

**Wednesday, April 15, 2020**  
**Board of Commissioners Meeting - 7:00 PM**

**Meeting Held Via "GoTo Meeting" (See SWT Website Link)**

**\*Agenda Packet, Recordings, & Minutes Location: [www.boarddocs.com](http://www.boarddocs.com)**

**USERNAME: swhitehall**

**PASSWORD: swtpublic**

**1. CALL TO ORDER**

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A. All public sessions of the South Whitehall Township Board of Commissioners are electronically recorded. The electronic record is kept until the minutes of the meeting are approved and destroyed if a request is not made to retain the electronic version at that time.

**2. PLEDGE OF ALLEGIANCE**

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**3. NOTIFICATION**

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**4. MINUTES**

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- A. February 12, 2020 - Land Preservation BOC Workshop - Page 3
- B. March 4, 2020 - BOC Meeting Minutes - Page 13
- C. March 11, 2020 - Joint BOC/PC Workshop (Comprehensive Plan) - Page 17
- D. April 1, 2020 - BOC Meeting Minutes - Page 23

**5. ORDINANCES**

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A. Discussion Item - Motion Requesting Permission to Advertise. An Ordinance Amending The South Whitehall Township Zoning Ordinance By Amending Section 350-24(C)(5) R-3 Low Density Residential Zoning District Schedule, Section 350-24(C)(6) R-4 Medium Density Residential Zoning District Schedule, Section 350-24(C)(7) R-5 Medium Density Residential Zoning District Schedule, Section 350- 24(C)(8) R-10 High Density Residential Zoning District Schedule, And Section 350-24(C)(14) Hc-1 Highway-Commercial-1 Zoning District Schedule To Allow For A Maximum Height Of Forty (40) Feet For Residential Buildings; And, Providing For A Severability Clause, Retention Of Rights To Enforce Clause, A Repealer Clause, And An Effective Date. - Page 33

**6. RESOLUTIONS**

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- A. A Resolution Amending Resolution No. 2019-65 Which Granted A Waiver Of Subdivision And Land Development Review And Approval Requirements Of The South Whitehall Township SALDO For A Plan Entitled "Village West Redevelopment" Relating To Properties Located At 3100 West Tilghman Street And Granting An Additional Waiver Pursuant To SALDO Sections 312-13(F)(3) And 312-43 - Page 43
- B. A Resolution Amending Resolution No. 2019-52 Which Granted Preliminary/Final Approval To A Minor Plan Entitled "John Jaindl" To Include An Additional Waiver Granted To Saldo Section 312-36(D)(4) - Page 55
- C. Resolution to Proceed with DCED Grant Request in the Amount of \$250,000 with Regard to the Greenways Trails and Recreation Program to Support the Vistas Park Project - Page 71

**7. MOTIONS**

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- A. Norfolk Southern Agreement Regarding 4741 Chapmans Road - Page 73
- B. Norfolk Southern Agreement Regarding Crackersport DC Warehouse - Page 93

C. Motion to Proceed with Purchase of Leaf Vacuum Machine from Upper Macungie Township - Page 103

D. Motion to Proceed with Payment through March 31, 2020 for Fire Departments' Incentive Program

**8. CORRESPONDENCE AND INFORMATION ITEMS**

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**9. DIRECTION/DISCUSSION ITEMS**

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**10. OLD BUSINESS**

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A. Wehr's Dam - Status

B. Campus Renovation Project - Status

C. Township Digital Platforms - Status

D. Credit Cards - Status

**11. COURTESY OF THE FLOOR**

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**12. PAYMENT OF INVOICES**

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A. Invoices and Purchasing Requisitions have been reviewed by the Township Manager and the Director of Finance, who authorize that checks be issued to pay bills as tabulated.

**13. EXECUTIVE SESSION**

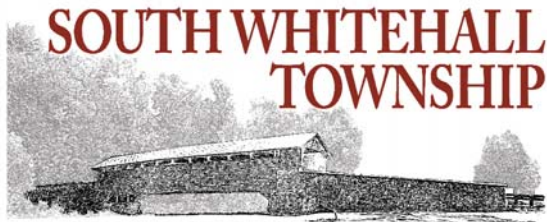
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A. Scheduled Accordingly.

**14. ADJOURNMENT**

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A. Motion to Adjourn.



**BOARD OF COMMISSIONERS**

**HOMELAND PRESERVATION WORKSHOP AGENDA-MINUTES      February 12, 2020**

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**1.      CALL TO ORDER and PLEDGE OF ALLEGIANCE – 6:00 PM**

- Attendees:            Commissioner Christina (Tori) Morgan, President  
                         Commissioner Diane Kelly, Vice President  
                         Commissioner Michael Wolk, Assist. Secretary  
                         Commissioner Joe Setton - Absent  
                         Commissioner Matthew Mobilio  
                         Joseph A. Zator, Twp. Solicitor, Zator Law Offices  
                         Anthony Tallarida, Twp. Engineer, The Pidcock Company  
                         Renee Bickel, Township Manager  
                         Randy Cope, Director of Twp. Operations  
                         Steve Carr, Director of Finance  
                         Chief Glen Dorney, SWT Police Department  
                         George Kinney, Director of Community Development  
                         Tracy Fehnel, Executive Assistant

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**3.      DIRECTION/DISCUSSION ITEMS**

**a.      Mission Statement and Overview of Homeland Preservation Committee – Commissioners Mobilio & Wolk**

President Morgan wanted to note for the record that the mission statement on the back of the agenda was put out prematurely. This will be modified as we go through this process.

At this point, President Morgan, turned the meeting over to Commissioners Mobilio and Wolk, who are the leads in this Committee.

Commissioner Mobilio explained that he and Commissioner Wolk met several times in order to discuss the formation of this committee. He explained that we are currently working with Township Manager Renee Bickel and Staff, and that this is all very preliminary, and all thoughts, comments, ideas are welcome—nothing has been voted on, or written in stone. We are here to figure out how to move forward from this point.

Commissioner Wolk said the formation of this land preservation committee is a good step forward, we are going to set some direction, and then move to accomplish those goals; and, said we are dedicated to this process. Commissioner Wolk went on to say that he is looking forward to hearing everyone's thoughts. It is early in the process, and this is open ended, and a lot of what you say will be incorporated into the front-end of this program.

President Morgan said that the entire board is interested in this subject matter, and will be involved as well; President Morgan thanked Commissioners Mobilio and Wolk for taking the lead in this. There will be a lot of information gathering we will need to do as a group before we can make any decisions that will lead us down a path, so we know what we can/cannot do.

Commissioner Wolk addressed the term and use of "homeland", and mention other terms such as land and open space to be considered. This will be looked at further.

He went on to say that "land preservation" covers the following: land, water, and natural resources. Some historic and cultural resources, open space—farmland, woodlands, wildlife habitats, watersheds, greenways, open space, which for some includes parks recreation and trail ways. The term "homelands" was meant to be complete and comprehensive to cover all of these.

Commissioner Wolk said we need to consider the areas we would like to prioritize, so that Mr. Franklin understands what SWT's priorities are.

Commissioner Wolk there are land preservation funding options which would not require a tax increase and there are funding options which would require a tax increase. Both options will be considered.

President Morgan said it is important to note that land preservation/open space preservation is a dynamic that includes cooperation with development. In the draft Mission Statement it states ..."to preserve and protect from future development as much land in SWT..." That is not the case. Good development is crucial to the growth and sustainability of our Township. It is good, planned out development. So, a statements "to protect" from future development is not what we are looking to do in regard to land preservation. It is a situation where we need to work with developers, not against development, and make sure that the land preservation that happens in the Township makes sense and is something that is feasible, and we will need the assistance of those people who own these properties to make sure that some of these things can happen.

Commissioner Wolk said we need to look at all sources of money, which do not require raising taxes and take a look at a referendum for a tax increase. We have to look at both sides.

Q: We already have a mechanism in place called Zoning. Why don't we exercise Zoning?



A: Commissioner Wolk said that in order to address that, work is currently being done on the Comprehensive Plan. On March 11<sup>th</sup> is another meeting with regard to the update of the Comprehensive Plan. The outcome of the Comprehensive Plan will look at Zoning—some things will change, and some things will remain the same. That being said, Zoning changes are outside the scope of this specific Committee.

President Morgan said that although Zoning is outside the scope of this Committee, we need to keep in mind that the MPC requires us to have certain types of zoning throughout the entire Township. Commissioner Mobilio added—the MPC is a written law.

Commissioner Wolk said we are looking for a balance between preservation and development. The Township does not have any land zoned agricultural/conservation, and if we want to preserve more farmland, we will have to add agricultural and conservation zoning. He feels the best place for that to originate is the Comprehensive Plan.

Commissioner Mobilio explained there have been no discussions regarding unilaterally raising taxes. He said what we would propose is to have a referendum, which would allow taxpayers to vote to see if they are willing to raise taxes for this purpose. This decision would be put back into the hands of the taxpayers. If you don't want this, then we won't raise taxes. We will still continue to pursue other options.

President Morgan said this group here needs to focus holistically, not just on one or two big properties, but on smaller parcels as well, which might allow us to expand out on our Open Spaces. It would be nice for us as a Township to have some kind of funding source so that when we hear of someone who is selling of a piece of property, that we could ask them if they are interested in selling this property to the Township.

Commissioner Wolk said that as he has been studying this topic, he said that the steps are:

1. Identify the property;
2. Then you know how much money you need; and
3. They you look at your funding sources (nontax and tax-related).

President Morgan added part of this process is to see what is out there, and to work with landowners to preserve as much as we can.

Commissioner Wolk touched on conservation easements, which is a sort of middle ground. Instead of buying property outright, the Township could buy the development rights where the landowner or farmer continued to farm the land, and the development rights have been purchased by the Township and or a land trust, who supports the funding.

