatments targeting the underlying cause of CF. We will not rest until the fight against CF is brought to a triumphant close.

Your commitment will make a difference in the lives of all cystic fibrosis patients.

We thank you for your support in the fight against cystic fibrosis. The Cystic Fibrosis Foundation's tax exempt information is available upon request. If you have any questions, please do not hesitate to contact us at (610) 325-6001.

Sincerely,

Kate Hylan  
Development Director  
[khylan@cff.org](mailto:khylan@cff.org)

The Cystic Fibrosis Foundation has unrestricted financial reserves of about 15 times its budgeted annual expenses, following a one-time royalty sale in 2014. These funds, along with the public's continuing support, are needed to help accelerate our efforts to pursue a lifelong cure for this fatal disease, develop lifesaving new therapies and help all people with CF live full, productive lives. To request a copy of our Strategic Plan, email [info@cff.org](mailto:info@cff.org) or call 800 FIGHT-CF.

*Delta Phi Epsilon Invites You...*

# **DEEPHER DUDE**

**HE'S THE ONE THAT WE WANT**



*November 16<sup>th</sup>, 2016 at 7:00pm*

*Asplundh Concert Hall, West Chester University*

**ALL PROCEEDS BENEFIT  
THE CYSTIC FIBROSIS FOUNDATION**



Borough of West Chester  
401 East Gay Street  
West Chester, PA 19380  
610-692-7574  
[www.west-chester.com](http://www.west-chester.com)

### 2016 BANNER APPLICATION

**General:** Banners shall be permitted to promote community events only (e.g., non-profit, charitable, educational, fraternal, civic, or service organizations). Banners promoting business and commercial enterprises are not permitted.

Installation dates will not be reserved until the application is completed in its entirety and submitted at least 45 days in advance of desired date. **A banner application requires approval by Borough Council at a public meeting.**

#### Applicant Information:

Name: Stanley Edwards  
Organization: Stanley's Dream Foundation  
Address: 3 W Jonathan Ct, Kennett Sq, Pa 19348  
Phone: 484-888-8801 Email: Sedwards267@comcast.net

An application executed on behalf of a corporation, partnership, association or a not-for-profit must be executed by the Chief Executive.

#### Requested Dates:

Requested Installation Date: December 1, 2016 12.1.16  
Requested Removal Date: January 8, 2017 1-8-17

#### Installation Information:

Organization responsible for Installation and Removal of Banner: \_\_\_\_\_  
Contact Person: Kevin M. Beans  
Phone Number: 610-436-1349  
E-Mail: kbeans@west-chester.com

#### Content & Text Description: (Include Picture of proposed banner. Exact wording required)

STANLEY'S Dream - 5K RUN / WALK - supporting The Fight Against Brain Cancer  
NEW YEARS DAY • W C LOOP

Sponsors Listed on Banner are { Chester County Running store, Zachary's B B Q, Mercedes-Benz West Chester, Barnaby's, Willie Anderson Select Agent, State Farm Insurance, wells fargo }

**Requested Location Information:**

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> 3 West Gay Street (28' 3") | <input type="checkbox"/> 22 West Market Street (42' 10") |
| <input type="checkbox"/> 2 North High Street (45' 3")          | <input type="checkbox"/> 36 East Market Street (36' 1')  |

Distances are measured from "pole to pole". All banner lengths should be 6 feet less than the length listed to allow for tying off at each end.

**BANNER CONSTRUCTION DESIGN REQUIREMENT**

1. Minimum/Maximum height: 24 inches to 36 inches
2. All banners will be created of at least 18 ounce vinyl.
3. Metal grommets installed at all four corners and across the top edge of the banner to secure the banner to the guide line.
4. Grommets should be spaced no more than 30 inches apart across the top edge of the banner.
5. All banners should have reinforced corners to protect against wind damage.

**REGULATIONS AND CONDITIONS DISPLAY OF BANNERS**

By signing below, the Applicant agrees that he or she has read and agrees to fully comply with the following Regulations and Conditions and agrees that any banner displayed by the Applicant is subject to the following regulations and conditions:

1. Hanging and displaying of banner must be in complete conformance with the application as submitted and approved by Borough Council and in accordance with the Regulations and Conditions stated herein.
2. Installation of the banner will be in compliance with all applicable state and local policies and regulations is the **sole responsibility of the applicant and organization(s)**.
3. No banner may be hung lower than **fifteen (15) feet** over the street or public way. Banners are not permitted to be attached to traffic signal standards.
4. After approval, the banner may not be hung more than fourteen (14) days prior to the date of the event being advertised and must be removed no later than seven (7) days following the concluding date of the event being advertised.
5. A banner not removed within seven (7) days after the advertised event has concluded may be removed by the Borough with the sponsoring person(s) and organization held liable for the actual cost of the removal.
6. Banners hung without proper approval must be removed within two (2) working days after the Applicant or sponsoring organization(s) responsible have been notified by any means of communication. Failure to remove the banner after notification shall result in the Borough removing same at a charge to the Applicant and/or organization(s) of the actual cost of removal. Further, unauthorized hanging of a banner may subject the Applicant or sponsoring organization(s) to fines levied per local Ordinance.

7. Applicants and the sponsoring organization(s) and applications assume sole and exclusive liability in connection with any and all aspects of the banner, including but not limited to its content, installation, removal, and maintenance.
8. The Applicant and the sponsoring organization(s) hereby agree to indemnify, defend and save and hold harmless the Borough of West Chester, its officers, employees, agents, Council members and their successors and assigns (collectively, the Indemnified Party) from and against, and to reimburse the Indemnified Party with respect to, any and all claims, demands, causes of actions, losses, damages, liabilities, costs and expenses (including reasonable attorney's fees and expenses and court costs) asserted against or incurred by the Indemnified Party by reason or arising out of the Applicant's and the sponsoring organization(s) display of a banner across a street or way in the Borough of West Chester.
9. The Borough of West Chester is not responsible or liable for ripped, torn, or otherwise damaged banners. It is the responsibility of the applicant to secure a company to hang and take down their banner on the approved dated.

*\* If a banner becomes dislodged, falls down, rips, tears, or otherwise is not hanging in its intended position it is the responsibility of the banner permit recipient to have the banner taken down immediately at the recipient's cost.*

**The Applicant has reviewed each of the above eight regulations and conditions for display of banners, and agrees to adhere to and be bound by such regulations and conditions.**

*Stanley Edwards*  
 Applicant Signature

*5-23-2016*  
 Date

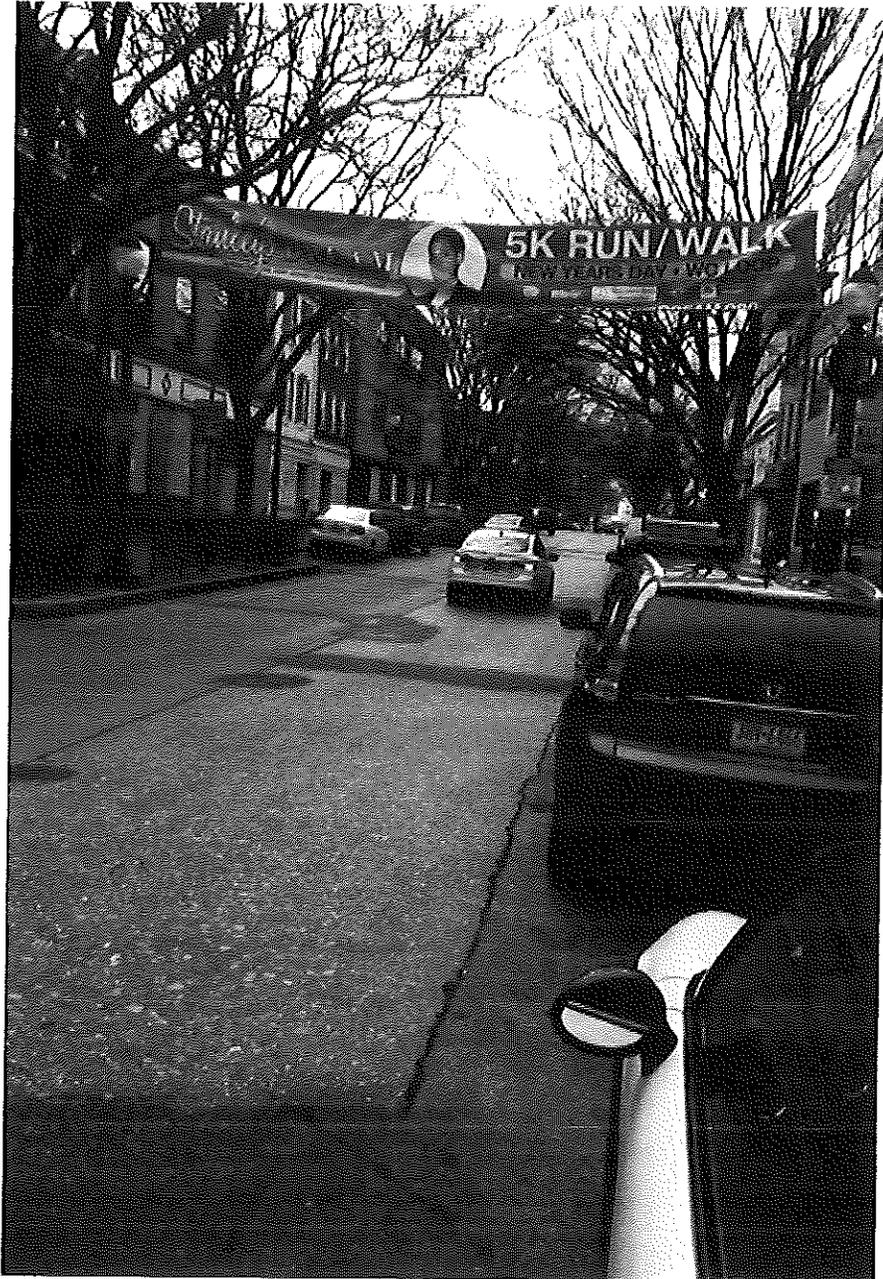
**For Borough Use Only:**

Approved

Denied

Borough Manager Signature: \_\_\_\_\_

Date: \_\_\_\_\_



Veterans Day Parade 11/6/14

Special Event, Race, Public Assemblage Permit Checklist 2016

1:30 - 4 pm



BOROUGH OF WEST CHESTER  
CHESTER COUNTY PENNSYLVANIA

Special Event, Race, Public Assemblage Checklist

December 2015 version

Completed and signed application



Description of event

Map of event and address

List of Food Vendors, with Chester County Health Dept. licenses (if applicable)

List of Subcontractors with Insurance Certificates

- All subcontractors need to have a COI naming the Borough of West Chester "as additionally insured"

Borough Services requested *WC PD*

- Provide description

Applicant Certificate of Insurance

- All subcontractors need to have a COI naming the Borough of West Chester "as additionally insured"

Application fee (cash, check, or money order) ~~250.00~~ ✓ #568 250.00

- Application fee is NON REFUNDABLE

Public Transportation approval verification (SEPTA, TMACC, and/or Krapf's Buses)

- need TMACC and/or Septa approval as of 9/28/14
- rec'd 9/28/14 via email

PLCB Permit (if applicable)

\*All items on this list must be included with your application. If any of these items are not included, your application will be considered incomplete and will be returned to you



# BOROUGH OF WEST CHESTER CHESTER COUNTY PENNSYLVANIA

## Special Event, Race, Public Assemblage Permit 2016

December 2015 ver.

\*SUBMITTING AN APPLICATION DOES NOT GRANT THE APPLICANT A PERMIT OR PERMISSION TO HOLD AN EVENT.

\*All applications and application fees MUST be submitted 45 days prior to your event date. NO EXCEPTIONS

\*An application fee of \$250.00 is required with all event applications

\*An application fee of \$50.00 is required with all "block party" applications

Application fees are NON REFUNDABLE

### Applicant Information

Name of applicant/group/org. ChesCo Marine Corps League / WC Veterans Council

Date applications was submitted to the Borough 9-8-16

Main Contact Name John O'Neal Cell phone 610 350 8549

Home phone 610 486 0365 email jaocarm@aol.com

Main Contact address 1674 Embree

Day of Event Contact and Cell Phone (if different from above)

Non-Profit Organization  YES  NO (if yes, please attach current verification of 501 (c) (3) status) 501 C 3 Veterans

### Event Information

Name of event West Chester Veterans Day Parade

Date/s of event and times 6 Nov 2016 2 PM to 4 PM

Set up and breakdown times for event 1:30 PM to 4 PM

Description of event (use separate sheet of paper if needed)

Community parade from Henderson High School  
South Penn St, W on East Bay St to High St,  
South High to Market. Ceremony in front of Old Ct House

Event info cont'd

Type of Event: Walk/Run  Parade  Block Party  Festival   
Film  March/Rally  Other  (If other, explain below)

Event Location -- Use the attached map to provide event location/address

Address - See Route

List all street closures, on a separate sheet of paper, in addition to the attached map.

Will your event cause delays or alternate routes for Public Transportation? YES NO  
SEPTA Svc Request File #789485 to be reviewed in October  
If yes, you are required to submit proof of notification from SEPTA and/or TMACC

SEPTA -- 215-580-7800 <http://www.septa.org/cs/ask/>

TMACC (Transportation Management Authority of Chester County) 610-993-0911  
<http://www.tmaccc.org/public-transportation/>

Total number of expected participants and/or attendance? 700

Total number of workers/volunteers/marshals for event? 20

Will your event have food vendors, food trucks, or caterers? YES NO

If yes, you will need to provide a list of all food vendors with a copy of that vendor's Chester County Health Dept. yearly license or Temporary Event License specific to your event. 610-344-6000 <http://www.chesco.org/2652/Temporary-Events>

- All food vendors are required to provide a certificate of insurance naming the Borough of West Chester as "additionally insured"

Will you event have crafters, non-crafters, or information booths? YES NO

If yes, how many vendors do you plan on attending? \_\_\_\_\_

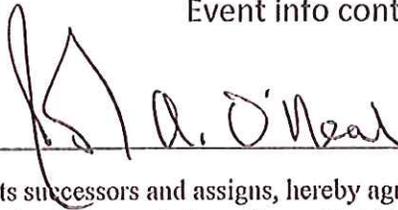
- All vendors (non-food) need to submit the waiver and release form to participate in your event

List (on a separate sheet of paper) any/all subcontractors or 3<sup>rd</sup> party companies hired to help run the event (Examples - port-o-potties, trash removal, fencing, sound, inflatables, etc.)