President Morgan said that when and if we do a referendum, it will be very important that this referendum go to every Township Resident—it needs to be representative of the entire Township.

Commissioner Wolk also talked about a method of funding called “transfer development rights” (TDR). This is when a landowner transfers his development rights to another landowner. There is a financial agreement which occurs between the owner and the transferee—the Township would not be involved in this, and there is no cost to us.

At this time Mr. Franklin was introduced to the Board.

**4. PRESENTATION:** Owen Franklin, PA State Director – Trust for Public Land

The Trust for Public Land is a non-profit organization—been around since the 1970s. Mission is to *“Create parks and protect land for people to ensure healthy livable communities for generations to come.”* We look to advance this mission through a variety of activities. One of the activities mention is to work with local communities to determine whether or not there are appetites, needs, opportunities to have local sources of funding to deliver the mission in the way the local community so desires to prioritize.

Mr. Franklin when on to give a presentation entitled, “Not Red or Blue, but Green: How to Unlock Billions for Conservation.”

Slide 4 - Public Funding for Land Conservation – The majority of funding comes from local levels. Funding comes from Federal 22%, State 32%, Local 48% Sometimes local funds are used as a match, which in turn pulls from Federal and State sources.

Slide 5 – Track Record of the Concept: 76% long-term approval rate, good times and bad –

Sometime local governments—the elected body decides to issue bonds, or sometimes they take that decision to the electorate to determine if there is an interest to raise taxes or issue a bond for the purpose of land protection. Overtime, we have seen that when this question is presented to the electorate, there is a 76% approval rating for these types of initiatives.

Slide 6 & 7 – Support for these initiatives does cross political parties.

Slide 8 - Track Record of the Concept: Tens of Billions of \$ for Land Conservation – From 1996 to 2016, billions of funding dollars were generated for land preservation and parks development.

Slide 9 – November 6, 2018 Election – All Park & Conservation Ballot Measures – They were as follows:

- 54 measures in 21 states
- 46 were approved by voters
- 85% passage rate, which yielded
- \$2.86B in funds for parks & conservation

Slide 10 – Land Vote (State, County, Municipal and Special District Measures 1998-2018 -  
The Trust for Public Land is a great resource to use and maintains the largest database of information related to land conservation and parks development ballot initiatives, with information going back to 1985.

(Measures – aka Referendums)

Slide 11 – New Jersey Local Conservation Ballot Measures (2004-2017) – 67% Passage Rate  
– The Trust for Public Land was involved with many of these measures.

Slide 12 – Pennsylvania Local Conservation Ballot Measures (2004-2017 – 79% Passage Rate  
– The Trust for Public Land was involved with many of these measures. In PA not as many measures related to conservation as in NJ; however, higher passage rate, but not as much activity/total measures.

Slide 13 – [www.landvote.org](http://www.landvote.org) – Website address.

Slide 14 – What is the Trust for Public Land’s Conservation Finance Program? – We create new and protect public funding for land conservation, parks, and restoration through the research, design, and passage of ballot measures and legislation and serve as thought leaders in the field.

The last thing we want to do is recommend an initiative be put on the ballot, when the research shows it has a low chance of passing. If we do research and it says that there is not voter support for an initiative, we will relay that information to you.

Slide 15 – November 6, 2018 Election – Trust for Public Land Park and Conservation Ballot Measures – Informational.

- 18 measures in 10 states
- 17 were approved by the voters
- 94 percent passage rate
- Over \$1.8B in funds for parks & conservation

Slide 16 – Our Track Record: 561 wins, 82% YES, \$74B created, over \$100M YES Votes

Slide 17 – TPL Ballot Measures in PA (2001-2016) – 10 of 10 for a 100% Passage Rate – All initiatives TPL were involved in, in PA, did pass.

Q - Commissioner Mobilio - Why is a bond a preferred measure over some other options?  
Mr. Franklin said that sometimes a community needs funds to be in hand in the near future. A bond releases those funds more quickly. There is also flexibility in how the bond is financed. There is less specificity when using a bond.

Slide 18 – Not Red or Blue, but Green – Will touch on Ballot Measure Basics and Measure Components in following slides.

Slide 19 – Key Variables in Measure Design - There are a host of variables we use when working with communities.

- Funding Mechanism
  - Will it be a bond, earned income tax, property tax?
- Amount (and duration)
  - What amount needs to be generated and over what period of time?
- Purposes/Uses of Funds
  - Is this for land conservation, parks development, is there a maintenance component?
- Timing (choice of election date)
  - During presidential election years we have the largest turn out and measures have a higher level of passage.
- Management/Accountability
  - In some instances, voters look to have some information as to how funds are spent over a specific period of time; what frequency of reporting will be provided; an annual report which shows how these funds have been spent; overseeing of these expenditures—ultimately, how these funds are used.

Slide 20 – Not Red or Blue, but Green

Slide 21 – Key Steps for Successful Ballot Measures

- Feasibility Research
  - Public Opinion
    - Program Recommendations
      - Ballot Language
      - Campaign

Slide 22 – Step 1 - Feasibility Research – This is where we do a lot of our homework and where we differentiate ourselves from others. The research provides an in-depth review of your community’s factors, such as your budget, expenditures, demographics, population, history of land conservation measures, governing body of community, average income, etc. This research will help us make informative decisions later on. Based on the measures taken, what would the burden placed on each resident be? We’ve learned that if less than \$30/year for a person, generally speaking it has a higher passing rate than those measures of a higher price tag. The key factor is what is going to be the financial impact on each household as a result of choosing to support/or not support this initiative.

Slide 23 – Step 2 - Public Opinion Survey – This survey is conducted by a professional pollster. It is conducted through telephone surveys, which a tremendous amount of information comes out of. *The question is—What is the condition that would make this measure most appealing to a resident, or is there truly no appetite from this person in supporting this initiative?* This survey provides for great predictability as to whether or not an initiative will pass or not if put to the voters.

Slide 24 – Step 3 – Program Recommendations – Once we have done the feasibility study, and once we have learned what we need to learn from the polling, we will then make a recommendation. That recommendation may be that now is not the right time. However, if that recommendation is something else, it will include what is the best funding source given the amount of funds the community looks to raise, how long should that funding source be generated, how specific or flexible should the purposes be for which that source is created, and when would this measure be put before the voters. Then, getting back to the management accountability, what is information that the electorate will look for in the managing of the funds with regard to the vote they approved.

Slide 25 – Step 4 – Ballot Language – Ballot language is very important. For many people, the first time they will be educating themselves on this topic will be when they step into the booth to vote. The language needs to be clear, comprehensive, and specific, and include what the voters (from the survey) said is important to them. When we develop this language, our council will work very closely with Township council to ensure all legalities are accounted for. We have been developing language for a long time, so we have a large inventory of best practices from which to pull from.

Slide 26 – Step 5 – Campaign – In some instances the Trust will get involved in an educational campaign; specifically, public awareness. Rarely public advocacy, though. We are limited in our ability to advocate. This depends on the scope of what we are asked to do.

Slide 27 – Keys to County Referendum Success – Lastly, Mr. Franklin touched on how to make sure your referendum is a success. Use TPL Resources available to you. Spend limited funds wisely. Engage consulting firm to target communications through a Survey as discussed earlier. This is a tremendous amount of information. This is a key aspect of the work. This research and homework are very important so that what you are putting forth represents the viewpoints of the electorate, so that you are putting forth a ballot which would pass. If we learn from the research that in all likelihood a ballot would not pass, we will recommend that it not be put to the ballot.

Slide 28 – Mr. Owen Franklin’s Contact information.

Mr. Franklin said that in closing should you decide to work with us, we commit to doing that work with the accuracy and science-based responsible approach that we always do.

Mr. Franklin said all communities are different, but they would recommend a process to us. They would work with us to decide how SWT would want TPL to be involved.

Commissioner Wolk wanted to address the back end of this process, the execution of the land preservation. Do you do that work also, or do you have land trusts who do that work? Mr. Franklin said they do land conservation, which is what they have been doing the longest—protecting land; but that being said, PA has a very rich network of land trusts that has great local knowledge. In some instances we are not the best to engage in that for the

local community, since we are working with a community to generate funds through these referendums.

Commissioner Wolk summarized by saying that we could hire the TPL to handle the front end, while hiring a land trust to do the back end of the process, what he calls the execution end, the actual preservation of the land. Mr. Franklin said that is correct.

President Morgan explained that tonight was an evening to gather information and see how TPL might fit in with this committee and the Township.

Commissioner Wolk – For the ballot, do you get a better result if you put a broader use for the funds or a more narrow use for the funds? Mr. Franklin said that this depends on the electorate. If they have an appetite for a broad usage of funds, then broader use would be OK; however, if they have a very specific priority the community knows clearly, then a more narrow use would work. Commissioner Wolk said there are so many other uses beside Farmland. Mr. Franklin said the feasibility study would be able to determine what the best fit would be.

Commissioner Mobilio – Do we need to tell you in advance what our funding source will be? Mr. Franklin said we would have a conversation with this body what measure we feel would be the best fit based on the ability to generate funds, needs, cost per household, most manageable, etc. And then base on the polls, see how right we were, and then see if we need to calibrate it differently.

Commissioner Kelly – With our new surveying, when you ask your questions, whether it is open space, parks, farmland, do you attach a monetary value so that the person answering questions understands there will be a dollar amount tied to those specific initiatives? Mr. Franklin said that we tie them to the amount the person answering the questions would pay. We would approach it from the perspective—would you be willing to pay \$20 a year to support activities a, b, & c. We are very specific regarding the impact it would have on the caller. We are very interested in generating real answers to these questions, because when they go to the polls, we will see the results of these answers come out at the polls. We cannot manipulate the voters' answers when they go to vote. We base our reputation on this.

Commissioner Kelly – Does your company form the questions to be asked, or does the Township have a say in the questions asked? We work with a Pollster who does this all the time and we would certainly collaborate with the Township regarding the questions asked. We do recommend leaning on the expertise of the Pollster, as this is their livelihood.

Commissioner Mobilio – Once we decide on the source of funding, would you be part of helping us educating the public regarding this. Mr. Franklin said that it can be part of the process if we so choose.

Commissioner Wolk said that regarding the identifying of properties, do you do facilitate that work in any way, and if so, could you elaborate on that? Mr. Franklin said that when it comes to assessing the inventory of available properties, they could work with the Township based on the information you give us. As to deciding which properties are the highest priorities, that is a different activity. It is not typically done within the context of this. It is truly a local decision. But, we as a planning service can help facilitate conversation if you so desire. Commissioner Wolk feels we do need to take ownership of this particular piece, and said we can have an internal discussion regarding this.

This ended the part of the meeting where the Board asked questions. It was next opened up to the Public so they could ask questions as well.

Q: Sharon Holden – Isn't it harder to reach people via phone, rather than mailing a survey, or some other way? Mr. Franklin said he was discussing this last week with a colleague and they are confident that they can get the answers they need by doing a phone survey. He said that he will get his colleague's specific answer to this question, and forward to the Board. Mr. Franklin said they would not conduct this form of survey if they did not feel it was a reliable way to get the information that we need.

Tom Utsch – He commented that unless you do some serious debt financing you will never be able to come up with enough money to make any meaningful impact.

This was the last of the questions asked which pertained to the Workshop Topic. The remainder of the evening's discussion circulated around the Comp Plan and the importance of public involvement in that.

At this time George Kinney gave a brief update with regard to the Comp Plan and the distinction that it is a policy document, which drives a number of things. George, as well as all the other commissioners, encouraged the public to attend these Comp Plan Meetings, so that they can voice their concerns, and be part of this process. The next meeting is March 11<sup>th</sup>.

5. **COURTESY OF THE FLOOR** – None.

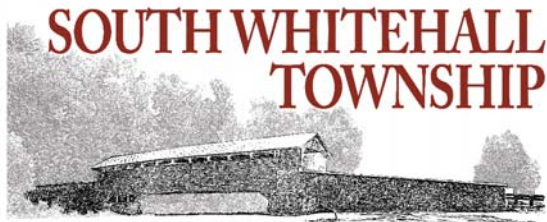
In Closing – President Morgan explained that we will be working on the Mission Statement and will be considering the direction moving forward with this process regarding land preservation. We will certainly be coming back to another Public Meeting regarding all of this. Both Commissioners Morgan and Wolk thought it would be good to hear other presentations with regard to this topic. There will be more workshops forthcoming.

6. **EXECUTIVE SESSION:** None was held after this meeting.

7. **ADJOURNMENT:** At 7:40 p.m. a MOTION was made by Commissioner Kelly, which was seconded by Commissioner Mobilio, to adjourn. All in favor; none opposed.

**8. APPROVED:**





**BOARD OF COMMISSIONERS**

**PUBLIC MEETING**

**AGENDA-MINUTES**

**March 4, 2020**

**1. CALL TO ORDER: 7:00 p.m.**

Attendees: Commissioner Christina (Tori) Morgan, President  
Commissioner Diane Kelly, Vice President  
Commissioner Michael Wolk, Assist. Secretary  
Commissioner Joe Setton  
Commissioner Matthew Mobilio  
Joseph A. Zator, Twp. Solicitor, Zator Law Offices  
Anthony Tallarida, Twp. Engineer, The Pidcock Company  
Renee Bickel, Township Manager  
Randy Cope, Director of Twp. Operations  
Herb Bender, PW Superintendent  
Steve Carr, Director of Finance - Absent  
Chief Glen Dorney, SWT Police Department  
George Kinney, Director of Community Development - Absent  
Tracy Fehnel, Executive Assistant - Absent

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For the record, President Morgan advised that the Board did meet in Executive Session prior to this evening's meeting to discuss legal and personnel related matters.

**4. ORDINANCES – None.**

**5. RESOLUTIONS – None.**

**6. MOTIONS**

**a. Motion Requesting Permission to Proceed with Advertising of Request for Proposals (RFP) Regarding the Jordan Creek Greenway Sections 35-45 Design**

Mike Kukitz, Parks & Recreation Manager, explained that Staff is seeking permission to advertise for the engineering, design and permitting of Sections 35-45 of the Jordan Creek Greenway. Sections 35-45 will include a 10' paved trail from Wehr Mill Road to Cedar Crest Boulevard/Parkland High School.

The RFP seeks an Engineering consultant to prepare construction-ready trail plans, prepare all crossing specifications, develop construction cost estimates, and obtain all permits necessary for future construction. Work will also include public participation/needs assessment, site information and analysis, final mapping and design. The RFP has been reviewed by Zator Law Offices and approved by the Department of Conservation and Natural Resources (DCNR).

This project is being funded through a \$150,000 DCNR grant, matched by the approved 2020 Capital Project budget.

Mike explained this will be an additional two miles which will close a gap in the trail, which will mean three of the seven miles will be completed connecting our east and west boundaries.

Q: What is the cost of this entire project? Mike and Randy both explained that this is the purpose of the RFP—Request for Proposal. Randy explained that this depends on the grant funding. He explained that it is always our goal to spend zero dollars on construction; understanding there are only opportunities out there for so much, and the Township does have a vested interest in this trail to connect to other communities as well as the Trexler Nature Preserve. So, if we can do our due diligence in writing grants to cover the construction, Randy said he feels we are doing really well in comparison to a lot of other trails he has seen built.

Randy explained that the map in the packet is our preferred route—this is best-case scenario. It is not set in stone by any means. Mike Kukitz added that this RFP will also help us determine what the best route is.

Randy explained that engineering fees have been allocated through the general budget. But our construction dollars, we have been very fortunate, have been offset with grant funding. Additionally, this RFP will give us a cost, which will show us the amount of money we need, in order to apply for grant funding.

Randy explained for this project we have already received the finalized grant agreement from the State. President Morgan said we have had positive momentum up to this point, and we don't want to put ourselves in a position where we wouldn't be considered for funding because we delayed.

Commissioner Kelly asked when you get to Cedar Crest by the High School, where are we going after that? Randy said TBD. The ultimate goal is to connect to Jordan Creek Parkway. The County has already completed their part through Jordan Creek Parkway, they have connected to Whitehall Township, the link is starting to happen, but there is a significant trail gap that will have to be engineered and worked on with landowners as well. There are many ways that we can go. We are currently working with North Whitehall on a link. Randy said unfortunately he cannot give a more definitive answer at this time.

A MOTION was made by Commissioner Mobilio, which was seconded by Commissioner Wolk, granting permission to proceed with advertising of RFP regarding the Jordan Creek

Greenway Sections 35-45 Design, as discussed by Mike Kukitz and Randy Cope. All in favor, none opposed.

Randy thanked the Board.

**b. Street Moratorium Exemption Request - 3338 Winchester Road**

Randy Cope said Mr. Ohara, the owner, is in attendance. When a township paves a road, there is a five-year moratorium on the road, where you cannot make any cuts into the road for anything other than an emergency. Mr. Ohara is here to let us know why he is looking to do this process and explain a bit about his hardship. The Street moratorium opens in June of 2021. Randy said that it is a few feet in past the curb line, so we wouldn't be going across the entire street. Randy said the cut by UGI would be relatively low impact.

Mr. Ohara explained that last year his family sustained a large fire last year, so had to tear the house down. During the rebuild process they discovered that there is gas line in front of the house. It would be energy efficient—we could get rid of the oil. We currently have new construction. We are ready to go with the new HVAC. UGI presented everything, explained that there is a five-year moratorium, and explained what I would have to do with the Township. So that is where I am now. I am at a point where I need to make a decision regarding the heating system.

Herb Bender said he talked to Jim Balliet with regard to this, and UGI will restore the road.

CORRECTION regarding date on UGI Permit—currently reads 3/15/2019. 2019 needs to be changed to 2020.

A MOTION was made by Commissioner Kelly, which was seconded by Commissioner Setton, to move forward with the Street Moratorium Exemption Request. All in favor; none opposed.

Mr. Ohara thanked the Board.

**7. DIRECTION/DISCUSSION ITEMS**

Commissioner Mobilio asked about the revisions to the website. Renee explained that this currently is being worked. This was not budgeted for and we will have to go out to bid on this. However, we are working on some options to make some revisions on our current website. We are actually expecting a proposal back on Friday of this week regarding current revisions we could make, and then budget the others for 2021. Commissioner Mobilio said let's have a discussion on this—maybe we won't have to spend too much to make some of these changes. Renee said that sounds good.

COVID-19 – At this time, Township Manager Renee Bickel asked Township Fire Commissioner, Chris Kiskeravage to give a brief presentation on the corona virus from a community perspective. Chris has been attending various panel sessions with regard to the virus. It is a respiratory virus. Because Information is changing daily, it is recommended that we check the CDC.gov website daily for updated information on this. It is suggested that people keep a three foot space between themselves and other people. They of course recommend all the general precautions, such as coughing in your arm, washing your hands,

not touching your face. We are currently in a hold, wait and see period. As of today's meeting, there were no cases reported in PA. Testing processes are being put in place. Currently there is a wide-spread panic over supplies. From a Fire, Police, EMS perspective, they are keeping an eye on staff situations, to prevent quarantine of a whole platoon, etc. Chris said like the flu, the corona virus also has different stain. The COVID-19 is the one they are having problems with right now.