- ALL subcontractors need to provide proof of insurance with a certificate of insurance naming "the Borough of West Chester as additionally insured" and must be properly endorsed.

Event info cont'd

Signature of applicant: x

 J. A. O'Neal

Date:

9-8-16

Applicant, for itself and its successors and assigns, hereby agrees to reimburse the Borough for reasonable attorney fees/costs of suit that it incurs, indemnify, and hold harmless, the Borough, and its officers, supervisors, employees, attorneys, successors and assigns from and against losses, liabilities, claims, demands, causes of action, damages, costs, including reasonable attorneys' fees, and expenses of every kind and nature, whether or not covered by insurance, arising out of, resulting from or caused by, in whole or part, any negligent act, error, omission or willful misconduct on part of Applicant, its agents, employees or subcontractors in connection Applicant pursuant to this Agreement, including but not limited to, those in connection with loss of life, bodily injury, personal injury, damage to property, contamination or adverse effects on the environment, any liability for fines, fees or penalties for violations of any statutes, ordinances, codes, rules, regulations or standards applicable to the services performed by Applicant, its agents, employees or subcontractors (hereinafter "Acts and/or Omissions"). These obligations contained within this Section shall survive the termination of this Agreement. Notwithstanding anything to the contrary as may be contained above, the Applicant shall reimburse the Borough for reasonable attorney's fees/costs of suit that it incurs in defending any suits or claims attributable (as determined by a Court of competent jurisdiction) to any Acts and/or Omissions.

568

60-435/319  
2197127

WEST CHESTER VETERANS COUNCIL

DATE 9-8-16

PAY TO THE ORDER OF Borough of West Chester \$250.00

Two Hundred Fifty 00/100 DOLLARS

The First National Bank  
of West Chester  
West Chester, Pennsylvania 19380

*J. A. Dineen*

MEMO Parade Apples

⑆031904395⑆ 219⑆⑆ 712⑆⑆ 71⑆ 0568

Client#: 20719

MARCO3

**ACORD**

**CERTIFICATE OF LIABILITY INSURANCE**

DATE (MM/DD/YYYY)  
09/06/2016

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the forms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER  
Rust Insurance Agency, LLC  
1510 H Street NW, 5th floor  
Washington, DC 20005  
202 776-5000

CONTACT NAME: Billy Simons  
PHONE (A/C No., Ext): 202 776-5013 FAX (A/C No.): 202 776-1288  
EMAIL ADDRESS:

| INSURER(S) AFFORDING COVERAGE    | NAIC # |
|----------------------------------|--------|
| INSURER A: Philadelphia Ins. Co. |        |
| INSURER B:                       |        |
| INSURER C:                       |        |
| INSURER D:                       |        |
| INSURER E:                       |        |
| INSURER F:                       |        |

INSURED  
Chester County Marine Corps League  
Detachment #286  
430 Acorn Lane  
Downingtown, PA 19335

**COVERAGES**      **CERTIFICATE NUMBER:**      **REVISION NUMBER:**  
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| POLICY NO.   | TYPE OF INSURANCE   | ADDL. INSURER                            | POLICY NUMBER | POLICY EFF. DATE (MM/DD/YYYY) | POLICY EXP. DATE (MM/DD/YYYY)  | LIMITS                                     |                                      |             |
|--|---|--|---------------|-------------------------------|--------------------------------|--|--------------------------------------|-------------|
|  |   |  |               |                               |                                |  |                                      |             |
| A  | GENERAL LIABILITY   |  | EV07399       | 11/06/2016                    | 11/07/2016                     | EACH OCCURRENCE                            | \$1,000,000                          |             |
|  | <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY                              |  |               |                               |                                | DAMAGE TO RENTED PREMISES (Per Occurrence) | \$100,000                            |             |
|  | <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR                |  |               |                               |                                | MED EXP (Any one person)                   | \$EXCLUDED                           |             |
|  | GENL AGGREGATE LIMIT APPLIES PER:   |  |               |                               |                                |  | PERSONAL & ADV INJURY                | \$1,000,000 |
|  | <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC |  |               |                               |                                | GENERAL AGGREGATE                          | \$3,000,000                          |             |
|  |   |  |               |                               |                                |  | PRODUCTS - COMP/OP AGG               | \$3,000,000 |
|  |   |  |               |                               |                                |  |                                      | \$          |
|  | AUTOMOBILE LIABILITY  |  |               |                               |                                |  | COMBINED SINGLE LIMIT (Per accident) | \$          |
|  | <input type="checkbox"/> ANY AUTO   | <input type="checkbox"/> SCHEDULED AUTOS |               |                               |                                | BODILY INJURY (Per person)                 | \$                                   |             |
|  | <input type="checkbox"/> ALL OWNED AUTOS  | <input type="checkbox"/> NON-OWNED AUTOS |               |                               |                                | BODILY INJURY (Per accident)               | \$                                   |             |
| <input type="checkbox"/> HIRED AUTOS   |   |  |               |                               | PROPERTY DAMAGE (Per accident) | \$   |                                      |             |
|  |   |  |               |                               |                                |  | \$                                   |             |
| UMBRELLA LIAB  |   |  |               |                               |                                | EACH OCCURRENCE                            | \$                                   |             |
| EXCESS LIAB  |   |  |               |                               |                                | AGGREGATE                                  | \$                                   |             |
| DED  |   |  |               |                               |                                |  | \$                                   |             |
| RETENTION \$   |   |  |               |                               |                                |  | \$                                   |             |
| WORKERS COMPENSATION AND EMPLOYERS' LIABILITY                                |   |  |               |                               |                                | WC STATUTORY LIMITS                        | OTHER                                |             |
| ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in Ill) |   |  |               |                               |                                | E.L. EACH ACCIDENT                         | \$                                   |             |
| If yes, describe under DESCRIPTION OF OPERATIONS below                       |   |  |               |                               |                                | E.L. DISEASE - EA EMPLOYEE                 | \$                                   |             |
|  |   |  |               |                               |                                | E.L. DISEASE - POLICY LIMIT                | \$                                   |             |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)  
Marine Corps League Detachment #286, Attn: John O'Neal, 430 Acorn Lane, Downingtown, PA 19335.  
-Veterans Day Parade at Gay Street at High Street old Court House, West Chester, PA on November 6, 2016.

Certificate Holder is listed as additional Insured

**CERTIFICATE HOLDER**

**CANCELLATION**

The Borough of West Chester  
401 E. Gay Street  
West Chester, PA 19380

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

*[Signature]*

© 1988-2010 ACORD CORPORATION. All rights reserved.

Borough of West Chester Services Requested

Check ALL that apply:

Police Security

Police Traffic Control

Police Traffic Diversion

Public Works Road Closures

Public Works Waste Removal

Parking Dept. No Parking Notifications

Public Works Street Sweeping

\*There is a fee associated with ALL Borough of West Chester services. The Borough of West Chester, in its sole discretion, shall determine the type and level of services and equipment needed to support the event. If the applicant does not hire subcontractors for these services, the Borough will deny the application or require the applicant to use and pay for the Borough's services.

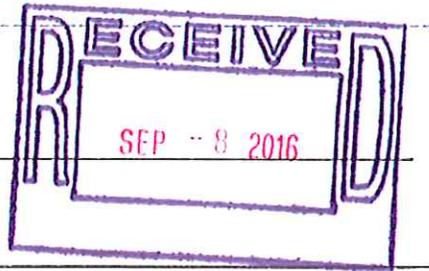
BELOW FOR OFFICE USE ONLY

Date Received: \_\_\_\_\_

Initial Checklist complete: YES NO

Reviewed by Parks, Recreation, & Special Events Dept. Date: \_\_\_\_\_

Notes: \_\_\_\_\_



Reviewed by Public Work YES NO N/A Approved: \_\_\_\_\_

Reviewed by Parking Department YES NO N/A Approved: \_\_\_\_\_

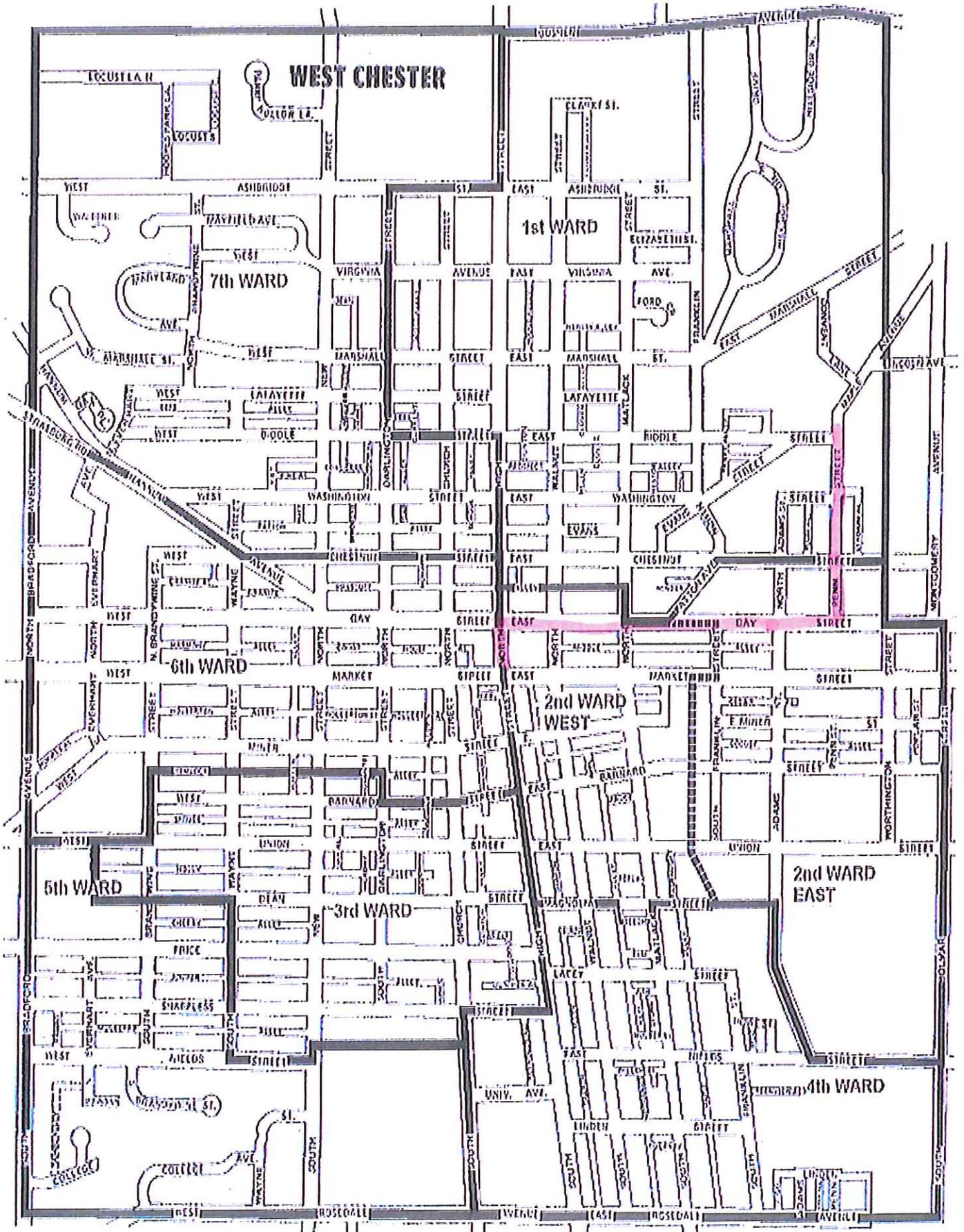
Reviewed by West Chester Police Department: YES NO N/A Date: \_\_\_\_\_

Notes: \_\_\_\_\_

Police approval signature: \_\_\_\_\_ Date: \_\_\_\_\_

Application Denied/Reason: YES NO

Borough Council Approval: \_\_\_\_\_ Date: \_\_\_\_\_



WEST CHESTER BOROUGH VOTING WARDS

**Keith Kurowski**

---

**From:** JAOARM@aol.com  
**Sent:** Wednesday, September 28, 2016 1:54 PM  
**To:** Keith Kurowski  
**Subject:** Fwd: Veteran's Day Parade on Nov 6th

**From:** diane@tmacc.org  
**To:** jaoarm@aol.com  
**CC:** jmeisel@tmacc.org  
**Sent:** 9/28/2016 1:26:15 P.M. Eastern Daylight Time  
**Subj:** Veteran's Day Parade on Nov 6th  
It was nice speaking with you today, John.

As long as the SCCOOT bus has access to the West Chester Transportation Center, the parade will not affect us. It sounds like the parade is traveling west on E. Gay St to High St with the ceremony being held at the Old Courthouse.

Thank you for checking with TMACC.

Have a great day,

Diane Minka, Customer Service Representative

7 Great Valley Parkway, Suite 144 Malvern, PA 19355

610-993-0911 [diane@tmacc.org](mailto:diane@tmacc.org)



*Transportation Management Association  
of Chester County*

Dub C Racing - Brian's Run

12/11/16

Special Event, Race, Public Assemblage Permit Checklist 2016

1:30pm - 3:30pm



# BOROUGH OF WEST CHESTER CHESTER COUNTY PENNSYLVANIA

## Special Event, Race, Public Assemblage Checklist

### December 2015 version'

Completed and signed application

Description of event

Map of event and address

 NA

List of Food Vendors, with Chester County Health Dept. licenses (if applicable)

 NA

List of Subcontractors with Insurance Certificates

- All subcontractors need to have a COI naming the Borough of West Chester "as additionally insured"

Borough Services requested

WCPTD will be needed

- Provide description

Applicant Certificate of Insurance

- All subcontractors need to have a COI naming the Borough of West Chester "as additionally insured"

Application fee (cash, check, or money order)

Cash \$250.00

- Application fee is NON REFUNDABLE

#159098

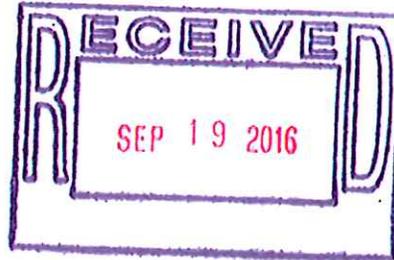
 NA

Public Transportation approval verification (SEPTA, TACC, and/or Krapf's Buses)

 NA

PLCB Permit (if applicable)

\*All items on this list must be included with your application. If any of these items are not included, your application will be considered incomplete and will be returned to you





# BOROUGH OF WEST CHESTER CHESTER COUNTY PENNSYLVANIA

## Special Event, Race, Public Assemblage Permit 2016

December 2015 ver.

\*SUBMITTING AN APPLICATION DOES NOT GRANT THE APPLICANT A PERMIT OR PERMISSION TO HOLD AN EVENT.

\*All applications and application fees MUST be submitted 45 days prior to your event date. NO EXCEPTIONS

\*An application fee of \$250.00 is required with all event applications

\*An application fee of \$50.00 is required with all "block party" applications

Application fees are NON REFUNDABLE

### Applicant Information

Name of applicant/group/org. Dub & Brewing Company / John Manion

Date applications was submitted to the Borough 9/15/16

Main Contact Name John Manion Cell phone 484-653-9185

Home phone \_\_\_\_\_ email Briansrun@gmail.com

Main Contact address 208 West Virginia Ave W.C. PA 19380

Day of Event Contact and Cell Phone (if different from above)  
\_\_\_\_\_

Non-Profit Organization YES NO (if yes, please attach current verification of 501 (c) (3) status)

### Event Information

Name of event Brian's Run

Date/s of event and times 12/11/16 - 2:00 PM - 3:00 PM

Set up and breakdown times for event 1:45 PM - 3:00 PM

Description of event (use separate sheet of paper if needed)  
38<sup>th</sup> Annual Race in W.C.

Event info cont'd

Type of Event:  Walk/Run  Parade  Block Party  Festival   
Film  March/Rally  Other  (If other, explain below)

Event Location – Use the attached map to provide event location/address

Address - Start 400 Montgomery Ave -  
Henderson

List all street closures, on a separate sheet of paper, in addition to the attached map.

Will your event cause delays or alternate routes for Public Transportation? YES  **NO**

If yes, you are required to submit proof of notification from SEPTA and/or TMACC

SEPTA – 215-580-7800 <http://www.septa.org/cs/ask/>

TMACC (Transportation Management Authority of Chester County) 610-993-0911  
<http://www.tmacc.org/public-transportation/>

Total number of expected participants and/or attendance? \_\_\_\_\_

Total number of workers/volunteers/marshals for event? \_\_\_\_\_

Will your event have food vendors, food trucks, or caterers? YES  **NO**

If yes, you will need to provide a list of all food vendors with a copy of that vendor's Chester County Health Dept. yearly license or Temporary Event License specific to your event. 610-344-6000 <http://www.chesco.org/2652/Temporary-Events>

- All food vendors are required to provide a certificate of insurance naming the Borough of West Chester as "additionally insured"

Will you event have crafters, non-crafters, or information booths? YES  **NO**

If yes, how many vendors do you plan on attending? \_\_\_\_\_

- All vendors (non-food) need to submit the waiver and release form to participate in your event

List (on a separate sheet of paper) any/all subcontractors or 3<sup>rd</sup> party companies hired to help run the event (Examples - port-o-potties, trash removal, fencing, sound, inflatables, etc.)

- ALL subcontractors need to provide proof of insurance with a certificate of insurance naming "the Borough of West Chester as additionally insured" and must be properly endorsed.

Borough of West Chester Services Requested

Check ALL that apply:

*1 on Marshall St.*

Police Security

Police Traffic Control

Police Traffic Diversion

Public Works Road Closures

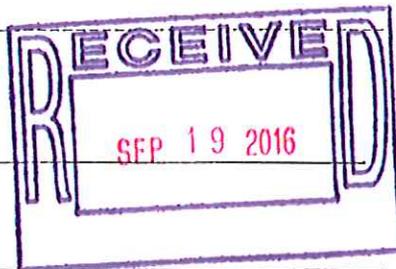
Public Works Waste Removal

Parking Dept. No Parking Notifications

Public Works Street Sweeping

\*There is a fee associated with ALL Borough of West Chester services. The Borough of West Chester, in its sole discretion, shall determine the type and level of services and equipment needed to support the event. If the applicant does not hire subcontractors for these services, the Borough will deny the application or require the applicant to use and pay for the Borough's services.

BELOW FOR OFFICE USE ONLY



Date Received: \_\_\_\_\_

Initial Checklist complete: YES NO

Reviewed by Parks, Recreation, & Special Events Dept. Date: \_\_\_\_\_

Notes: \_\_\_\_\_  
\_\_\_\_\_

Reviewed by Public Work YES NO N/A Approved: \_\_\_\_\_

Reviewed by Parking Department YES NO N/A Approved: \_\_\_\_\_

Reviewed by West Chester Police Department: YES NO N/A Date: \_\_\_\_\_

Notes: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Police approval signature: \_\_\_\_\_ Date: \_\_\_\_\_

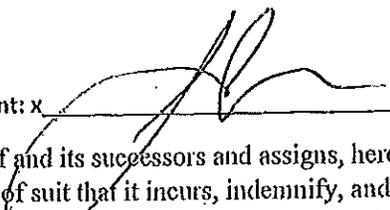
Application Denied/Reason: YES NO

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Borough Council Approval: \_\_\_\_\_ Date: \_\_\_\_\_

Event info cont'd

Signature of applicant: x



Date:



Applicant, for itself and its successors and assigns, hereby agrees to reimburse the Borough for reasonable attorney fees/costs of suit that it incurs, indemnify, and hold harmless, the Borough, and its officers, supervisors, employees, attorneys, successors and assigns from and against losses, liabilities, claims, demands, causes of action, damages, costs, including reasonable attorneys' fees, and expenses of every kind and nature, whether or not covered by insurance, arising out of, resulting from or caused by, in whole or part, any negligent act, error, omission or willful misconduct on part of Applicant, its agents, employees or subcontractors in connection Applicant pursuant to this Agreement, including but not limited to, those in connection with loss of life, bodily injury, personal injury, damage to property, contamination or adverse effects on the environment, any liability for fines, fees or penalties for violations of any statutes, ordinances, codes, rules, regulations or standards applicable to the services performed by Applicant, its agents, employees or subcontractors (hereinafter "Acts and/or Omissions"). These obligations contained within this Section shall survive the termination of this Agreement. Notwithstanding anything to the contrary as may be contained above, the Applicant shall reimburse the Borough for reasonable attorney's fees/costs of suit that it incurs in defending any suits or claims attributable (as determined by a Court of competent jurisdiction) to any Acts and/or Omissions.



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/5/2016

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**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

|   |  |   |                                 |
|---|--|---|---------------------------------|
| <b>PRODUCER</b><br>STAR Insurance - Fort Wayne Office<br>2130 East Dupont Road<br><br>Fort Wayne IN 46025                     |  | <b>CONTACT NAME:</b> Margaret M. Mayers<br><b>PHONE (A/C No. Ext):</b> (260) 467-5689<br><b>FAX (A/C No.):</b> (260) 467-5691<br><b>E-MAIL ADDRESS:</b> margaret.mayers@starfinancial.com |                                 |
| <b>INSURED</b><br>Road Runners Club of America/2016 and Its Member Clubs<br>1501 Lee Highway, Suite 140<br>Arlington VA 22209 |  | <b>INSURER A</b> National Casualty Company<br><b>INSURER B</b> Nationwide Life Insurance Co.<br><b>INSURER C:</b><br><b>INSURER D:</b><br><b>INSURER E:</b><br><b>INSURER F:</b>          | <b>NAIC #</b><br>11991<br>66869 |

**COVERAGES**                      **CERTIFICATE NUMBER:** 2016 \$1M A.I.                      **REVISION NUMBER:**

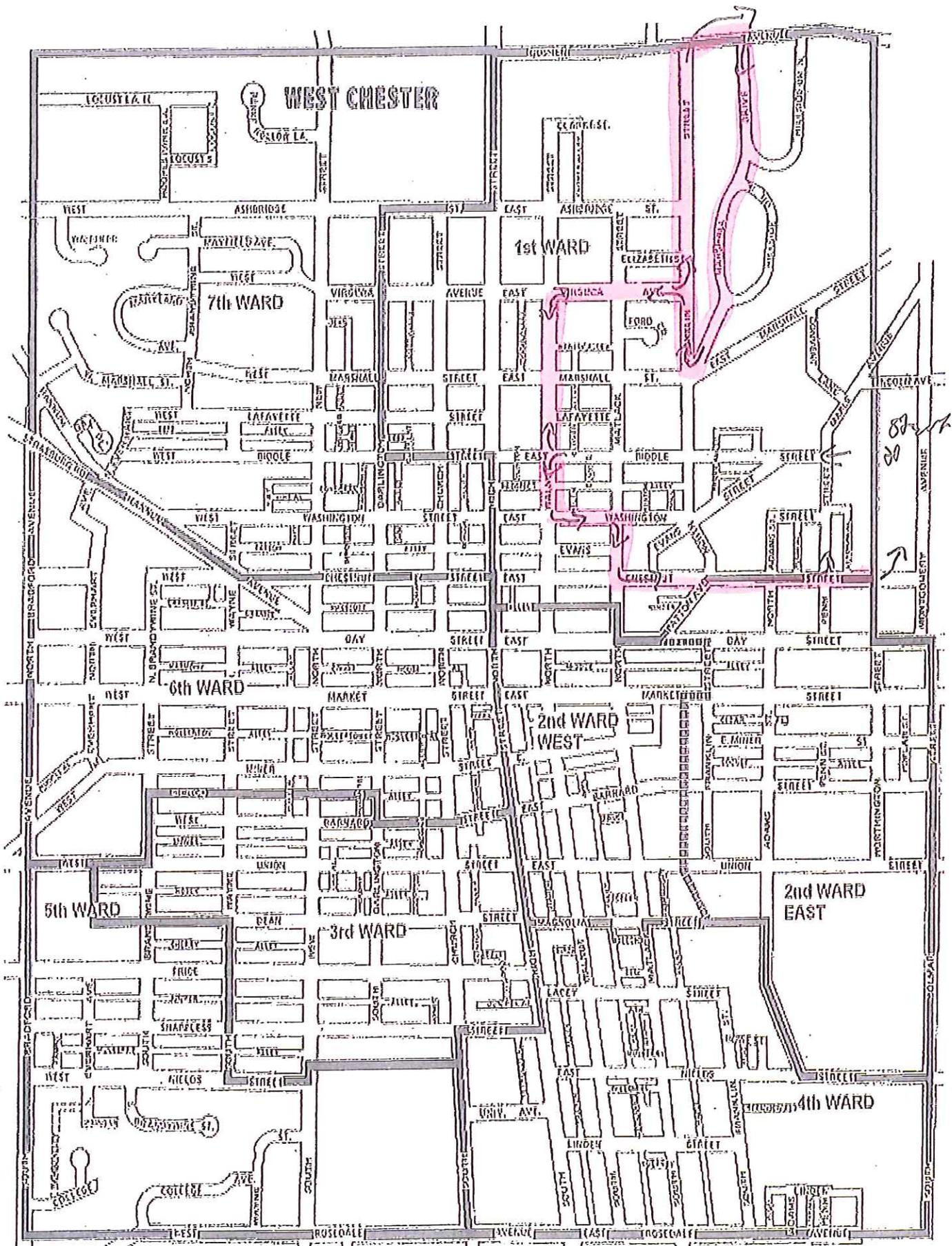
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE  | ADDL SUBR INSD WVD  | POLICY NUMBER    | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS   |
|----------|--|---|------------------|-------------------------|-------------------------|--|
| A        | <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY   |   | KRO0000005887400 | 12/31/2015<br>12:01 AM  | 12/31/2016<br>12:01 AM  | EACH OCCURRENCE \$ 1,000,000   |
|          | <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR   |   |                  |                         |                         | DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000   |
|          | <input checked="" type="checkbox"/> Legal Liability to Participant \$1,000,000   |   |                  |                         |                         | MED EXP (Any one person) \$ 5,000  |
|          | GEN'L AGGREGATE LIMIT APPLIES PER:<br><input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC | Abuse & Molestation<br>Aggregate \$5,000,000                        |                  |                         |                         | PERSONAL & ADV INJURY \$ 1,000,000<br>GENERAL AGGREGATE \$ Unlimited<br>PRODUCTS - COMPOP AGG \$ 1,000,000<br>Abuse & Molestation \$ 500,000 |
| A        | AUTOMOBILE LIABILITY   |   | KRO0000005887400 | 12/31/2015<br>12:01 AM  | 12/31/2016<br>12:01 AM  | COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000   |
|          | <input type="checkbox"/> ANY AUTO ALL OWNED AUTOS  | <input type="checkbox"/> SCHEDULED AUTOS                            |                  |                         |                         | BODILY INJURY (Per person) \$  |
|          | <input checked="" type="checkbox"/> HIRED AUTOS  | <input checked="" type="checkbox"/> NON-OWNED AUTOS                 |                  |                         |                         | BODILY INJURY (Per accident) \$  |
|          |  |   |                  |                         |                         | PROPERTY DAMAGE (Per accident) \$  |
|          | UMBRELLA LIAB EXCESS LIAB  | <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE |                  |                         |                         | EACH OCCURRENCE \$   |
|          | DED RETENTION \$   |   |                  |                         |                         | AGGREGATE \$   |
|          | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY  | <input type="checkbox"/> Y/N <input type="checkbox"/> N/A           |                  |                         |                         | PER STATUTE OTH-ER \$  |
|          | ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory In NH) If yes, describe under DESCRIPTION OF OPERATIONS below             |   |                  |                         |                         | E.L. EACH ACCIDENT \$  |
|          |  |   |                  |                         |                         | E.L. DISEASE - EA EMPLOYEE \$  |
|          |  |   |                  |                         |                         | E.L. DISEASE - POLICY LIMIT \$   |
| B        | Excess Medical & Accident (\$250 Deductible/Claim)   |   | SPX0000027201500 | 12/31/2015<br>12:01 AM  | 12/31/2016<br>12:01 AM  | Excess Medical \$10,000<br>AD & Specific Loss \$2,500  |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
**CERTIFICATE HOLDER IS NAMED AS AN ADDITIONAL INSURED AS RESPECTS TO THEIR INTEREST IN THE OPERATIONS OF THE NAMED INSURED.**      **DATE OF EVENT(S):** 12/11/16 Brian's Run-Road Race      **INSURED RRCA CLUB/EVENT MEMBER:** Chester County Running Club, Att'n: Kevin Kelly; 24 South High Street, West Chester, PA 19382

|  |   |
|--|---|
| <b>CERTIFICATE HOLDER</b><br><br>12/11/16 Borough of West Chester<br>401 East Gay Street<br>West Chester, PA 19380 | <b>CANCELLATION</b><br><br>SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. |
|  | <b>AUTHORIZED REPRESENTATIVE</b><br><br>Terry Diller/LIO <i>Terry R. Diller, etcu</i>   |

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WEST CHESTER BOROUGH VOTING WARDS

Brian's Run Course -

Start - in front of Henderson.  
West on Biddle - South on Walnut -  
East on Washington - South on Matlack -  
East on Chestnut - North on Penn  
West on Biddle - North on Matlack  
East on Virginia - North on Franklin

(Goes into West Goshen)

South  
Off of Goshen Road - ~~North~~ on  
Marshall Drive - North on Franklin  
West on Virginia - South on Matlack -  
East on Chestnut - Finishes on the  
track at Henderson.