As far as keeping the public aware, Chris suggest that everyone continue to check the CDC website. Again, they are updating it daily.

President Morgan thanked Chris for the update.

**8. CORRESPONDENCE AND INFORMATION ITEMS**

Just a reminder of the Wednesday, March 11<sup>th</sup>, Joint BOC-PC Workshop at 6:00 p.m.

**9. OLD BUSINESS**

a. **Wehr's Dam Status** – No change; still waiting on permit.

**10. COURTESY OF THE FLOOR** – None.

**11. PAYMENT OF INVOICES:** A MOTION was made by Commissioner Kelly and seconded by Commissioner Mobilio to approve the payment of all invoices. All in favor; none opposed.

**12. EXECUTIVE SESSION:** There will be an executive session to be held after this meeting to discuss legal matters.

**13. ADJOURNMENT:** At 7:38 p.m. a MOTION was made by Commissioner Kelly, which was seconded by Commissioner Mobilio to adjourn. All in favor; none opposed.

**14. APPROVED:**



### **AGENDA ITEM #3 – NOTIFICATION**

President Morgan announced that all meetings are electronically monitored to facilitate the taking of minutes and will be destroyed if a request to retain a copy has not been made at that time.

Manager Bickel stated that, in the light of the Coronavirus outbreak, the Township is working on plans to deal with the issues. There will be a meeting in the future to establish a policy regarding the cancellation of public meeting and will keep the public informed. She noted that public health notifications will be posted on the Township website. She also noted that the tables and chairs in use for this meeting have been sanitized.

### **AGENDA ITEM #4 – PRESENTATIONS**

#### **A. STAFF PRESENTATION – George Kinney, Dave Manhardt and Gregg Adams**

George Kinney welcomed the Commissioners and public and reviewed the Commonwealth requirements for a Comprehensive Plan, elements of a Comprehensive Plan, and the subsequent use of a Comprehensive Plan within the framework of municipal regulations. He stated that, typically, the Comprehensive Plan process is started at the direction of the elected officials, consultants are hired and a Steering Committee established to guide the creation of the Plan. He stated that this current process has been flipped, with resident participation guiding the creation of the Guiding Principles and providing direction as to how and where growth is to be directed within the Township. He stated that the Steering Committee would appear toward the end of the process to facilitate the creation of the required elements of the Comprehensive Plan. He stated that the Planning Commission is the owner of the Comprehensive Plan and will submit the final version to the Board of Commissioners for approval. He stated that Phase 1 of the process was to develop an Existing Conditions Report laying out the state of the Township and to develop a set of Guiding Principles that would inform the rest of the process. He stated that the process is currently in Phase 2, wherein public opinion regarding where growth should be directed is being collected. He stated that Phase 3, to begin soon, will collect public opinion as to how that growth should look. Finally, Phase 4 will feature a number of committees, each headed by a subject matter expert, which will create the individual elements of the Comprehensive Plan using the direction provided by the public in Phases 1, 2 and 3.

Dave Manhardt reviewed Phase 1. He noted that the Guiding Principles were developed through the information collected at the three meetings at the Parkland High School. He reviewed Phase 2, “Where Should We Grow”, which included 4 public stakeholder meetings and two focus group meetings to date. He stated that more focus group meetings are planned before the Phase is set to finish up at the end of the month. He then reviewed the planned Phase 3, “How We Should Grow”, noting that Visual Preference Surveys and an Online Photo Submission Platform are planned to determine

how the public wants future development to look like. He requested that those gathered considered submitting photos of things that people would prefer to see in the Township.

President Morgan inquired as to whether the photos should be of things within the Township.

Mr. Manhardt stated that the photos may be of things within or outside of the Township. He stated that once the preferences are collected, meetings will be scheduled to determine which preferences should be associated with which types of development. He stated that there will also be a kickoff meeting scheduled, hosted by subject matter experts, wherein the participants will also be asked to rotate through the subject matter tables and then asked to sign up for individual element committees based on their interest on the subject matter.

Mr. Manhardt stated that future economic trends are an important consideration when developing a Comprehensive Plan and introduced Todd Poole to talk about future trends.

**B. CONSULTANT PRESENTATION – Todd Poole, President, Founder and Managing Principal of 4WARD Planning**

Mr. Poole reviewed his work as a Land Use Economist and his role in the creation of a Comprehensive Plan. He stated that a Land Use Economist would look at land development trends, demographic trends, and municipal laws and tax policies, as well as develop fiscal impact analyses of potential planning options. He reviewed factors that would most impact a Comprehensive Plan, starting with demographics. He stated that people per household is a large driver in demographic, noting that the large new family unit is no longer typical. He stated that divorce, empty-nesters, and younger people putting off marriage and families are trends leading to the creation of larger number of smaller housing units (such as apartments). He stated that this also impacts school districts. He stated that preference is a second major driver, noting that younger people prefer to settle in urbanized areas with more available services and amenities. He stated that this trend does not necessarily mean that they move to cities and noted that the most popular locations for younger people for most of the years since 2010 were first-ring suburbs. He stated that the third major driver is technology, noting that offices require fewer workers and less space per worker, leading to the disappearance of office parks. He also noted that shopping habits have been changing as a result of online shopping and that shopping has become more experiential rather than a simple function of purchasing items.

Planning Commissioner David Wilson inquired as to the impact of warehousing in the Lehigh Valley and its impact on a Comprehensive Plan.

Mr. Poole stated that it is a huge impact, noting the market preference is for medical office, warehousing, light industrial and mixed use. He stated that the Township is well positioned to capture that growth.

Planning Commissioner Wilson noted that the Township may not want to provide for it and that the PA MPC requires that all uses be provided for.

Mr. Poole stated that warehousing requires so much land that zoning a limited amount will send a clear message to developers to look elsewhere. He stated that compatible uses, such as light assembly, may be zoned for to capture the demand without the impact of a large amount of truck on the infrastructure. He also noted that the Township could capture some of the benefits of warehousing without actually providing for much warehousing by being open to the associated housing, commercial and industrial uses that are necessary to support warehousing.

Commissioner Wolk inquired as to Mr. Poole's primary deliverable to the Township.

Mr. Manhardt stated that his current deliverable is as a speaker to inform the Commissioners and public. He may be utilized as a subject matter expert in Phase 4.

Commissioner Wolk inquired as to whether Mr. Poole could assist the Township with a fiscal impact analysis.

Mr. Manhardt and Mr. Poole stated that such an analysis would be of assistance to the Township in Phase 4 to determine how the development strategies proposed would impact the fiscal health of the Township.

Commissioner Wolk stated that studies indicate that residential development cost the Township more than it takes in, while agriculture and commercial cost less.

Mr. Poole stated that such studies don't take into account existing capacity of the Township services. He stated that most municipalities are not operating at or near capacity and often the addition of thirty or forty houses will not require the addition of personnel and equipment, therefore the taxes generated will likely be a net increase in funds rather than a net cost. He stated that a detailed fiscal analysis will allow the municipality to determine how close to capacity they are and whether the proposed growth will utilize existing capacity or require the capital expense to increase capacity.

Commissioner Wolk stated the need for a "Lessons Learned" from the 2009 Comprehensive Plan.

Director Kinney stated that the "Lessons Learned" will be generated during Phase 4.

Commissioner Wolk stated that the results of the 2009 Comprehensive Plan include increased development and the Township needs to have a discussion regarding the path chosen and whether the Township should consider continuing along that path or changing the path.



Mr. Manhardt stated that the staff intends to develop indicators within the plan to determine whether the Comprehensive Plan is achieving the goals set forth.

President Morgan pointed out that the 2009 Comprehensive Plan was developed in a process that worked at the time, but that it should not be considered to be flawed because the community has changed since its adoption. She stated that the situation of the community today should be reviewed and the direction of the community modified accordingly.

Commissioner Wolk stated that he was not suggesting that the Comprehensive Plan was wrong and that, in his business experience, a "Lessons Learned" is a valuable tool.

Mr. Manhardt reviewed the basis of the evening's exercise, noting the map is divided into hexes and the each hex shows the jobs and residents within that hex (at 200 per dot). He stated that the goal of the exercise it to have each team place 21 pink dots (representing 200 jobs each) and 21 yellow dots (representing 200 residents each), as well as two green dots (representing things that are to be preserved) and two orange dots (representing two things to be fixed).

Mr. Kinney stated that the teams can write notes on the map sheet to better explain their choices. He also requested that group members complete the attendance sheet so that we can capture the demographic information of the group members.

Gregg Adams reviewed the types of development options that may be considered, including "Greenfield" development (developing agricultural or vacant land), redevelopment (either changing the existing uses, adding new uses, or increasing the intensity of the existing uses). He suggested that existing underperforming commercial areas could be redeveloped, either as commercial (by adding pink dots) or as mixed-use (by adding both pink and yellow dots). He also noted that existing residential areas could be redeveloped by adding a small amount of intensity without changing the character of the neighborhood. He reviewed the impact of traffic on development, noting that traffic in the Township generally orients toward US 22 and that development closer to US 22 will generally have a traffic impact on a smaller amount of roadway than development farther from US 22. He reviewed the impact of public water and sewer, noting that the presence of both allows more intense development than the presence of only one or none. He stated that the Huckleberry Ridge is generally the northern boundary of the public sewer system, while public water is available south of Huckleberry Ridge, along the PA Route 309 corridor and along Lime Kiln Road/Orefield Road between PA Route 309 and the High School. He suggested that participants consider how their growth would be served with water and sewer if they chose to put several dots in the same hex.

Mr. David Burke of 1436 Buck Trail Road inquired as to the status of the Regency at South Whitehall, Ridge Farm and the Park View Hotel within the map presented.

Mr. Adams stated that the population of the Regency was incorporated into the map, as the development was approved in 2015. He stated that the other two

developments have not been incorporated into the map and offer excellent locations for placement of dots, noting that Ridge Farm would accommodate 7 yellow dots and two pink dots while the Park View redevelopment proposal would accommodate 3 yellow dots and one or two pink dots. He also noted that infill development, which is the development of agricultural or vacant land surrounded by existing residential or commercial uses, should be considered.

**AGENDA ITEM #5 – WORKSHOP EXERCISE**

Mr. Manhardt guided the participants to their tables to start the exercise.

**AGENDA ITEM #6 – COURTESY OF THE FLOOR**

President Morgan opened the floor up to “Courtesy of the Floor”.

There was no response.

**AGENDA ITEM #7 – EXECUTIVE SESSION**

None.

**AGENDA ITEM #8 – ADJOURNMENT**

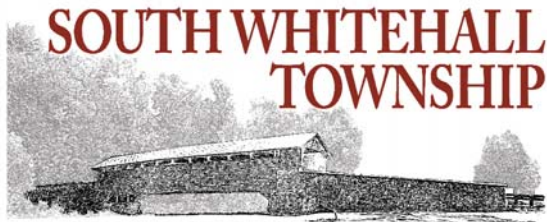
President Morgan requested a motion to adjourn at 8:02 p.m. Commissioner Kelly made the motion, Planning Commissioner Hite seconded the motion and it passed unanimously.

**ADOPTED THIS DATE:**

**ATTEST:**

\_\_\_\_\_  
**Secretary**

\_\_\_\_\_  
**Chairman**



## BOARD OF COMMISSIONERS

**PUBLIC MEETING**

**AGENDA-MINUTES**

**April 1, 2020**

**1. CALL TO ORDER: 7:00 p.m.**

Attendees: Commissioner Christina (Tori) Morgan, President  
Commissioner Diane Kelly, Vice President  
Commissioner Michael Wolk, Assist. Secretary  
Commissioner Joe Setton  
Commissioner Matthew Mobilio  
Joseph A. Zator, Twp. Solicitor, Zator Law Offices  
Anthony Tallarida, Twp. Engineer, The Pidcock Company  
Renee Bickel, Township Manager  
Randy Cope, Director of Twp. Operations  
Herb Bender, PW Superintendent  
Steve Carr, Director of Finance  
Chief Glen Dorney, SWT Police Department  
George Kinney, Director of Community Development  
Tracy Fehnel, Executive Assistant

**2. PLEDGE OF ALLEGIANCE**

- 3. NOTIFICATION:** All Public sessions of the South Whitehall Township Board of Commissioners are recorded. The recording is kept and posted to boarddocs.com until the minutes of the meeting are approved. Said recording is then destroyed if a request is not made to retain the electronic version at that time.

**\*(boarddocs.com; USERNAME: swhitehall; PASSWORD: swtpublic)**

For the record, President Morgan advised that the Board did meet in Executive Session on the following dates to discuss legal matters: Friday, March 13<sup>th</sup>, and Wednesday, March 25<sup>th</sup>.

Steve Carr, Director of Finance, as the moderator of the meeting, explained some logistics on how this GoTo Meeting would work. Also, touch on Courtesy of Floor, and how that will be conducted.

(The following conversation occurred after agenda item 6-C by Township Solicitor Joseph Zator.) Solicitor Zator explained that this virtual meeting does satisfy the requirements under the Sunshine Act.

President Morgan explained, and the Board was in agreement, that further discussion does need to occur on meeting minutes and recordings. President Morgan said that our meeting minutes are more than adequate; however, until such decision is reach on this, recordings will continue to be downloaded to boarddocs for public.

(Agenda Item 6-d was discussed next.)

**4. MINUTES**

- a. **February 12, 2020 – Land Preservation BOC Workshop** - TABLED
- b. **February 19, 2020 – BOC Meeting Minutes** – A MOTION was made by Commissioner Mobilio, which was seconded by Commissioner Wolk, to approve the February 19, 2020 BOC Meeting Minutes. All in favor; none opposed.
- c. **March 4, 2020 – BOC Meeting Minutes** - TABLED
- d. **March 11, 2020 – Joint BOC/PC Workshop (Comprehensive Plan)** - TABLED

**5. ORDINANCES** – None.

**6. RESOLUTIONS**

**a. A Resolution Approving Sewer Planning Module for Harold Avenue**

As explained in PW Superintendent Herb Bender’s IOM to the Board, the developer is required to obtain a letter from the PA DEP approving a sewage facility planning module. Martin Bradbury & Griffith Engineers, Inc., on behalf of its client submitted a completed module for township action. As part of the module submission to the PA DEP, an approved resolution by the Township is to be appended to it. This resolution this evening would certify that the plan is in conformance with related zoning, municipal ordinances and its Official Act 537 Sewage Plan, of which this plan complies, and which Jason Newhard of SSM explained was a requirement of Act 537. (On December 18, 2019 the BOC did approve a resolution granting final approval to a major plan entitled 1960 Harold Avenue.)

A MOTION was made by Commissioner Setton, which was seconded by Commissioner Kelly, to approve the Sewer Planning Module for 1960 Harold Avenue. All in favor; none opposed. Roll Call Vote taken as follows:

Commissioner Wolk:	AYE
Commissioner Mobilio:	AYE
Commissioner Setton:	AYE
Commissioner Kelly:	AYE
Commissioner Morgan:	AYE

Motion carried.

**b. A Resolution Approving Sewer Planning Module for Planet Fitness**

Jason Newhard explained that Planet Fitness is moving across the road to the Kmart location, 4701 Tilghman Street. A new Planning Module needed to be approved for this new capacity.

Kmart is maintaining their own capacity and Planet Fitness is only using part of the Kmart Property, so this requires a new planning module.

As explained in PW Superintendent Herb Bender’s IOM to the Board, the developer is required to obtain a letter from the PA DEP approving a sewage facility planning module. MSW Consulting, on behalf of its client, submitted a completed module for Township action. As part of the module submission to the PA DEP, an approved resolution by the Township is to be appended to it. This resolution this evening would certify that the plan is in conformance with sewage related zoning and municipal ordinances and its Official Act 537 Sewage Plan, of which this plan does comply.

A MOTION was made by Commissioner Kelly, which was seconded by Commissioner Wolk, to approve the Sewer Planning Module for Planet Fitness at 4701 Tilghman Street. All in favor; none opposed. Roll Call Vote taken as follows:

Commissioner Wolk:	AYE
Commissioner Mobilio:	AYE
Commissioner Setton:	AYE
Commissioner Kelly:	AYE
Commissioner Morgan:	AYE

Motion carried.

**c. A Resolution Appointing Barry Isett & Associates as Primary Residential Inspector**

Karen Cooney-Duerholz of CodeMaster Inspection Services, was in attendance to explain that due to a shortage of inspectors, CodeMaster has entered into an agreement with Barry Isett & Associates (BI&A) in January of this year. They will be taking over CodeMaster’s code inspections. Karen said that to date BI&A has done an excellent job for CodeMaster. All existing fees have been honored by them. CodeMaster, as well as other municipalities they work with, have not had any issues with BI&A. BI&A will be honoring the same fee structure that CodeMaster uses. The fee schedule attached is the identical contract SWT had with CodeMaster—the only change is the logo on the fee schedule.

It was explained that reappointments and/or fee schedules come before the board at the beginning of each year for approval by the Board of Commissioners.

A MOTION was made by Commissioner Setton, which was seconded by Commissioner Kelly, to approve the above-mentioned resolution, appointing Barry Isett & Associates as Primary Residential Inspector. All in favor; none opposed. Roll Call Vote taken as follows:

Commissioner Wolk:	AYE
Commissioner Mobilio:	AYE
Commissioner Setton:	AYE
Commissioner Kelly:	AYE

Commissioner Morgan: AYE  
Motion carried.

**d. Resolution to Proceed with DCNR Grant Request for Improvements at The Vistas Park.**

Randy Cope, Director of Township Operations explained that Mike Kukitz, has been working on this grant for approximately six months, and feels he did a great job writing it. This Resolution will grant Township Manager permission to sign this resolution and the grant agreement can be submitted accordingly. All DCNR Grant Agreements need to be submitted with a Township Resolution. If we are successful, we should hear back approximately by Christmas. During this time, we will be seeking other grant opportunities to help offset costs and keep labor costs down. DCNR also allows for in-house matches, again, which will help offset costs.

Per Mike's IOM to the BOC:

Staff is seeking a resolution to proceed with the 2020 Department of Conservation and Natural Resources (DCNR) grant request for improvements at Vistas Park. Through recent public input sessions, it has been determined that this often flooded, open space would be better suited as an area of natural play for the community. The idea behind this is to not add metal and plastic structures that make up the majority of today's playgrounds, but to use and include the landscape to bring nature to children's daily outdoor play opportunities.

Modern technology has removed traditional nature play from many of today's children and adults alike. The Vistas Park Development plan calls for the addition of many natural elements including a series of pathways and walking trails which will create areas to explore. These improvements will create ADA accessibility to the athletic field and create unique park amenities for park users such as natural slides, hammocks and more. In addition, planting evergreen trees, deciduous trees and adding reforestation/buffering plantings will aid in solving the current flooding issue this park often encounters making it unusable for the community. The Vistas Park Improvements will re-purpose the current lower practice field to create a wider range of activities for park users and add new recreation opportunities for people of all ages and abilities.

We are seeking a \$250,000 grant through the Department of Conservation and Natural Resources. This is a 50/50 matching grant and we will continue to seek additional funding opportunities.