## MEMORANDUM

**TO:** Michael A. Cotter, Borough Manager  
**FROM:** O'B. Laing, Director Public Works  
**DATE:** October 05, 2016  
**RE:** TREE PLANTING BID RECOMMENDATION

---

### Recommendation:

That Borough Council award the Tree Planting contract to the low bidder Countywide Landscape for a total bid price of \$22,035.00. The contractor is currently on contract with the Borough for its mowing activities, and have so far proven to be very competent and reliable.

### Background:

This was bid for the annual tree planting program and was opened on Tuesday October 04, 2016. Only one bid was received and that was from Countywide Landscape. The project entails planting of 200 shade trees at various locations throughout the Borough and the planting period includes, fall of 2016, spring and fall of 2017.

You may recall bids were solicited for this project before but no bids were received at that time. It should be also noted this tree planting cost will be covered entirely by the Pillagalli bequest funds.

Respectfully Submitted

## AGREEMENT

THIS AGREEMENT for services entered into this 31<sup>st</sup> day of October, 2016, by and between Countywide Landscapes, with an address of 1651 Marine Dr W/CRD ("Contractor") and the **BOROUGH OF WEST CHESTER**, a Home Rule municipality with its principal office at 401 East Gay Street, West Chester, Pennsylvania 19380 (hereinafter called the "Borough").

WHEREAS, the Borough has requested Contractor to plant shade trees [Identify scope of Contractor's work]; and

WHEREAS, Contractor is qualified to and has agreed to perform such services as are more particularly described in a Proposal dated \_\_\_\_\_, which Proposal is attached hereto and which shall become a part of this Agreement under and subject to all of its terms and conditions.

NOW, THEREFORE, the parties hereto, intending to be legally bound, hereby agree as follows:

### 1. Services.

A. Contractor will perform the services described in the Proposal which is attached to this Agreement (the "Services"). These Services shall be performed in accordance with the terms of this Agreement and the Proposal and in accordance with all regulatory requirements in effect. The scope of the Services to be performed by Contractor may be modified from time to time by an addendum to this Agreement agreed to in writing by Contractor and the Borough. Under no circumstances shall Contractor subcontract any of the Services hereunder without the prior written consent of the Borough, which consent may be withheld in the Borough's sole discretion. If the terms of this Agreement and the Proposal are inconsistent, the terms of this Agreement shall control.

B. The Contractor represents and warrants to the Borough that it is under no contractual or other restrictions or obligations which are inconsistent with the execution of this Agreement, or which will interfere with the performance of its duties.

### 2. Contractor's Responsibility.

The responsibilities of the Contractor under this Agreement are as follows:

A. The Services will be performed on behalf of and solely for the exclusive use of the Borough and for no others. The Services performed by Contractor shall be conducted in a manner consistent with the level of care and skill ordinarily exercised by members of the same profession and field in the same locale acting under similar circumstances and conditions.

B. The Contractor shall be and remain liable in accordance with applicable law for all damages to the Borough caused by the Contractor's negligent performance of any of the Services furnished under this Agreement or furnishing services contrary to the terms of this Agreement.

3. Compensation.

A. The Borough shall compensate Contractor in accordance with the rates set forth in the Proposal. Unless the Borough in good faith disputes any item on an invoice, the Borough agrees to pay Contractor's invoices within thirty (30) days of the invoice date, but no earlier than ten (10) days after the next meeting of Borough Council of the Borough of West Chester (the "Borough Council"), provided that the invoice is delivered at least ten (10) days prior to the date Borough Council meets to approve any unpaid invoices; otherwise, the invoice will be paid within ten (10) days of the next meeting of Borough Council. If Contractor determines at any time prior to the completion of its Services that the amount of its estimate for such Services will be exceeded, Contractor shall notify the Borough in writing the cause of such excess cost and of its best estimate to complete the remaining Services. The Borough shall have the right upon receipt of such estimate to: (1) increase the Contractor budget by the negotiated amount; (2) insist on completion of the Services for the price and scope originally outlined on the Appendix; or (3) agree with Contractor for a reduction in the scope of Services remaining to be performed under the Proposal, so that the total amount to be paid for the Services shall approximate the original estimate.

B. In the event that the Borough disputes any invoice submitted by Contractor it will, prior to the scheduled payment date of such invoice, advise Contractor in writing of the dispute and the cause of such dispute with a suggested resolution of the dispute if one is available.

4. Disputes.

All controversies or claims arising out of or related to this Agreement, or breach thereof, shall be filed in the Court of Common Pleas of Chester County, Pennsylvania. The prevailing party shall be entitled to recover its reasonable attorney fees and costs. Neither party will be responsible to the other for punitive or consequential damages including, but not limited to, loss of profit, loss of investment or business interruption.

5. Indemnification and Insurance.

A. Contractor, for itself and its successors and assigns, hereby agrees to reimburse the Borough for reasonable attorney fees/costs of suit that it incurs, indemnify, and hold harmless, the Borough, and its officers, supervisors, employees, attorneys, successors and assigns from and against losses, liabilities, claims, demands, causes of action, damages, costs, including reasonable attorneys' fees, and expenses of every kind and nature, whether or not covered by insurance, arising out of, resulting from or caused by, in whole or part, any negligent act, error, omission or willful misconduct on part of Contractor, its agents, employees or subcontractors in connection Contractor's performance of the services pursuant to this Agreement, including but not limited to, those in connection with loss of life, bodily injury, personal injury, damage to property, contamination or adverse effects on the environment, any liability for fines, fees or penalties for violations of any statutes, ordinances, codes, rules, regulations or standards applicable to the services performed by Contractor, its agents, employees or subcontractors (hereinafter "Acts and/or Omissions"). These obligations contained within this Section shall survive the termination of this Agreement. Notwithstanding anything to the contrary as may be contained above, the Contractor shall reimburse the Borough for

reasonable attorney's fees/costs of suit that it incurs in defending any suits or claims attributable (as determined by a Court of competent jurisdiction) to any Acts and/or Omissions.

B. Throughout the life of this Agreement, the Contractor shall pay for and maintain in full force and effect with an insurance company(ies) admitted by the Pennsylvania Insurance Commissioner to do business in the Commonwealth of Pennsylvania and rated not less than A in Best Insurance Key rating Guide, the following policies of insurance:

- (i) Commercial general liability insurance, including property damage liability and personal injury liability of not less than \$1,000,000 for each occurrence and a \$2,000,000 minimum aggregate amount.
- (ii) Automobile bodily injury liability insurance of not less than \$500,000 each person; \$500,000 each occurrence.
- (iii) Statutory Workman's Compensation and employer's liability insurance of \$100,000/occurrence.
- (iv) Professional liability insurance covering damages to the Borough and others resulting from errors or omissions of Contractor of not less than \$2,000,000.

**[NOTE: Insurance requirements may be adjusted depending on scope of services.]**

C. All policies of commercial general liability insurance required hereunder shall name the Borough, its officers, supervisors and employees as additional insured's. Specifically, Contractor commercial general liability insurance policy shall name the Borough, its officers, agents, supervisors, elected officials and employees as an additional insured under ISO endorsement CG 20 26 07 04 or non ISO equivalent. A copy of ISO endorsement CG 20 26 07 04 is attached hereto as Exhibit "A." The Independent Contractor's CGL insurance policy shall also afford coverage for "bodily injury" or "property damage" arising out of the "products-completed operations hazard." Any policy or policies of insurance maintained by Contractor shall be primary and non-contributory.

D. Certificates of insurance shall state that coverage shall not be cancelled by either party except after thirty (30) days' prior written notice by U.S. certified mail, return receipt requested, to the Borough.

E. Regardless of the minimum insurance requirements herein, the Contractor shall agree to commit the Contractor's full policy limits and these minimum requirements shall not restrict the Contractor's liability or coverage limit obligations.

F. The Contractor shall furnish the Borough with certificates of insurances and the requisite endorsements for all required insurance, prior to the Borough's execution of the Agreement and the start of work.

G. Upon notification of receipt by the Borough of a notice of cancellation, major change, modification or reduction in coverage, the Contractor shall immediately, after the effective date of a new or renewal policy, file with the Borough a copy of the required new or renewal policy and certificates for such insurance and list the Borough as additional insureds.

H. If at any time during the term of this Agreement, or any extension thereof, the Contractor fails to maintain the required insurance in full force and effect, all work under this Agreement shall be discontinued immediately, and all payments due or that may become due to the Contractor shall be withheld until acceptable replacement coverage notice is received by the Borough. Any failure to maintain the required insurance shall be sufficient cause for the Borough to terminate this Agreement.

I. If the Contractor should subcontract all or any portion of the work to be performed under this Agreement, the Contractor shall cover the subcontractor or sub-Contractor and require each subcontractor or sub-Contractor to adhere to all subparagraphs of this Insurance section, written evidence of which shall be provided to the Borough prior to commencement of work by the subcontractor or sub-Contractor. Similarly, any cancellation, lapse, reduction or change of subcontractors or sub-Contractors insurance shall have the same impact as described above.

6. Schedule.

Contractor will perform the services in a manner consistent with the standard of care stated in paragraph No. 2 above and in the time period set forth in the Proposal.

7. Assignment.

Contractor will not delegate, assign, sublet or transfer any of its obligations or interests in this Agreement without the prior written consent of the Borough.

8. Independent Status.

Contractor shall serve as an independent contractor to the Borough and not as its agent or employee. Should it be determined appropriate or necessary to rely on subcontractors, Contractor shall obtain written consent from the Borough. The Borough shall assign a representative authorized to act on the Borough's behalf with respect to the Services to be performed pursuant to this Agreement. The Borough or such authorized representative shall render decisions in a reasonably timely manner after alternative courses of action are presented in reasonable detail pertaining to Contractor's Services to avoid unreasonable delay in the orderly and sequential progress of Contractor's Services.

9. Termination. This Agreement may be terminated in whole or in part, in writing by either party subject to the terms, definitions, conditions and remedies as set forth herein.

(1) Definitions.

(a) Termination: To immediately discontinue rendering services hereunder.

- (a) Fault: Substantial failure of either party to fulfill its obligations under the Agreement as determined by a court of competent jurisdiction, if requested by the terminated party.
  - (c) Convenience: At will of terminating party without fault of the terminated party, and without justification.
- (2) Right to Terminate.
- (a) Fault of Contractor: the Borough may terminate this Agreement upon failure of Contractor to perform its obligations under the Agreement.
  - (b) Fault of the Borough: Contractor may terminate this Agreement upon failure of the Borough to perform its obligations under the Agreement.
  - (c) Convenience of the Borough: The Borough may terminate this Agreement at its convenience. Contractor may not terminate the Agreement for its convenience.
- (3) Remedies upon Termination.

In the event of termination hereunder, the following rights and remedies shall apply:

- (a) Fault of Contractor: If termination is caused by the fault of the Contractor, then:
  - (i) Subject to offset for costs incurred by the Borough to complete the scope of work as set forth in Section 3(a)(iii) below, including the costs of reasonable attorneys' fees and engineering fees, the Borough shall pay Contractor for all services and expenses rendered to the date of termination in accordance with compensation terms in the Agreement.
  - (ii) The Borough shall not pay anticipated profits or other penalties or damages.
  - (iii) Contractor shall pay the Borough all reasonable/necessary costs incurred by the Borough to complete Contractor's scope of work. Such costs may include the cost incurred by the Borough of employing another Contractor to complete such work, provided Contractor was given notice of any alleged fault and a reasonable opportunity to cure such alleged fault.

- (b) Fault of the Borough: If termination is caused by the fault of the Borough, then:
    - (i) The Borough shall pay Contractor for all authorized services and expenses rendered by Contractor to date of the termination.
    - (ii) The Borough shall not pay for anticipated profits or other penalties or damages.
  - (c) Convenience of the Borough: In the event of termination for convenience by the Borough, then:
    - (i) The Borough shall pay Contractor for authorized services and expenses to date of termination, including the pro rata share of any fixed fee(s) to that date.
    - (ii) The Borough shall not pay for anticipated profits or other penalties or damages.
- (4) Termination of Contractor for Default Reversed.
- (a) If, after termination for failure of Contractor to fulfill contractual obligations, it is determined by a court of competent jurisdiction or the Borough that the Contractor had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of the Borough. In such event, payments to the Contractor shall be made as provided in Paragraph 3(c) of this clause.
- (5) Notice Requirements.
- (a) No termination for fault or convenience shall take place hereunder by either party, unless:
    - (i) An opportunity for consultation is afforded between the parties prior to sending the notice of termination; and
    - (ii) A notice of termination is sent to the other party in writing, at least ten (10) calendar days prior to the effective date of termination, by certified mail, return receipt requested. The termination shall be effective upon receipt of the certified mail.
- (6) Obligations upon Termination.

(a) Upon receipt of a termination action for fault or convenience as set forth above, the Contractor shall:

- i. Promptly discontinue all affected work (unless notice directs otherwise); and
- ii. Deliver or otherwise make available to the Borough all data, drawings, specifications, reports, estimates, summaries, and such other information and material as may have been accumulated by the Contractor in performing this Agreement whether completed or in process and all digital documents need to be updated to their latest software revision.
- iii. The Borough may take over the work and/or may award another party an Agreement to complete the work hereunder.
- iv. Contractor shall be prohibited from disclosing any information pertaining to the Project, including, but not limited to the name of the Borough and the name of the Project, in Contractor's advertisement and/or public relations materials without the prior written consent of the Borough.

10. Applicable Law.

This Agreement and all questions relating to its validity, interpretation, performance and enforcement, shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania, notwithstanding any conflict-of-laws doctrines of such state or any other jurisdiction to the contrary.

11. Nondiscrimination.

Contractor shall comply with all applicable provisions of state and federal constitutions, laws, regulations and judicial orders pertaining to nondiscrimination and equal employment opportunity.

12. Notices.

All notices or other communications required or permitted hereunder shall be in writing and shall be deemed given and received, when delivered personally, or the day after sent by an express overnight delivery service, or three (3) days after posting when sent by certified United States mail, postage prepaid, addressed as follows:

If to Contractor: Countywide

1051 Marlene Dr

West Chester, Pa 19380

If to the Borough: 401 E. Gay Street  
West Chester, Pennsylvania 19380  
Attn: Michael A. Cotter, Borough Manager

Any party may alter the address to which communications or copies are to be sent by giving notice of such change of address in conformity with the provisions of this subsection for the giving of notice.

13. Miscellaneous.

A. Regardless of where the services of the Contractor and its subcontractors under this Agreement are actually performed, they shall be deemed to be performed in West Chester, Chester County, Pennsylvania.

B. The Contractor agrees to abide by the terms of the Pennsylvania Right to Know Act (the "Act") with respect to documents prepared under this Agreement that are in the possession of the Contractor. The Contractor further acknowledges that any documents or work product produced by Contractor under this Agreement may be subject to public disclosure as required under the Act and that Contractor hereby agrees work with the Borough to timely produce any such documents as required under the Act. The Contractor agrees to indemnify and hold the Borough harmless for any penalties or damages incurred by the Borough that are related to the Contractor's failure to abide by the terms of this paragraph. The terms of this paragraph shall survive termination of the Agreement.

C. All work product of the Contractor for this project, including work product created in electronic format, are instruments of service for this project only and shall become the property of the Borough whether the project is completed or not. The parties hereto do not intend, nor will any clause of this Agreement be interpreted, to grant to any third party any benefits or rights under this Agreement. Any reuse of Contractor work product for any purpose other than that specifically intended in this Agreement, including providing a copy of any Contractor work product to a third party not specifically identified herein, will be at the Borough's sole risk and without financial liability or legal expense to Contractor.

D. Neither the Borough nor Contractor shall hold the other responsible for damages or delay in performance caused by acts of God, strikes, lock-outs, accidents or other events beyond the control of the other or the other's employees and agents.

E. In the event the Borough retains the services of counsel in connection with the enforcement of any rights under this Agreement, whether or not legal proceedings are instituted and whether or not the Borough formally declares default, the Borough shall be entitled to collect from Contractor all of its reasonable counsel fees and costs incurred.

F. In the event any provision of this Agreement shall be invalid or unenforceable, the remaining provisions shall be valid and binding upon the parties hereto. One or more waivers by either party of any provision, term, condition or covenant shall not be construed by the other party as a waiver of subsequent breach of the same by the other party.

G. This Agreement is to be binding on the heirs, successors, and assigns of the parties hereto and is not to be assigned by either party without first obtaining the written consent of the other. Nothing herein shall be construed to give any rights or benefits hereunder to anyone other than the Borough and Contractor.

H. The parties acknowledge that this Agreement constitutes the entire Agreement between them and supersedes all prior representations, warranties, agreements and understandings, whether verbal or written, between the parties with respect to its subject matter.

I. Unless stated otherwise in this Agreement, this Agreement may not be modified except in writing signed by both parties.

J. The headings to this Agreement are for convenience and reference purposes only and shall not constitute a part of the Agreement.

**ATTEST:**

**BOROUGH OF WEST CHESTER**

\_\_\_\_\_  
Michael A. Cotter, Secretary

BY: \_\_\_\_\_  
\_\_\_\_\_, President  
Borough Council

**CONTRACTOR**

**ATTEST:**

\_\_\_\_\_  
Secretary

By: \_\_\_\_\_  
Name:

SECTION D

BIDDER QUALIFICATION STATEMENT

1. INTRODUCTION

- A. This document must be included as part of the Bid submission. Failure to submit a fully completed and executed Bidder Qualification Statement may be considered justification for rejection of the bid.
- B. This Bidder Qualification Statement is submitted with respect to the following project:

Project Name: Shade Tree

2. GENERAL INFORMATION

- A. Name of Bidder: Infinity Property Solutions DBA: Countywide Landscape
- B. Address of Bidder: 1051 Marlene Dr. W/L PA 19380
- C. Telephone of Bidder: 610-285-9727
- D. Email address of Bidder: CountywideLandscape@comcast.net

3. ORGANIZATION BACKGROUND

A. Type of Organization:

- Corporation       Individual       Partnership  
 Joint Venture       Other: \_\_\_\_\_

B. How long has your organization been in business:

- 1. As a contractor: 10 years
- 2. As a contractor engaged in construction work of the type proposed under this Contract: 10 years
- 3. Under your current business name: 10 years

C. If the bidder is a corporation, complete this section:

- 1. Date and State of Incorporation: PA 2006
- 2. Name and Titles of Officers:  
Andrew McCarlone - President  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

B. Affidavit

State of Pennsylvania, County of Chester

I, Tara Horwath, being duly sworn, according to law depose  
(name of official)

and say that I am the Notary Public, of the above organization,  
(position)

and that the responses provided in the Bidder Qualification Statement, including any attachments thereto are true and correct to the best of my knowledge and belief.

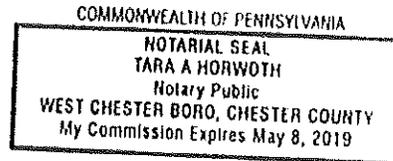
Sworn and Subscribed

Tara Horwath  
(Signature of Official)

To before me

this 4th day of October, 2016.

Tara Horwath  
Notary Public



Non-Collusion Affidavit

State of Pennsylvania :

County of Chester :

I state that I am Andrew McFarlane , President of  
(Name) (Title)

Infinity Property Solutions DBA Countywide Landscape  
(Name of Firm)

and that I am authorized to make this affidavit on behalf of my firm and its owners, directors, and officers. I am the person responsible in my firm for the price(s) and the amount of this bid.

I state that:

1. The price(s) and amount of this bid have been arrived at independently and without consultation, communication or agreement with any other contractor, bidder or potential bidder.
2. Neither the price(s) nor the amount of this bid, and neither the approximate price(s) nor approximate amount of this bid, have been disclosed to any other firm or person who is a bidder or potential bidder and they will not be disclosed before bid opening.
3. No attempt has been made or will be made to induce any firm or person to refrain from bidding on this Contract, or to submit a bid higher than this bid, or to submit any intentionally high or noncompetitive bid or other form of complementary bid.
4. The bid of my firm is made in good faith and not pursuant to any agreement of discussion with or inducement from, any firm or person to submit a complementary or other noncompetitive bid.
5. Countywide Landscape (name of firm), its affiliates, subsidiaries, officers, directors and employees are not currently under investigation by any governmental agency and have not in the last four (4) years been convicted or found liable for any act prohibited by State or Federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract, except as follow:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Non-Collusion Affidavit**

I state that Infinity Properties, LLC DBA Countywide Landscapes (name of firm)  
understands and acknowledges that the above representations are material and important,  
and will be relied on by the Board of West Chester as the true facts relating to the  
submission of bids for this Contract.

By Andrew McKeown

Title President

Sworn and subscribed before me this 14<sup>th</sup> Day of October, 2016

Tara A. Horwath  
Notary Public

My Commission Expires 5/8/19

COMMONWEALTH OF PENNSYLVANIA  
NOTARIAL SEAL  
TARA A HORWATH  
Notary Public  
WEST CHESTER BORO, CHESTER COUNTY  
My Commission Expires May 8, 2019



COMMONWEALTH OF PENNSYLVANIA

PUBLIC WORKS EMPLOYMENT VERIFICATION FORM

Date 10/3/16

Business or Organization Name (Employer) Infinity Property Solutions DBA Countywide Landscaping

Address 1051 MARLOWE DR

City WEST CHESTER State PA Zip Code 19380

Contractor  Subcontractor (check one)

Contracting Public Body \_\_\_\_\_

Contract/Project No \_\_\_\_\_

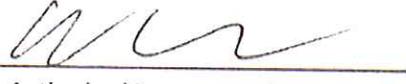
Project Description SHADE TREE PLANTING

Project Location WEST CHESTER BOROUGH

As a contractor/subcontractor for the above referenced public works contract, I hereby affirm that as of the above date, our company is in compliance with the Public Works Employment Verification Act ('the Act') through utilization of the federal E-Verify Program (EVP) operated by the United States Department of Homeland Security. To the best of my/our knowledge, all employees hired post January 1, 2013 are authorized to work in the United States.

It is also agreed to that all public works contractors/subcontractors will utilize the federal EVP to verify the employment eligibility of each new hire within five (5) business days of the employee start date throughout the duration of the public works contract. Documentation confirming the use of the federal EVP upon each new hire shall be maintained in the event of an investigation or audit.

I, ANDREW MIESZKOWICZ, authorized representative of the company above, attest that the information contained in this verification form is true and correct and understand that the submission of false or misleading information in connection with the above verification shall be subject to sanctions provided by law.

  
Authorized Representative Signature

Worker's Compensation Affidavit

State of ) Pennsylvania

) §

)

County of ) Chester

)

Andrew M. Kurlane being duly sworn according to law deposes and says that (he has)(they have)(it has) accepted the provisions of the Worker's Compensation Act of 1915 of the Commonwealth of Pennsylvania, with it supplements and amendments, and (has)(have) insured (his)(their)(its) liability thereunder in accordance with the terms of said Act with

Berkshire Hathaway

(SURETY COMPANY)

Andrew M. Kurlane (Contractor)
CONTRACTOR (TYPE OR PRINT)

BY Andrew M. Kurlane
NAME (TYPE OR PRINT)

[Signature]
SIGNATURE

Sworn to and subscribed to me this 17th day of October A.D. 2010

[Signature]

My Commission Expires 5/8/19 DATE

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
TARA A HORWOTH
Notary Public
CHESTER BORO, CHESTER COUNTY
My Commission Expires May 8, 2019

COUNTYWIDE LANDSCAPE 01-13  
P.O. BOX 1264  
WEST CHESTER, PA 19380

TD BANK  
AMERICA'S MOST CONVENIENT BANK

1907

3-180-350  
294

PAY TO THE  
ORDER OF

West Chester Borough

10/2/16

Twenty Two Thousand Thirty Five dollars & no/100

\$ 22,035.00

DOLLARS

MEMO 10% Surety Shade Tree



⑈001907⑈ ⑈036001808⑈ 4278520400⑈



**TO:** Michael A. Cotter, Borough Manager  
**FROM:** Keith A. Kurowski, Parks and Recreation Director  
**DATE:** 10-6-16  
**RE:** Barclay Park "Donor" sign and "Tree Signs"

---

### Recommendation

The Recreation Commission recommended approving the BGPA's designs for both their "Donor" sign and for the tree naming signs with suggestions.

### Motion

Recreation Commission voted 3-0 to approve as per their recommended suggestions and any further recommendations by the Committee or Council.

### Background

The BGPA's contract with the Borough allows them to fundraise by seeking donations and to "sell" tree naming signs and provide a commemorative plaque/sign to thank those donors.

The BGPA's has brought this idea before the commission/committee several months ago and have returned with their updated designs and implementation. (attached).

The Recreation Commission suggested the following:

- "Donor Plaque" be no taller than 60"
- All signs adhere to any/all Borough codes, ordinances, policies regarding signage
- Tree naming signs be of the "double thick" variety
- Tree naming signs are no larger than 3.5" by 6" wide
- Tree naming signs consist of no language "in memory of" or the like
- Tree naming signs shall be mounted on the trees using the "screw spring loaded" method (Longwood Gardens)
- Any/all repairs, maintenance, or replacement of the signs or plaque be the responsibility of the BGPA (or Friends of Barclay Park should they establish an official "Friends" group) in perpetuity.





Donor Sign Location

A close-up photograph of the bark of a Tulip Poplar tree. The bark is highly textured, showing a pattern of small, irregular, raised scales or ridges. The color is a mix of grey, brown, and reddish-orange. A small, dark, rectangular label is attached to the bark in the center. The label contains the following text: "TULIP POPLAR", "*Liriodendron tulipifera*", "sponsored by", and "The William Dennington Family".

**TULIP POPLAR**  
*Liriodendron tulipifera*  
sponsored by  
The William Dennington Family



## MEMORANDUM

**TO:** Michael A. Cotter, Borough Manager  
**FROM:** Michael A. Perrone, C.B.O.  
**DATE:** October 3, 2016  
**RE:** 147; 151-55 West Gay Street – Reverse Subdivision

---

### Recommendation

The West Chester Borough Planning Commission voted unanimously to recommend approval of the reverse subdivision.

### Motion

### Background

Applicant requested a reverse subdivision to consolidate three lots into one. The plan was reviewed by both the Chester County Planning and West Chester Borough Planning Commissions.

No new construction is planned as a result of the lot consolidation.



**Planning Commission**  
Borough of West Chester

---

September 28, 2016

Borough Council  
430 East Gay Street  
West Chester, Pennsylvania 19380

RE: Reverse Subdivision: 147, 151-55 West Gay Street  
Gay Street Development Company

Dear Council Members,

At its last meeting on September 27, 2016, the Planning Commission discussed this reverse subdivision application and voted unanimously to recommend approval.

The discussions are reflected in the minutes of the Planning Commission. Should Council have any questions, please do not hesitate to contact us.

Sincerely,

Allen Burke, Chair  
Planning Commission



## MEMORANDUM

**TO:** Michael A. Cotter, Borough Manager  
**FROM:** Michael A. Perrone, C.B.O.  
**DATE:** October 3, 2016  
**RE:** 632 South Matlack Street – Five Unit Townhouse Development

---

### **Recommendation**

The Borough of West Chester Planning Commission voted unanimously to recommend approval of the preliminary/final land development plan.

### **Motion**

Borough Council approve the preliminary/final five unit land development plan, granting a waiver from Chapter 94, 94-311.B, as recommended by the Borough engineer.

**Note:** § 94-311 - Other conveyance and system design standards.

Storm sewers shall have a minimum diameter of 15 inches and a minimum grade of 1/2 of 1%.

### **Background**

Proposed owner/developer is seeking land development approval to combine two existing lots, raze an existing single family dwelling and demolish the existing nonconforming garage building.

The newly created lot will have five new single family townhouse units. Three units facing Matlack Street, two units facing Mechanics Alley.

Applicant was granted a zoning variance on May 9<sup>th</sup> from Section 112-73.Q(2) to allow the vehicles to back up into Mechanics Alley.



**Planning Commission**  
Borough of West Chester

---

September 28, 2016

Borough Council  
430 East Gay Street  
West Chester, Pennsylvania 19380

RE: Preliminary/Final Land Development: 632 & 634 South Matlack Street  
Borough of West Chester

Dear Council Members,

At its last meeting on September 27, 2016, the Planning Commission discussed this land development application and voted unanimously to recommend granting the required waiver to 94-311.B and approval of the preliminary/final land development provided that the applicant complies with all of the comments from the Borough Engineer.