Q: Commissioner Kelly questioned how this Park was obtained—that it was obtained through the HOA process. It was explained that the land was dedicated to SWT by the Vistas.

Q: Costs in preparing of grant. Costs are very minimal.

Both Commissioners Wolk and Kelly voiced their concerns that due to the current pandemic, perhaps it might be wise to take a pause and reassess where we are budget-wise, once we are done with this pandemic. We need to be wise with the use of our time and resources.

Randy Cope explained that we are rapidly approaching the grant deadline. He explained that we have four years to spend the money. It is not something we need to spend in 2021. We can also apply for an extension to use this money, if needed. Randy does agree with what is being said; however, he would like to believe that we will be at a much better place when we get to the construction phase of this project, which is about two years out. We are only in the first step of gathering dollars.

President Morgan said that she doesn't disagree with what is being said. She said that a lot of good feedback was received from this neighborhood, and if we defer on this grant now, we might be putting ourselves in a position where it might make it harder for us to get those funds in the future. The public has already provided a lot of input on this, and we should keep the momentum going.

Randy Cope explained that next year they will probably be looking for some engineering funds for this project. We have the master plan in place. Next is that we are acquiring the funds to get this project moving.

Commissioner Setton was concerned that we not lose this grant. Commissioner Mobilio questioned if we could wait a year.

Randy Cope explained that there are other municipalities in this same situation. Commissioner Wolk thanked Randy for explaining how this grant works, and how the expenditure will be later. However, he agreed with Commissioner Kelly in that he thought it prudent to apply for the grant with the understanding that whenever we get to that milestone, we have to come together and decide whether or not we proceed. The Board was in agreement with this.

Some discussion occurred with regard to the process of taking the land vs. receiving fees in lieu of. President Morgan explained that any monies received need to be used toward Parks & Recreation. The monies need to go back into that program. Whether we get it in the form of land or money, it needs to be used in Parks & Recreation/Open Space.

Q: Total cost of this project? \$560,891 for the entire project. Randy said that can change from now and 2022. The grant is for \$250,000. The end goal is not to have to spend any money. We would look to do some of this work in-house, and of course, continue to look for additional grant opportunities. If we are successful with one grant opportunity, it makes it easier for us to achieve other grant opportunities.

A MOTION was made by Commissioner Setton, which was seconded by President Morgan, granting permission to sign and submit this grant, with the understanding that this comes

back to the Board, so that as a Board, they can reassess where the Township is financially. All in favor; none opposed. Roll Call Vote as follows:

Commissioner Wolk: AYE  
Commissioner Mobilio: AYE  
Commissioner Setton: AYE  
Commissioner Kelly: AYE  
Commissioner Morgan: AYE  
Motion carried.

Commissioner Wolk said he feels the Township needs to take a proactive approach and be sensitive to the businesses and residents. He said that he knows that Renee and Steve are doing that. He feels that we need to think about other ways we can help our businesses and residents.

As a side note, and for the record, Commissioners Wolk and Kelly would like to meet with Township Manager Renee Bickel and Director of Finance Steve Carr (the Finance Committee) as early as next week.

**e. A Resolution Temporarily Extending the Payment Deadline for the Township of South Whitehall 2019 Final Business Tax Returns from April 30, 2020 to July 15, 2020, Consistent with the Extension Granted by the United States Federal Government and Internal Revenue Service to Federal Taxpayers in Response to the State of Emergency Currently in Effect**

Steve Carr, Director of Finance explained that this resolution is simply so that our deadlines match up with the Federal and State Deadlines, which this resolution does that. Additionally, it allows for us to adjust this date, so that if the Federal and State change dates again, we can change ours again.

There is no penalty by doing this.

The Board was in agreement to amend the resolution as follows: the July 15<sup>th</sup> date was changed to July 30<sup>th</sup>.

EIT Holiday - Several Commissioners supported the idea of an EIT Holiday, in that it might be something that should be considered. President Morgan said that it would be good to look at opportunities. She said that Renee and Steve will have to do an overview of how this pandemic is going to affect us short/long-term. We will have to look at different opportunities to help businesses/residents. Commissioner Wolk said we can regroup and see where we stand in order to move forward with this.

A MOTION was made by President Morgan, which was seconded by Commissioner Wolk, approving this resolution as amended. All in favor; none opposed. Roll Call Vote as follows:



Commissioner Wolk: AYE  
 Commissioner Mobilio: AYE  
 Commissioner Setton: AYE  
 Commissioner Kelly: AYE  
 Commissioner Morgan: AYE  
 Motion carried.

7. **MOTIONS** – None.

8. **DIRECTION/DISCUSSION ITEMS**

President Morgan said that Staff has been doing a phenomenal job accommodating everyday services via working remotely, especially the posting to website in light of the pandemic. As information becomes available, we have been updating to keep residents informed.

Renee said we have been posting the website links directly to the agencies posting important information, since it changes daily—links to the COVID-19 situation.

General Services for the Township – The Township has not skipped a beat, and President Morgan encouraged everyone to please stay safe and healthy.

Commissioner Kelly – Wanted to address a concern with regard to the distinction between the receipt of land dedication vs. receipt of fees. Open Space is something that falls under the jurisdiction of the BOC. She is not sure the BOC is getting a voice. The Parks & Recreation Board currently make a recommendation. Moving forward she feels it is important that the BOC have an opportunity to make a recommendation in these matters. Most times, a decision has already been made by the time it gets to the BOC.

President Morgan said that we as the Board are legislatures. We rely on Staff to present the information. From a process standpoint, she feels the process works very well.

Commissioner Wolk said that he thinks Commissioner Kelly is suggesting that the Board be part of this process. He feels it is worth considering.

President Morgan said that this also goes through Planning, and we always get this type of information. This is a process. She feels we need to review this process again, to ensure we fully understand what this process is, before we make a broad swoop to change it.

Commissioner Kelly read the ordinance pertaining to this. She said that a recommendation is given to the Planning Commission, by the Parks & Recreation Committee. By the time it gets to the BOC, the plan has been done by Engineering, followed by a presentation to the BOC. At that point, it is almost too late. Process-wise, do we need to have the plans come to the BOC earlier in the process so we are exercising our discretion as a Board as to how land will be dedicated, etc.?

Commissioner Mobilio explained that the process in place now, is the same process used by the Senate, where when the bill is introduced, it is then referred to a subcommittee who researches the bill. If bill is released by committee, it is eventually voted on. He went on to say that he would rather

a recommendation be made to the BOC. He said at the end of the day, he is not sure he would want to be involved in this process. However, he said this is just his opinion.

Commissioner Kelly said that once the developer has made it all the way to the BOC, that would not be an appropriate time for us to go back and reconfigure. She explained that she is just asking for us to take a closer look at the ordinance pertaining to this subject matter, and what that means. We can take the advice of our advisory board, but by the time we get the plan, it is already done.

Commissioner Setton said that a decision would then have to be made at the time of receipt of land or receipt of fees—at this point in the process.

Commissioner Wolk feels we should give our feedback on the front end of this process.

Commissioner Setton did not feel we should dissolve the advisory board either—He feels that Staff, along with Planning, is the right way to handle.

President Morgan said that there is a rhyme and reason as to how things are being done.

Solicitor Zator said that ultimately the process is up to the Board. Any process you choose to use is OK. If you as a Board are looking to make the decision, rather than accept a decision, then it would make sense for the developer to come before the BOC. However, he went on to explain that in other local municipalities, by in large, when a township wants to take land dedication, it typically is for a large amount of land. If it isn't meaningful, then the township would rather get the funds and apply towards the Parks & Recreation/Open Space Funding.

Commissioner Mobilio feels it is worth exploring more.

President Morgan said that this is something that should be a Public Workshop. Commissioner Kelly felt that would be a great idea. The Board was in agreement with this.

#### Commissioner Wolk – Two items

Q: How does one have a Planning Commission Meeting virtually, which involves the showing of drawings/plans. He said that the State of PA has provided to postpone land development meetings until the pandemic is over. How is it possible to hold the next Planning Commission meeting virtually like this? He felt that in some or all we could get the property owner's permission to extend. He asked the BOC how they felt about this.

President Morgan feels that if there is a way to manage the meetings, we should do so. We do not want to stifle anyone who needs to move forward with their business. She would rather continue as best as we can with processes if it is feasible. She said that she imagines other municipalities are trying to manage as well.

George Kinney, Director of Community Development said that anyone bringing in new land development has been asked to consider waiting until after pandemic.

Solicitor Zator said that at the present time, if we don't get an extension from the developer, we will have to cooperate with them. In summary, we should carry on, pending any legislation related to this matter.

Second item addressed by Commissioner Wolk is the provision on monthly reports regarding the Campus Renovation Project, at the second meeting of the month, from Township Manager and

Finance Director. This will be discussed more when Finance Committee meets next week. Commissioner Wolk asked what the cost impact due to the delay of the project would be to us as a township. Perhaps there were some clauses in the contract, which might be looked at, as they might relate to this pandemic. He thought maybe Solicitor Zator might be able to advise us on this matter. Solicitor Zator said that he could take a look at the contract and advise accordingly. This topic will be discussed at next week's Finance Committee Meeting.

This ended this portion of the meeting.

**9. CORRESPONDENCE AND INFORMATION ITEMS – None.**

**10. OLD BUSINESS**

- a. **Wehr's Dam Status** – No change; still waiting on permit.
- b. Commissioner Kelly asked about status of Website update, Facebook, Next Door accounts. Also, legal wording to establish a social media for the Township. Commissioner Kelly would like this to remain under Old Business
- c. Credit Cards – Commissioner Kelly asked that this remain under Old Business.

**11. COURTESY OF THE FLOOR**

- a. Brian Hite, 1273 Eck Road – Just wanted to check on status of Right-of-Way Agreement between himself and the Township. Currently with the Solicitor's office. Township Manager Renee Bickel said she will check with Attorney Alderfer and get back to Brian on this.
- b. John Chia – Mr. Chia took the time to read some Core Values to the Board. He said that the more we can apply these to others, the better off we will all be. He said we need each other to get through this time.
- c. Monica Hodges – Thanked the Board for making this meeting possible to all Residents. She expressed her opinions regarding maintaining of audios and minutes and the recording of individual BOC votes. She asked if we could find a way to make boarddocs easier. She wanted to wish everyone well during this pandemic.
- d. Lee Solt, 3731 Manchester Road – He would like it if the Planning Commission could come to the BOC and advise status of processes they are going through, things happening. Give input as to where they might want BOC to go. Commissioner Wolk felt if there was a way to hold off on future PC Meetings at this time, he feels that would be more beneficial, rather than have things go through that the Public does not have input on. Is there a way for us to work with the developers. He is just putting that out there for everyone's thoughts.

This ended the COF portion of the meeting.

- 12. PAYMENT OF INVOICES:** A MOTION was made by Commissioner Kelly and seconded by Commissioner Setton to approve the payment of all invoices. All in favor; none opposed. A Roll Call Vote was taken as follows:

Commissioner Wolk:                    AYE  
Commissioner Mobilio:                AYE  
Commissioner Setton:                 AYE  
Commissioner Kelly:                  AYE  
Commissioner Morgan:                AYE  
Motion carried.

- 12. EXECUTIVE SESSION:** No executive session after this meeting.

- 13. ADJOURNMENT:** At 9:10 p.m. a MOTION was made by Commissioner Kelly, which was seconded by Commissioner Wolk to adjourn. All in favor; none opposed.

- 14. APPROVED:**

**POSOCCO RESIDENTIAL BUILDING HEIGHT LIMITATION AMENDMENT  
ZONING ORDINANCE AMENDMENT REQUEST 2020-501**

**ATTACHMENTS**

- 1. COMMUNITY DEVELOPMENT DEPARTMENT MEMORANDUM (PAGE 2)**
- 2. LVPC REVIEW LETTER DATED MARCH 27, 2020 (PAGE 5)**
- 3. PROPOSED ORDINANCE (PAGE 6)**

**TO: BOARD OF COMMISSIONERS**  
**FROM: GREGG R. ADAMS, PLANNER**  
**SUBJECT: POSOCCO RESIDENTIAL BUILDING HEIGHT LIMITATION AMENDMENT  
ZONING ORDINANCE AMENDMENT REQUEST 2020-501**  
**DATE: APRIL 9, 2020**  
**COPIES: R. BICKEL, R. COPE, G. KINNEY, L. HARRIER, J. ZATOR, ESQ., J. ALDERFER, ESQ.,  
S. PIDCOCK**

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**Background:**

In November, Attorney Erich Schock, representing David Posocco of Posocco Properties, approached the Board of Commissioners with a request to amend the Zoning Ordinance to allow an increase of the maximum height limitation for townhouses from the required thirty-five (35) feet to a proposed forty (40) feet. The Board of Commissioners directed staff to review the proposal and report back.

The proposal was brought before the Planning Commission at its November 21, 2019 meeting to solicit opinions. The Planning Commission was generally in favor of reviewing a formal proposal but directed staff to solicit opinions from the Public Safety Commission. This was done at the January 13, 2020 Public Safety Commission meeting and the PSC responded that they had no issues with the proposal. The Board of Commissioners, at their January 15, 2020 meeting, directed the applicant to submit a formal application for Planning Commission review.

The formal application was submitted on February 13, 2020. Posocco Properties proposed to amend the Zoning Ordinance to permit a Maximum Height Limitation of forty (40) feet for townhouses in the Blue Barn Meadows land development (in the R-5 Medium Density Zoning District and the R-10 High Density Residential Zoning District). Staff reviewed the request and determined that the maximum height limitation for a residential building should be made consistent Township-wide to ease enforcement and provide consistent regulations for residents and home builders. As the 40-foot maximum height limitation for residential buildings is already in place in the RR-3, RR-2, RR, and R-2 Zoning Districts, extending that same height limitation to the remainder of the Zoning Districts permitting residential buildings seems the most reasonable course. Please note that Apartment Buildings are not proposed to be included in this amendment, as they are considered to be both Residential and Commercial in nature and already have options for greater height in place.

At their February 20, 2020 meeting, the Planning Commission recommended that the Board of Commissioners approve the amendment as proposed.

On February 26, 2020, the amendment was transmitted to the LVPC for their 45-day review period, which expired on April 11, 2020. The LVPC reviewed the amendment and, in their March 27, 2020 letter, noted that the amendment is of local concern and generally consistent with *Future LV: The Regional Plan*.

Staff recommends the advertisement of the amendment for possible adoption at the May 21, 2020 Board of Commissioners meeting.

The proposed amendments, including the existing text in grey, ***the proposed additions in bold, italicized blue***, ~~and the text to be deleted in red strike-through~~ follow this memo.

**Amendment 1.** Amend Section 350-24(c)(5) R-3 Low Density Residential Zoning District Schedule by replacing the existing thirty-five (35) foot Maximum Height of Building Structure (ft.) with a forty (40) foot Maximum Height of Building Structure (ft.), as shown below:

PRIMARY USES (8)	Maximum Dwelling Units per Gross Acre	Minimum Lot Area Per Use	Minimum Frontage (ft.)	Minimum Front to Street Ultimate Right-of-Way Line (ft.)	Minimum Sides to Lot Lines (ft.)	Minimum Rear to Lot Lines (ft.)	Maximum Units per Building	Maximum Height of Building Structure (ft.)
Single Detached Dwelling		12,000 sq. ft.	100	30	12	35		<del>35</del> 40

**Amendment 2.** Amend Section 350-24(c)(6) R-4 Medium Density Residential Zoning District Schedule by replacing the existing thirty-five (35) foot Maximum Height of Building Structure (ft.) with a forty (40) foot Maximum Height of Building Structure (ft.), as shown below:

PRIMARY USES (8)	Maximum Dwelling Units per Gross Acre	Minimum Lot Area Per Use	Minimum Frontage (ft.)	Minimum Front to Street Ultimate Right-of-Way Line (ft.)	Minimum Sides to Lot Lines (ft.)	Minimum Rear to Lot Lines (ft.)	Maximum Units per Building	Maximum Height of Building Structure (ft.)
Single Detached Dwelling		9,600 sq. ft.	80	25	10	30	1	<del>35</del> 40
Twin (each dwelling unit)		8,400 sq. ft.	70	25	10	30	2	<del>35</del> 40
Two-flat		14,400 sq. ft.	120	25	20	30	2	<del>35</del> 40

**Amendment 3.** Amend Section 350-24(c)(7) R-5 Medium Density Residential Zoning District Schedule by replacing the existing thirty-five (35) foot Maximum Height of Building Structure (ft.) with a forty (40) foot Maximum Height of Building Structure (ft.), as shown below:

PRIMARY USES (8)	Maximum Dwelling Units per Gross Acre	Minimum Lot Area Per Use	Minimum Frontage (ft.)	Minimum Front to Street Ultimate Right-of-Way Line (ft.)	Minimum Sides to Lot Lines (ft.)	Minimum Rear to Lot Lines (ft.)	Maximum Units per Building	Maximum Height of Building Structure (ft.)
Single Detached Dwelling		7,200 sq. ft.	60	25	10	25	1	<del>35</del> 40
Twin (each dwelling unit)		6,000 sq. ft.	50	25	10	25	2	<del>35</del> 40
Twin with Alley Frontage* (each dwelling unit)		4,800 sq. ft.	40	15	10	60	2	<del>35</del> 40
Two-flat		10,800 sq. ft.	90	25	20	25	2	<del>35</del> 40
Two-flat with Alley Frontage*		7,200 sq. ft.	60	15	10	60	2	<del>35</del> 40
Three-flat		14,400 sq. ft.	120	25	30	25	3	<del>35</del> 40
Three-flat with Alley Frontage*		9,600 sq. ft.	80	15	15	60	3	<del>35</del> 40
Townhouse (20) (each dwelling unit)		3,360 sq. ft.	24	10	6 (7)	60	8	<del>35</del> 40

**Amendment 4.** Amend Section 350-24(c)(8) R-10 High Density Residential Zoning District Schedule by replacing the existing thirty-five (35) foot Maximum Height of Building Structure (ft.) with a forty (40) foot Maximum Height of Building Structure (ft.), as shown below:

PRIMARY USES <sup>(8)</sup>	Maximum Dwelling Units per Gross Acre	Minimum Lot Area Per Use	Minimum Frontage (ft.)	Minimum Front to Street Ultimate Right-of-Way Line (ft.)	Minimum Sides to Lot Lines (ft.)	Minimum Rear to Lot Lines (ft.)	Maximum Units per Building	Maximum Height of Building Structure (ft.)
Single Detached Dwelling		6,000 sq. ft.	50	25	8	25	1	<del>35</del> 40
Twin (each dwelling unit)		4,800 sq. ft.	40	25	10	25	2	<del>35</del> 40
Twin with Alley Frontage* (each dwelling unit)		4,200 sq. ft.	35	15	10	60	2	<del>35</del> 40
Two-flat		8,400 sq. ft.	70	25	10	25	2	<del>35</del> 40
Two-flat with Alley Frontage*		6,000 sq. ft.	50	15	10	60	2	<del>35</del> 40
Three-flat		12,000 sq. ft.	100	25	10	25	3	<del>35</del> 40
Three-flat with Alley Frontage*		8,400 sq. ft.	70	15	15	60	3	<del>35</del> 40
Townhouse <sup>(20)</sup> (each dwelling unit)		2,800 sq. ft.	20	10	5 <sup>(6)</sup>	60	8	<del>35</del> 40