The discussions are reflected in the minutes of the Planning Commission. Should Council have any questions, please do not hesitate to contact us.

Sincerely,

Allen Burke, Chair  
Planning Commission

**IN RE: APPEAL OF** : **BEFORE THE**  
**CHRISTOPHER DULIN** : **ZONING HEARING BOARD OF THE**  
**632 & 634 S. MATLACK STREET** : **BOROUGH OF WEST CHESTER**  
: **APPEAL NO. 913**

**DECISION**

On Monday, May 9, 2016 at 5:30 PM, the Zoning Hearing Board of the Borough of West Chester, having given proper notice, held a hearing (“Hearing”) at West Chester Borough Hall on the appeal of Christopher Dulin for variance relief in order to construct and use 8 off-street parking spaces to be used for two properties located 632 and 634 S. Matlack Street. Zoning Hearing Board members David Sweet, Charles Swope, James Doyle, Michael Galey and Anne Carroll attended the hearing.

The Board was represented by its solicitor, Thomas F. Oeste. Tom Mohr, Esquire represented the Applicant. The testimony was recorded by Melissa Bailey, RPR. The notes of testimony and following documents constitute the record in this case.

- A-1 Zoning application
- A-2 Existing conditions plan
- A-3 JLOC assessment records
- A-4 Deed into JLOC
- A-5 Agreement of sale with JLOC
- A-6 Zoning plan

At the conclusion of the Hearing, the Board voted to grant the requested variance (Members Swope, Doyle and Galey voted in favor; Members Sweet and Carroll voted against granting the variance). The Board notified the Applicant of its decision by electronic mail of the Board solicitor dated May 10, 2016, a copy of which is attached hereto. The Board enters the following Findings of Fact and Conclusions of Law in support of its decision.

## **FINDINGS OF FACT**

1. Christopher Dulin is the equitable owner of two parcels of property located at 632 and 634 S. Matlack Street, West Chester Borough (collectively the "Property").
2. The Property is improved with a dilapidated single family detached dwelling and garages.
3. The Property is located in the NC-2 Neighborhood Conservation District, Block Class B.
4. Applicant intends to demolish the existing structures, merge the two parcels and construct five townhomes as depicted on Exhibit A-6.
5. The access driveway for the townhomes will connect to S. Matlack Street and the required off-street parking will be provided by a two-car garage and outdoor spaces for each unit, as depicted on Exhibit A-6.
6. The Property can also fronts on Mechanic's Alley, a Borough public Street, as depicted on Exhibit A-6.
7. Applicant proposes to construct 8 off-street parking spaces which would be accessed from Mechanic's Alley; there would be no vehicular connection between the Mechanic's Alley spaces and the driveway connecting the townhouses to S. Matlack Street.
8. The Mechanic's Alley spaces are proposed for guest and additional off-street parking for the townhouse units only.
9. The Mechanic's Alley spaces may result in the availability of additional on-street parking which would otherwise be used by residents and guests of the townhouse units.
10. Vehicles using the Alley spaces would be required to back into Mechanic's Alley when leaving the space.
11. Zoning Ordinance Section 112-73.Q(2) prohibits parking areas to "be built or maintained to permit parked vehicles to back into a public street in order to leave a parking space, except in the case of a single-family or two-family dwelling".

## **CONCLUSIONS OF LAW**

1. Applicant has standing.
2. The provision of additional off-street parking beyond the minimum required justifies granting the requested variance.
3. The requested variance relief will not alter the essential character of the neighborhood, will not impair the appropriate use or development of adjacent property and will not be detrimental to the public welfare.

## **ORDER**

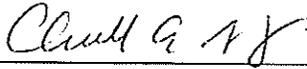
The Zoning Hearing Board grants a variance from Section 112-73.Q(2) of the Borough of West Chester Zoning Ordinance to enable the construction of 8 off-street parking spaces on the Property (632 and 634 S. Matlack Street) along Mechanic's Alley, as depicted on Exhibit A-6. The Board grants a variance to allow vehicles to leave the spaces by backing onto Mechanic's Alley, subject to compliance with the following conditions:

1. The use of the spaces shall be limited to vehicles operated by the owners, occupants and guests of the owners and occupants of the 5 dwellings to be constructed on the Property. Signs shall be erected and continuously maintained in the parking area providing notification of the foregoing restrictions.
2. The Applicant, the development of the Property and the construction and use of the parking spaces shall comply with all the representations and commitments made in the testimony and exhibits presented at the Hearing.

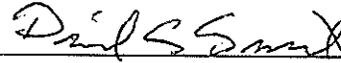
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3. Except as modified by this decision, the Applicant, the development of the Property and the construction and use of the parking spaces shall comply with all other applicable statutes, ordinances and regulations of the Borough of West Chester and any municipal or governmental entity having jurisdiction over the Property.

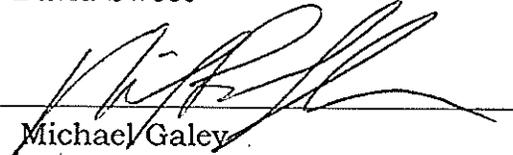
ZONING HEARING BOARD  
BOROUGH OF WEST CHESTER



Charles Swope



David Sweet\*



Michael Galev



Anne Carroll\*

\* Member Sweet voted against granting the variance because the parking lot would create new and unnecessary impervious surface.

\* Member Carroll voted against granting the variance because of safety concerns and no assurance that the spaces would result in more on-street parking for the neighborhood.

I certify that a copy of this Decision was mailed by first class mail properly addressed to Christopher Dulin on 6/21, 2016.



Michael A. Perrone, C.B.O  
Zoning Officer



## MEMORANDUM

**TO:** Michael A. Cotter, Borough Manager  
**FROM:** Michael A. Perrone, C.B.O.   
**DATE:** October 3, 2016  
**RE:** Review BMPs and Conveyances Operation Maintenance Agreement

---

### Recommendation

N/A

### Motion

N/A

### Background

This Stormwater Best Management Practices and Conveyances Operation Maintenance Agreement has been made between the Hickman Friends Senior Community of West Chester and the Borough of West Chester in regard to the recently approved land development project "The Hickman." The attached agreement has been reviewed and approved by Solicitor Camp.

**Prepared by/Return to:**

Kristin S. Camp, Esquire  
118 W. Market Street, Suite 300  
West Chester, PA 19382

UPI No. 1-5-82

**STORMWATER BEST MANAGEMENT PRACTICES (BMPs) AND CONVEYANCES  
OPERATION AND MAINTENANCE AGREEMENT**

**THIS AGREEMENT**, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between **THE HICKMAN FRIENDS SENIOR COMMUNITY OF WEST CHESTER, d/b/a THE HICKMAN**, with an address of 400 N. Walnut Street, West Chester Borough, Chester County, Pennsylvania 19380 (hereinafter the "Landowner"), and the **BOROUGH OF WEST CHESTER**, a political subdivision of the Commonwealth of Pennsylvania with an address of 401 East Gay Street, West Chester Borough, Chester County, Pennsylvania 19380 (hereinafter the "Borough");

**WITNESSETH:**

**WHEREAS**, the Landowner is the owner of certain real property located at 444 N. Walnut Street, West Chester Borough, Chester County, Pennsylvania, being UPI No. of 1-5-82 (hereinafter "Property"); and

**WHEREAS**, the Landowner is proceeding to build and develop the Property; and

**WHEREAS**, the stormwater Best Management Practices (herein after BMP(s)) And Conveyances Operations and Maintenance Plan approved by the Borough (hereinafter referred to as the "O&M Plan") for the Property, which is attached hereto as Exhibit "A" and made part hereof, provides for management of stormwater within the confines of the Property through the use of BMP(s) and conveyances; and

**WHEREAS**, the Borough and the Landowner, for itself and its administrators, executors, successors, heirs, and assigns, agree that the health, safety, and welfare of the residents of the Borough and the protection and maintenance of water quality require that stormwater BMP(s) and conveyances be constructed and maintained on the Property; and

**WHEREAS**, for the purposes of this Agreement, the following definitions shall apply:

**BMP – "Best Management Practice"** –Those activities, facilities, designs, measures, or procedures as specifically identified in the O&M Plan, used to manage stormwater impacts from land development, to meet state water quality requirements, to promote groundwater recharge, and to otherwise meet the purposes of the Borough's Stormwater Management Ordinance. BMPs may include, but are not limited to, a wide variety of practices and devices, from large-scale retention ponds and constructed wetlands to small-scale underground

treatment systems, infiltration facilities, filter strips, low impact design, bioretention, wet ponds, permeable paving, grassed swales, riparian or forested buffers, sand filters, detention basins, manufactured devices, and operational and/or behavior-related practices that attempt to minimize the contact of pollutants with stormwater runoff. The BMPs indentified in the O&M Plan are permanent appurtenances to the Property; and

**Conveyance** – As specifically identified in the O&M Plan, a man-made, existing or proposed facility, structure or channel used for the transportation or transmission of stormwater from one place to another, including pipes, drainage ditches, channels and swales (vegetated and other), gutters, stream channels, and like facilities or features. The conveyances identified in the O&M Plan are permanent appurtenances to the Property; and

**WHEREAS**, the Borough requires, through the implementation of the O&M Plan, that stormwater management BMPs and conveyances, as required by said O&M Plan and the Borough's Stormwater Management Ordinance, be constructed and adequately inspected, operated and maintained by the Landowner, its administrators, executors, successors in interest, heirs, and assigns.

**NOW, THEREFORE**, in consideration of the foregoing promises, the mutual covenants contained herein, and the following terms and conditions, the parties hereto, intending to be legally bound hereby, agree as follows:

1. The foregoing recitals to this Agreement are incorporated as terms of this Agreement as if fully set forth in the body of this Agreement.

2. The Landowner shall construct the BMP(s) and conveyance(s) in accordance with the final design plans and specifications as approved by the Borough which are identified as follows:

Titled Final Land Development Plan for Sharpless Hall Redevelopment,  
prepared by Advanced GeoServices

Dated June 1, 2015 Last revised August 18, 2016.

3. The Landowner shall inspect, operate and maintain the BMP(s) and Conveyance(s) as shown on the O&M Plan in good working order acceptable to the Borough and in accordance with the specific inspection and maintenance requirements in the approved O&M Plan. The notes from the O & M Plan which establish the specific instruction and maintenance requirements are attached hereto as Exhibit "B" and made a part hereof.

4. The Landowner hereby grants permission to the Borough, its authorized agents and employees, to enter upon the Property from a public right-of-way or roadway, at reasonable times and upon presentation of proper identification, to inspect the BMP(s) and Conveyance(s) whenever it deems necessary for compliance with this Agreement, the O&M Plan and the Borough's Stormwater Management Ordinance. Whenever possible, the Borough shall notify the Landowner prior to entering the Property.

5. The Borough intends to inspect the BMP(s) and Conveyance(s) a minimum of once every two (2) years to determine if they continue to function as required and designed. The Landowner shall reimburse the Borough for the cost of the inspection which cost shall be established by resolution of the Board of Supervisors.

6. The Landowner acknowledges that, per the Borough's Stormwater Ordinance, it is unlawful, without written approval of the Borough, to:

- a. Modify, remove, fill, landscape, alter or impair the effectiveness of any BMP or Conveyance that is constructed as part of the approved O&M Plan;
- b. Place any structure, fill, landscaping, additional vegetation, yard waste, brush cuttings, or other waste or debris into a BMP or conveyance that would limit or alter the functioning of the BMP or Conveyance;
- c. Allow the BMP or Conveyance to exist in a condition which does not conform to the approved O&M Plan or this Agreement; and
- d. Dispose of, discharge, place or otherwise allow pollutants including, but not limited to, deicers, swimming pool additives, household chemicals, and automotive fluids to directly or indirectly enter any BMP or Conveyance.

7. In the event that the Landowner fails to operate and maintain the BMP(s) and conveyance(s) as shown on the O&M Plan in good working order acceptable to the Borough, the Landowner shall be in violation of this Agreement and the Stormwater Ordinance, and the Landowner agrees that the Borough or its representatives may, in addition to and not in derogation or diminution of any remedies available to it under the Stormwater Ordinance or other statutes, codes, rules or regulations, or this Agreement, enter upon the Property and take whatever action is deemed necessary to maintain said BMP(s) and Conveyance(s). It is expressly understood and agreed that the Borough is under no obligation to maintain or repair said facilities, and in no event shall this Agreement be construed to impose any such obligation on the Borough.

8. In the event that the Borough, pursuant to this Agreement, performs work of any nature or expends any funds in performance of said work for labor, use of equipment, supplies, materials, and the like, the Landowner shall reimburse the Borough for all expenses (direct and indirect) incurred within thirty (30) days of delivery of an invoice from the Borough. Failure of the Landowner to make prompt payment to the Borough may result in enforcement proceedings, which may include the filing of a lien against the Property, which filing is expressly authorized by the Landowner.

9. The intent and purpose of this Agreement is to ensure the proper maintenance of the on-site BMP(s) and Conveyance(s) by the Landowner; provided, however, that this Agreement shall not be deemed to create or affect any additional liability on any party for damage alleged to result from or be caused by stormwater runoff.

10. The Landowner, for itself and its executors, administrators, assigns, heirs, and other successors in interest, hereby releases and shall release the Borough's employees, its agents and designated representatives from all damages, accidents, casualties, occurrences, or claims which might arise or be asserted against said employees, agents or representatives arising out of the construction, presence, existence, or maintenance of the BMP(s) and Conveyance(s) either by the Landowner or Borough. In the event that a claim is asserted or threatened against the Borough, its employees, agents or designated representatives, the Borough shall notify the Landowner, and the Landowner shall defend, at his own expense, any claim, suit, action or proceeding, or any threatened claim, suit, action or proceeding against the Borough, or, at the request of the Borough, pay the cost, including attorneys' fees, of defense of the same undertaken on behalf of the Borough. If any judgment or claims against the Borough's employees, agents or designated representatives shall be allowed, the Landowner shall pay all damages, judgments or claims and any costs and expenses incurred by the Borough, including attorneys, regarding said damages, judgments or claims.

11. The Borough may enforce this Agreement in accordance with its Stormwater Ordinance, at law or in equity, against the Landowner for breach of this Agreement. Remedies may include fines, penalties, damages or such equitable relief as the parties may agree upon or as may be determined by a court of competent jurisdiction. Recovery by the Borough shall include its reasonable attorney's fees and costs incurred in seeking relief under this Agreement.

12. Failure or delay in enforcing any provision of this Agreement shall not constitute a waiver by the Borough of its rights of enforcement hereunder.

13. The Landowner shall inform future buyers of the Property about the function of, operation, inspection and maintenance requirements of the BMP(s) prior to the purchase of the Property by said future buyer, and upon purchase of the Property the future buyer assumes all responsibilities as Landowner and must comply with all components of this Agreement.

14. This Agreement shall inure to the benefit of and be binding upon, the Borough and the Landowner, as well as their heirs, administrators, executors, assigns and successors in interest.

15. This Agreement shall be recorded at the Office of the Recorder of Deeds of Chester County, Pennsylvania, and shall constitute a covenant running with the Property, in perpetuity.

IN WITNESS WHEREOF, the parties hereunto have executed this Agreement as of the day and year first above written.

**THE HICKMAN FRIENDS SENIOR  
COMMUNITY OF WEST CHESTER**

\_\_\_\_\_  
Witness

BY:

\_\_\_\_\_  
Name: Mark J. Snyder,  
Chairman, Board of Directors

Attest:

**BOROUGH OF WEST CHESTER**

\_\_\_\_\_  
Secretary

BY:

\_\_\_\_\_  
Name: Ellen B. Koopman  
President, Borough Council



COMMONWEALTH OF PENNSYLVANIA :  
 : SS  
COUNTY OF CHESTER :

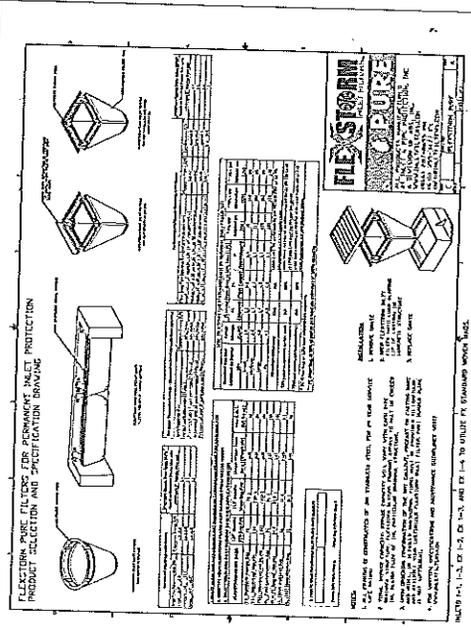
On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned notary public, personally, appeared Mark J. Snyder known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

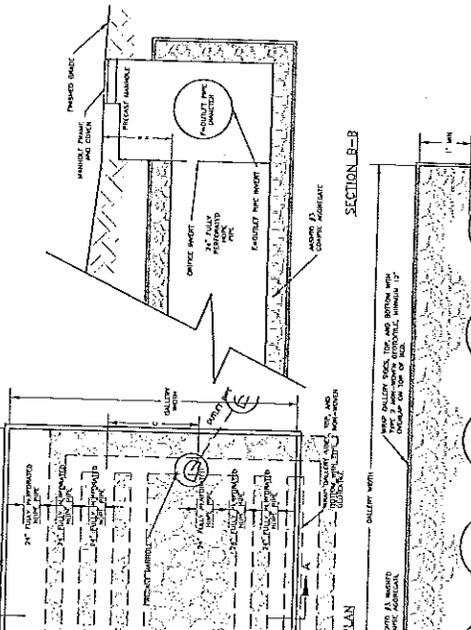
\_\_\_\_\_  
Notary Public

My Commission Expires:

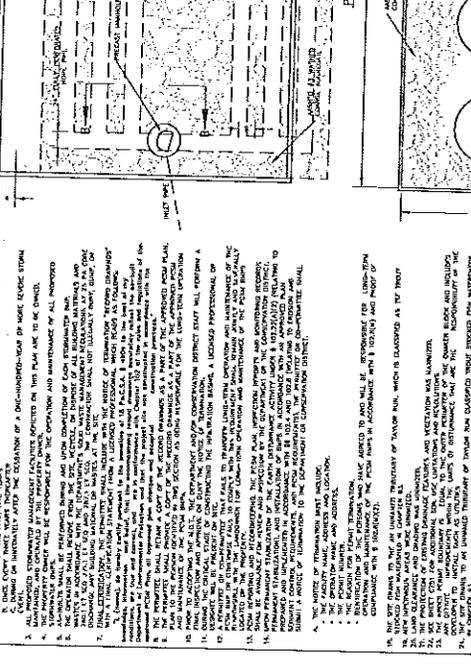




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| Bed No. | Bed Type | Bed Size | Bed Material | Bed Location | Bed Notes |
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| Facility No. | Facility Type | Facility Size | Facility Material | Facility Location | Facility Notes |
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**SHARPLESS HALL REDEVELOPMENT**  
 WEST CHESTER, BRUNSWICK, CHESTER COUNTY, PA

**PCSM DETAILS**

**ADVANCED Geoservices**  
 Geospatial & Construction Services for Project  
 1000 MARKET AVENUE, SUITE 100  
 WEST CHESTER, PA 19380  
 PHONE: 610-336-1100  
 FAX: 610-336-1101  
 WWW: WWW.ADVANCEDGEOSERVICES.COM

CS50

**UNDERGROUND INFILTRATION BED CHARACTERISTICS NOTES**

1. THE BEDS OF UNDERGROUND INFILTRATION BEDS SHALL BE CONSTRUCTED AS SHOWN ON THE DRAWINGS AND SHALL BE CONFORMANT WITH THE FOLLOWING REQUIREMENTS:

2. THE BEDS SHALL BE CONSTRUCTED WITH A MINIMUM OF 18" OF SOLUBLE WIRE FILTER FABRIC OVER THE ENTIRE SURFACE OF THE BED.

3. THE BEDS SHALL BE CONSTRUCTED WITH A MINIMUM OF 18" OF SOLUBLE WIRE FILTER FABRIC OVER THE ENTIRE SURFACE OF THE BED.

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10. THE BEDS SHALL BE CONSTRUCTED WITH A MINIMUM OF 18" OF SOLUBLE WIRE FILTER FABRIC OVER THE ENTIRE SURFACE OF THE BED.

**UNDERGROUND INFILTRATION BED DETAILS**

1. ALL GROUND LEVELS AND ELEVATIONS SHALL BE AS SHOWN ON THE DRAWINGS AND SHALL BE CONFORMANT WITH THE FOLLOWING REQUIREMENTS:

2. THE BEDS SHALL BE CONSTRUCTED WITH A MINIMUM OF 18" OF SOLUBLE WIRE FILTER FABRIC OVER THE ENTIRE SURFACE OF THE BED.

3. THE BEDS SHALL BE CONSTRUCTED WITH A MINIMUM OF 18" OF SOLUBLE WIRE FILTER FABRIC OVER THE ENTIRE SURFACE OF THE BED.

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## Department of Building, Housing & Codes Enforcement

*Regulations for the Protection of Public Health, Safety and Welfare*

401 East Gay Street ▪ West Chester, Pennsylvania 19380  
610-696-1773 ▪ Fax: 610-692-7958 ▪ web: [www.west-chester.com](http://www.west-chester.com)

October 4, 2016

**NOTICE IS HEREBY GIVEN** that the Zoning Hearing Board of the Borough of West Chester, Pennsylvania has scheduled a Meeting at **5:30 pm, November 14, 2016** to be held in Room 240, 401 East Gay Street, West Chester, Pennsylvania. The purpose of this meeting is to hear the following appeal(s).

|             |                          |                   |
|-------------|--------------------------|-------------------|
| APPEAL #922 | <i>Applicant:</i>        | Douglas Milbourne |
|             | <i>Property Address:</i> | 127 East Miner St |
|             | <i>Zoning District:</i>  | NC-2(C)           |

Applicant is seeking approval to operate an automotive detailing shop at this property. Previous zoning hearing board appeals #534 and #874 allowed nonconforming uses.

|             |                          |                     |
|-------------|--------------------------|---------------------|
| APPEAL #923 | <i>Applicant:</i>        | Kurt Martin         |
|             | <i>Property Address:</i> | 508 South Walnut St |
|             | <i>Zoning District:</i>  | NC-2(B)             |

Applicant is appealing the determination that the code official has found that the property is being used as a student home without the required Special Exception as per Section 112-19;C(7).

The application(s) are available for public review at the Department of Building & Housing at 401 East Gay Street, West Chester, Pennsylvania. The above appeal(s) will not necessarily be heard in the order listed. All interested persons will be given an opportunity to be heard at this Public Meeting.

Respectfully,

Michael A. Perrone, C.B.O  
Zoning Officer

MAP/dcd

Timothy H. Knauer, Esquire  
218 West Miner Street  
West Chester, PA 19382  
610-431-6801  
I.D. #04925

Attorney for Applicant



IN RE: APPLICATION OF : BEFORE THE ZONING HEARING BOARD  
DOUGLAS MILBOURNE : BOROUGH OF WEST CHESTER  
D/B/A DOUG'S DETAIL : CHESTER COUNTY, PENNSYLVANIA

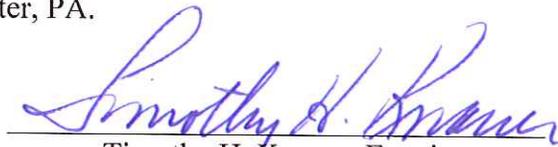
### **Application for Zoning Relief**

1. Applicant is Douglas Milbourne who resides at 315 Lumber Street, Coatesville, PA 19320.
2. Applicant owns and operates an automobile detailing business known as Doug's Detail.
3. Applicant has entered into a lease agreement whereby he will be renting the ground level "first" floor of an existing building located at 127 East Miner Street, West Chester, PA 19382 (hereinafter the "Building").
4. The Building is two-story and has approximately 12,000 square feet of gross floor area; the first floor has approximately 6000 square feet of gross floor area.
5. The Building is located in the NC-2 Neighborhood Conservation District.
6. The Building was formerly owned by M.S. Yearsley and was used by Yearsley for storage and the repair of agricultural and lawn and garden equipment.
7. Yearsley's use of the Building was found by the Zoning Hearing Board to be a nonconforming use. See ZHB's Decision in Appeal NO. 534 dated August 5, 1997, which is attached hereto as Exhibit "A".
8. By its Decision in Appeal NO. 534 the ZHB granted approval for another nonconforming use to be placed in the first floor of the Building; the Board approved Applicant's automotive detailing business as a permitted nonconforming use.
9. The automotive detailing business was then owned and operated by the Applicant herein as Doug's Detail.
10. In December 2005, the Building was purchased by McCool Properties.

11. In 2009 McCool was found to be illegally operating an automotive repair shop in the Building, along with a legal nonconforming storage use and car detailing business.
12. In October 2011 Brent Morgan Properties, LLC purchased the Building and thereafter was granted a building permit to renovate the first floor of the building for an auto storage use.
13. Matthew T. McGeever, owner of Brent Morgan, used the first floor for both car storage and for the repair of antique and collector cars.
14. In 2012 the repair of antique and collector cars was found by Code Enforcement to be an illegal use, but the storage use was deemed a legal nonconforming use.
15. In 2013 the ZHB rendered a Decision on the Appeal of Brent Morgan Properties, LLC to the decision of Code Enforcement. See ZHB's Decision in Appeal NO. 874, a copy of which is attached hereto as Exhibit "B".
16. The Board held that an unlimited automotive repair facility was not a permitted use in the Building, but that a limited automotive repair facility, as conditioned, could be permitted in the Building as a less intensive nonconforming use to that which existed.
17. The Board held that the nonconforming use of the entire Property was limited to storage and the approved limited automotive repair facility use, which as of the date of this application are the existing uses in the Building.
18. The Board's Order extinguished any other prior or present use of the Property not conforming to the present Zoning Ordinance; this meant that automobile detailing is not an approved use in the Building.
19. In its 2013 Order, the Board stated that "any change of use or any part of the use must be approved by the Zoning Hearing Board, after application and hearing, to be granted or denied in the Board's sole discretion". See Exhibit "B".
20. Accordingly, Applicant seeks the Board's approval to place in and operate his automotive detailing business out of the renovated first floor of the Building.
21. Applicant seeks the Board's approval based on Section 112-96.O, which states that a lawful nonconforming use of a building may be changed to another nonconforming use which is less intense than the prior use.

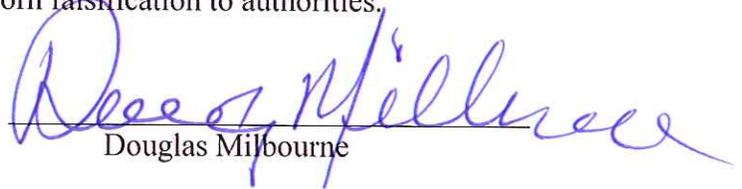
22. Applicant's automotive detailing business is less intense than the existing prior use, which is a limited automotive repair facility.
23. The current owner of 127 East Miner Street is Matthew T. McGeever.
24. It is McGeever's intention to cease using the Building as the location for his automotive repair business, if Applicant's request is approved by the Board.

Wherefore, Applicant, Douglas Milbourne, requests approval to place an automotive detailing business, known as Doug's Detail in the first floor of the property located at 127 East Miner Street, West Chester, PA.



Timothy H. Knauer, Esquire  
Attorney for Applicant  
Douglas Milbourne

I verify that the statements made in this Application are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. section 4904 relating to unsworn falsification to authorities.

  
Douglas Milbourne

Timothy H. Knauer, Esquire  
218 West Miner Street  
West Chester, PA 19382  
610-431-6801  
#04925

Attorney for Applicant

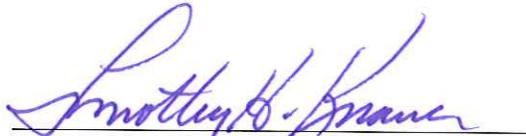
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IN RE: APPLICATION OF : BEFORE THE ZONING HEARING BOARD  
DOUGLAS MILBOURNE : BOROUGH OF WEST CHESTER  
D/B/A DOUG'S DETAIL : CHESTER COUNTY, PENNSYLVANIA

**PRAECIPE FOR ENTRY OF APPEARANCE**

TO: ZONING HEARING BOARD  
OF WEST CHESTER

Please enter my appearance on behalf of Applicant, DOUGLAS MILBOURNE, in the above captioned matter.



---

Timothy H. Knauer, Esquire  
218 West Miner Street  
West Chester, PA 19382  
610-431-6801  
ID #04925

EXHIBIT "A"

IN RE: APPLICATION OF : BEFORE THE  
DOUGLAS A. MILBOURNE : ZONING HEARING BOARD OF THE  
 : BOROUGH OF WEST CHESTER  
 : APPEAL NO. 534

DECISION

On Monday, July 7, 1997, at 7:00 p.m., the Zoning Hearing Board of the Borough of West Chester held a hearing, pursuant to proper notice, at West Chester Borough Hall on the application of Douglas A. Milbourne for permission to use property located at 127 East Miner Street as an automotive detail shop. All members of the Zoning Hearing Board attended the hearing. At the conclusion of the testimony, the Zoning Hearing Board deliberated and voted unanimously to grant the application subject to certain conditions hereinbelow stated, and to enter the following Findings of Fact and Conclusions of Law in support of their decision.

FINDINGS OF FACT

1. Applicant has entered into a lease agreement with the owners of the property located at 127 East Miner Street (Yearsleys) to use a certain portion of the subject building which fronts on East Miner Street as an automotive detail shop.

2. The front portion of the building which Applicant has leased from the Yearleys (hereinafter referred to as "the leased subject parcel") is

approximately 150 feet by 40 feet, or a total of approximately 6,000 square feet in area.

3. The remaining portion of the building will continue to be utilized by the Yearsleys for its present nonconforming use as a lawn and garden equipment repair shop.

4. The leased subject parcel contains space to accommodate four automobiles.

5. Applicant's automotive detail shop business will be conducted entirely inside the building, and will entail the cleaning and buffing of automobiles, the shampooing of car rugs and the like, but will not include any repair of vehicles, nor any painting or pin-striping of vehicles.

#### CONCLUSIONS OF LAW

1. The Applicant has standing.

2. The leased subject parcel is located in the NC-2 Block Class C Zoning District. Zoning Ordinance, Section 112-18.

3. The present use of 127 East Miner Street is nonconforming, and Applicant seeks to change the use of the front portion of the building (the leased subject parcel) to another nonconforming use (automotive detail shop).

4. Pursuant to the provisions of Section 112-96.O of the Zoning Ordinance, a lawful nonconforming use of land or of a building may be changed to another nonconforming use which is less intense than the prior use.

5. The automotive detail shop use, as testified to by Applicant, is less intense than an equipment repair shop use.

6. No change in use has been requested, nor is any granted herein, for the remaining portion of the subject building which will continue to be occupied by the property owners.

ORDER

Applicant is hereby granted permission to use the leased subject parcel (that exact location of approximately 150 feet by 40 feet of the front portion of the building located at 127 East Miner Street) as an automotive detail shop, subject to the conditions that the use be restricted only to the type of indoor automotive detail operation as testified to by Applicant, and that no change in use has been granted for that portion of the subject building which will continue to be occupied by the property owner.

\_\_\_\_\_  
Lawrence A. Goldberg

\_\_\_\_\_  
Nancy Wilkinson

\_\_\_\_\_  
John A. Saling

\_\_\_\_\_  
Fred Gusz

\_\_\_\_\_  
David Sweet

I certify that a copy of this Decision was mailed by first class mail properly addressed to Douglas A. Milbourne, on \_\_\_\_\_.

\_\_\_\_\_  
Michael A. Perrone  
Zoning Officer

EXHIBIT "B"

**IN RE: APPEAL OF : BEFORE THE ZONING HEARING BOARD**  
**BRENT MORGAN : OF THE BOROUGH OF WEST CHESTER**  
**PROPERTIES, LLC : APPEAL NO. 874**

## **DECISION**

### **BACKGROUND**

On February 11, 2013, March 4, 2013 and March 11, 2013, the Zoning Hearing Board of the Borough of West Chester, having given proper notice held a hearing ("Hearing") at the West Chester Borough Hall on the Appeal of Brent Morgan Properties, LLC ("Appellant" or "Brent Morgan") appealing from an enforcement notice and requesting permission to change one nonconforming use to another nonconforming use for a property at 127 East Miner Street. Zoning Hearing Board members Kevin Ansley, Dawn L'heureux, David Sweet, Michael Pastino and Charles Swope attended the Hearing. (Mr. Pastino did not attend the Hearing on February 11, 2013 but the parties agreed that he could participate in the Decision). Brian L. Nagle, Esquire represented the Appellant. The Borough of West Chester was recognized as a party, and its solicitor, Kristin S. Camp, Esquire appeared on behalf of the Borough. The following individuals were granted party status: Carla Jebson, Gabe Ginervo, Ruby Lawson, William Little, Edith Chambers, Kimberly McMullin, Steve Woodruff and Shawn Baxter.

The testimony was recorded by Melissa Bailey, RPR. The notes of testimony and following documents constitute the record in this case.

- A-1 Notice of Appeal
- A-2 Deed
- A-3 – A-16 Photographs
- A-17 Enforcement Notice – March 10, 2009
- A-18 (Exhibit withdrawn by Mr. Nagle)
- A-19 Draft Conditions of Approval
- BC-1 Application for Building Permit dated October 6, 2011
- BC-1A Marked-up floor plan
- BC-2 Tax Map and list of adjacent property owners
- BC-3 Zoning Decision dated July 7, 1997

The Board reconvened the Hearing on Monday, March 11, 2013 and received into the record stipulated conditions agreed to by the Borough and the Appellant as amended by the Board Solicitor. The Board then voted to deny the appeal from the enforcement notice and authorize a change of nonconforming use subject to the amended conditions, and in support of its decision, enters the following Findings of Facts and Conclusions of Law.

#### **FINDINGS OF FACT**

1. Brent Morgan owns a property located at 127 East Miner Street (the "Property")

2. The Property is located in the NC-2 Neighborhood Conservation District.

3. A two-story building is constructed on the Property, approximately 12,000 square feet in gross floor area, which covers the entire Property.

4. For approximately 40 years, the Property was owned by M.S. Yearsley and used for storage and the repair of agricultural and lawn and garden equipment.

5. In December 2005, the Property was purchased by McCool Properties.

6. At the time of McCool's purchase, the first floor front of the building, adjacent to East Miner Street, was occupied by Doug's Detailing, an automobile detailing business.

7. Doug's Detailing washed, waxed and cleaned automobiles.

8. Yearsley and a successor company who operated a business similar to Yearsley occupied the first floor rear and the second floor of the building, until the business ceased operation in approximately 2010.

9. In about 2009, McCool leased a part of the building to a concrete and masonry business; and a computer business.

10. In Appeal # 534, by Decision dated August 5, 1997, the Zoning Hearing Board found as fact that the Property was being used by Yearsley for a nonconforming use, a "lawn and garden equipment repair shop."

11. In Appeal # 534, the Board permitted part of the building to be used by Doug's Detailing as a nonconforming automobile detail shop.

12. By notice dated March 10, 2009, the Borough cited McCool Properties for using the Property as an illegal automotive repair shop; this notice of violation was not appealed.

13. The March 10, 2009 notice of violation also established that the Property, at the time, was a "legal, nonconforming storage use and car detailing business."

14. Brent Morgan purchased the Property in October 2011.

15. None of the businesses that occupied the Property prior to Brent Morgan's purchase was an automotive repair facility.

16. On October 6, 2011, Brent Morgan applied for a building permit to renovate the first floor of the building for a storage use.

17. In the spring of 2012, Brent Morgan had completed the renovations of the first floor.

18. Brent Morgan intended to use the first floor of the building to store antique and collector cars owned by others who did not have storage space.

19. Matthew McGeever, the owner of Brent Morgan, testified that the storage business was unprofitable so he began using the Property for repair of antique and collector cars, without seeking approval from the Borough.

20. By correspondence dated August 20, 2012, the Borough Director of Building Housing and Codes Enforcement issued a violation notice to Brent Morgan indicating that the Property was being used as an illegal nonconforming automotive repair business; and further stating that the existing storage use is a legal nonconforming use.

21. Brent Morgan asserts that the automotive repair business is either a lawful nonconforming use; or a nonconforming use which is less intense than the prior nonconforming uses.

22. An automotive repair facility, as defined by the Borough Zoning Ordinance, does not limit the types of services that may be offered; therefore the automotive repair facility use may include all types of repairs, including engine and transmission rebuilding and body and fender repair and painting.

23. An automotive repair use is not less intensive than the prior nonconforming uses of the Property.

#### **DISCUSSION**

The Director of Building and Zoning correctly concluded that the Property is being used illegally by Brent Morgan as an automotive repair facility. The Property was never used as such a facility; the unappealed 2009 enforcement notice confirmed that automotive repair is not a legal use of the Property.

The Zoning Ordinance does not restrict the services that may be provided in an automotive repair facility; and therefore we can not

conclude that such a use is less intensive than the prior nonconforming uses, storage and automotive detailing. This Property is in a residential zoning district surrounded by residential uses in close proximity. A general automotive repair business is not compatible with the neighborhood.

However, the Board concludes that a limited automotive repair facility, restricted by the conditions set forth in the following Order, can be permitted on the Property. Brent Morgan must operate its business in strict conformity with the conditions to mitigate the impact on the neighborhood.

#### **CONCLUSIONS OF LAW**

1. Appellant has standing.
2. The Property is located in the NC-2 Neighborhood Conservation District.
3. The prior nonconforming uses of the Property were lawn and garden equipment repair; light storage and automotive detailing.
4. An automotive repair facility is not a less intensive use than the prior nonconforming uses.
5. An automotive repair facility is not a permitted use in the NC-2 District.

## ORDER

The Appeal of the August 20, 2012 Enforcement Notice for 127 East Miner Street determining that the Property is being used illegally as an automotive repair facility is denied and the Enforcement Notice is affirmed.

The Zoning Hearing Board authorizes the nonconforming use of the Property to be changed to another nonconforming use pursuant to Zoning Ordinance Section 112-96.O subject to compliance with the following conditions:

1. The change of nonconforming use permitted in accordance with Zoning Ordinance Section 112-96.O is an automotive repair facility restricted to maintenance and repair of antique, collector and classic automobiles and light trucks and limited to minor engine repair, and maintenance and repair of minor engine components, electrical systems, mechanical systems, suspension systems, brake systems and tire mounting and balancing. Any change of use or any part of the use must be approved by the Zoning Hearing Board, after application and hearing, to be granted or denied in the Board's sole discretion.
2. Hours of operation for the limited automobile repair facility approved by this Decision shall be limited to 9 a.m.-6 p.m. Monday through Friday; the first floor of the building depicted in Exhibit A attached hereto shall not be used for any purpose except storage between 6 p.m and 9 a.m. the following day, Monday through Friday, or at any time on

Saturday or Sunday, except for office use related to automobile repair facility involving no noise.

3. The overhead door, and all windows and doors shall be kept closed at all times when any noise producing activity is engaged in relating to the automobile repair facility or any other activity occurring on the first floor of the building, with the exception of times when vehicles are actively entering and exiting the facility.

4. No more than 2 vehicles shall be actively worked on at any one time and all activity related to the automobile repair facility shall be conducted inside the building;

5. Employees shall be limited to two mechanics plus one assistant/administrator (this shall not preclude the owner from working at the facility); except for occasional customer visits, delivery personnel and service personnel (e.g., HVAC contractors), no other individuals shall be present on the first floor of the building depicted in Exhibit A attached hereto.

6. The automobile maintenance and repair area shall be limited to the 1,466 square foot area on the East side of the building, as generally shown on the sketch prepared by Mr. McGeever, which is attached hereto as Exhibit "A", provided that cars that are being staged before or after repairs may be stored in the indoor storage area and also provided that the entrance will be utilized for all permitted uses at the Property.

7. No sign will be maintained other than the existing door decal on the Miner Street man-door.
8. Without limiting the restrictions of Condition 1 above, the limited automobile repair shall not include any of the following, consistent with Mr. McGeever's testimony,
  - a. Body work;
  - b. Automobile painting;
  - c. Transmission rebuilding;
  - d. Engine rebuilding.
9. Due to the specialty nature of the business based upon Mr. McGeever's testimony, in the event that the business is transferred to an individual or to an entity that is controlled by someone other than Mr. McGeever, the change of use approved by this decision may only be continued by a new owner after application to, hearing and approval by the Zoning Hearing Board (which approval the Board has no obligation to give) to ensure substantial similarity to the nonconforming use hereby approved and adherence to the conditions of this approval and such other conditions as the Board may impose.
10. In the event that the Borough Zoning Officer determines that an exhaust fan or system is necessary, Appellant will install same in accordance with all applicable Borough Codes after approval of the proposed system by the Zoning Officer or his designee;

11. In the event that any of the conditions of this Decision and Order are violated, the Borough, in its sole discretion, may terminate Appellant's right to continue the automobile repair use. While a determination of a violation shall be appealable, any subsequent decision of the Borough to terminate the automobile repair use shall not be appealable.

12. The Appellant will not request and will not be issued more than 2 parking permits for the Property while it is being utilized for limited automobile repair.

13. The nonconforming use of the entire Property is limited to storage and the use approved by this Decision. Any other prior or present use of the Property not conforming to the present Zoning Ordinance is extinguished.

14. The conditions of this approval shall be incorporated into a memorandum of decision, in form and substance satisfactory to the Borough solicitor, recorded in the chain of title of the Property in the office of the Recorder of Deeds of Chester County.

15. Except as may be inconsistent with the preceding conditions, the Appellant and the use of the Property shall comply with the representations and commitments made in the testimony and exhibits presented at the Hearing.

16. Except as modified by this Decision and Order, the use of the Property shall comply with all applicable Borough ordinances and regulations and with all applicable provisions of any statute, ordinance or regulation of any municipal or governmental entity having jurisdiction over the Property.

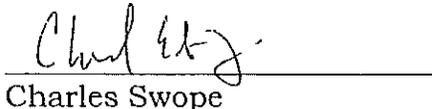
**ZONING HEARING BOARD**

**BOROUGH OF WEST CHESTER**

\_\_\_\_\_  
Kevin Ansley

  
Dawn L'heureux

  
David Sweet

  
Charles Swope

\_\_\_\_\_  
Michael Pastino

I certify that a copy of this Decision was mailed by first class mail properly addressed to Brian L. Nagle, Esquire, Kristin S. Camp, Esquire, Carla Jebson, Gabe Ginervo, Ruby Lawson, William Little, Edith Chambers, Kimberly McMullin, Steve Woodruff and Shawn Baxter on APRIL 4, 2013 which is the date of this Decision and Order

  
\_\_\_\_\_  
Michael A. Ferrone, CBO  
Zoning Officer