**Amendment 5.** Amend Section 350-24(c)(14) HC-1 Highway-Commercial-1 Zoning District Schedule by replacing the existing thirty-five (35) foot Maximum Height of Building Structure (ft.) with a forty (40) foot Maximum Height of Building Structure (ft.), as shown below:

PRIMARY USES	Maximum Dwelling Units per Gross Acre	Minimum Lot Area Per Use	Minimum Frontage (ft.)	Minimum Front to Street Ultimate Right-of-Way Line (ft.)	Minimum Sides to Lot Lines (ft.)	Minimum Rear to Lot Lines (ft.)	Maximum Units per Building	Maximum Height of Building Structure (ft.)
Multi-Unit Housing								
Three-flat	12	3,600 sq. ft.	30	30	20	30	3	<del>35</del> 40
Townhouse (each dwelling unit)		2,400 sq. ft.	20	30	5 <sup>(6)</sup>	30	8	<del>35</del> 40

Respectfully submitted,



Gregg R. Adams, Planner  
Community Development Department





**Lehigh Valley Planning Commission**

**GREG ZEBROWSKI**  
Chair

**STEVEN GLICKMAN**  
Vice Chair

**PAMELA PEARSON**  
Treasurer

**BECKY A. BRADLEY, AICP**  
Executive Director

Planning for the Future of Lehigh and Northampton Counties at 961 Marcon Blvd., Ste 310, Allentown, PA 18109 ■ (610) 264-4544 ■ lvpc@lvpc.org ■ www.lvpc.org

March 27, 2020

Mr. George Kinney, Director  
Community Development Department  
South Whitehall Township  
4444 Walbert Avenue  
Allentown, Pennsylvania 18104

**RE: Zoning Ordinance Amendment – Height Limitation  
South Whitehall Township  
Lehigh County**

Dear Mr. Kinney:

The Lehigh Valley Planning Commission (LVPC) considered the proposed zoning ordinance amendment at its meeting on March 26, 2020, pursuant to the requirements of the Pennsylvania Municipalities Planning Code (MPC).

The subject application proposes to increase the maximum building height for certain residential structures from 35 feet to 40 feet in the Low Density (R-3), Medium Density (R-4), Medium Density (R-5), High Density (R-10) and Highway-Commercial-1 (HC-1) zoning districts. This amendment is of local concern and is generally consistent with *FutureLV: The Regional Plan* because it does not pose substantial impacts to the region.

If you have any additional questions regarding the content of this letter, please do not hesitate to call. Kindly send a copy of the final amended zoning ordinance that is adopted by the Board of Commissioners, per the requirements of the MPC. Thank you very much.

Sincerely,

Jillian Seitz  
Senior Community Planner

Cc: Tori Morgan, President, Board of Commissioners  
Renee Bickel, Manager, South Whitehall Township

**SOUTH WHITEHALL TOWNSHIP**  
**LEHIGH COUNTY, PENNSYLVANIA**

**ORDINANCE NO. \_\_\_\_**  
**(Duly Adopted May 6, 2020)**

**AN ORDINANCE AMENDING THE SOUTH WHITEHALL TOWNSHIP ZONING ORDINANCE BY AMENDING SECTION 350-24(c)(5) R-3 LOW DENSITY RESIDENTIAL ZONING DISTRICT SCHEDULE, SECTION 350-24(c)(6) R-4 MEDIUM DENSITY RESIDENTIAL ZONING DISTRICT SCHEDULE, SECTION 350-24(c)(7) R-5 MEDIUM DENSITY RESIDENTIAL ZONING DISTRICT SCHEDULE, SECTION 350-24(c)(8) R-10 HIGH DENSITY RESIDENTIAL ZONING DISTRICT SCHEDULE, AND SECTION 350-24(c)(14) HC-1 HIGHWAY-COMMERCIAL-1 ZONING DISTRICT SCHEDULE TO ALLOW FOR A MAXIMUM HEIGHT OF FORTY (40) FEET FOR RESIDENTIAL BUILDINGS; AND, PROVIDING FOR A SEVERABILITY CLAUSE, RETENTION OF RIGHTS TO ENFORCE CLAUSE, A REPEALER CLAUSE, AND AN EFFECTIVE DATE.**

**WHEREAS**, The South Whitehall Township Board of Commissioners adopted a new Zoning Ordinance on April 5, 2017, which became effective on April 10, 2017; and

**WHEREAS**, The South Whitehall Township Board of Commissioners recognizes that the Zoning Ordinance may require adjustments as the new regulations are put into practice; and

**WHEREAS**, The South Whitehall Township Board of Commissioners has reviewed a number of adjustments to the Zoning Ordinance recommended by Township staff and finds the adjustments necessary for the efficient administration of the Zoning Ordinance; and

**WHEREAS**, pursuant to Section 609 of the MPC, 53 P.S. 10609, the Township is authorized and empowered to enact amendments to the South Whitehall Township Zoning Ordinance after public hearing thereon pursuant to public notice; and

**WHEREAS**, The South Whitehall Township Planning Commission reviewed the following amendments to the South Whitehall Township Zoning Ordinance at its duly advertised public meetings on February 20, 2020 and recommended approval thereof; and

**WHEREAS**, The South Whitehall Township Board of Commissioners has conducted a public hearing pursuant to public notice concerning the following amendments to the South Whitehall Township Zoning Ordinance; and

**WHEREAS**, after public hearing pursuant to public notice, The South Whitehall Township Board of Commissioners desires to ordain and enact the amendments to the South Whitehall Township Zoning Ordinance as set forth hereinafter.

**NOW, THEREFORE, BE IT ORDAINED AND ENACTED** by The South Whitehall Township Board of Commissioners and it is hereby ordained and enacted by the authority of the same, to wit:

**SECTION 1. AMENDMENTS TO ZONING ORDINANCE**

**Amendment 1.** Amend Section 350-24(c)(5) R-3 Low Density Residential Zoning District Schedule by replacing the existing thirty-five (35) foot Maximum Height of Building Structure (ft.) with a forty (40) foot Maximum Height of Building Structure (ft.), as shown below:

PRIMARY USES ⑧	Maximum Dwelling Units per Gross Acre	Minimum Lot Area Per Use	Minimum Frontage (ft.)	Minimum Front to Street Ultimate Right-of-Way Line (ft.)	Minimum Sides to Lot Lines (ft.)	Minimum Rear to Lot Lines (ft.)	Maximum Units per Building	Maximum Height of Building Structure (ft.)
Single Detached Dwelling		12,000 sq. ft.	100	30	12	35		<del>35</del> 40

**Amendment 2.** Amend Section 350-24(c)(6) R-4 Medium Density Residential Zoning District Schedule by replacing the existing thirty-five (35) foot Maximum Height of Building Structure (ft.) with a forty (40) foot Maximum Height of Building Structure (ft.), as shown below:

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Single Detached Dwelling		9,600 sq. ft.	80	25	10	30	1	<del>35</del> 40
Twin (each dwelling unit)		8,400 sq. ft.	70	25	10	30	2	<del>35</del> 40
Two-flat		14,400 sq. ft.	120	25	20	30	2	<del>35</del> 40

**Amendment 3.** Amend Section 350-24(c)(7) R-5 Medium Density Residential Zoning District Schedule by replacing the existing thirty-five (35) foot Maximum Height of Building Structure (ft.) with a forty (40) foot Maximum Height of Building Structure (ft.), as shown below:

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Single Detached Dwelling		7,200 sq. ft.	60	25	10	25	1	<del>35</del> 40
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Twin with Alley Frontage* (each dwelling unit)		4,800 sq. ft.	40	15	10	60	2	<del>35</del> 40
Two-flat		10,800 sq. ft.	90	25	20	25	2	<del>35</del> 40
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Townhouse (20) (each dwelling unit)		3,360 sq. ft.	24	10	6 (7)	60	8	<del>35</del> 40

**Amendment 4.** Amend Section 350-24(c)(8) R-10 High Density Residential Zoning District Schedule by replacing the existing thirty-five (35) foot Maximum Height of Building Structure (ft.) with a forty (40) foot Maximum Height of Building Structure (ft.), as shown below:

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Two-flat		8,400 sq. ft.	70	25	10	25	2	<del>35</del> 40
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Townhouse (20) (each dwelling unit)		2,800 sq. ft.	20	10	5 (6)	60	8	<del>35</del> 40

**Amendment 5.** Amend Section 350-24(c)(14) HC-1 Highway-Commercial-1 Zoning District Schedule by replacing the existing thirty-five (35) foot Maximum Height of Building Structure (ft.) with a forty (40) foot Maximum Height of Building Structure (ft.), as shown below:

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Multi-Unit Housing								
Three-flat	12	3,600 sq. ft.	30	30	20	30	3	<del>35</del> 40
Townhouse (each dwelling unit)		2,400 sq. ft.	20	30	5⑥	30	8	<del>35</del> 40

**SECTION 2. SEVERABILITY**

The provisions of this Ordinance are declared to be severable. If any sentence, clause, section, term, phrase or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, terms, provisions, or parts of this Ordinance. It is hereby declared the intent of the Board of Commissioners for South Whitehall Township that this Ordinance would have been adopted had such an unconstitutional, illegal, or invalid sentence, clause, section, or part thereof not been included herein.

**SECTION 3. FAILURE TO ENFORCE NOT A WAIVER**

The failure of the Township to enforce any provision of this Ordinance shall not constitute a waiver by the Township of its rights of future enforcement hereunder.

**SECTION 4. REPEALER**

Any ordinance, resolution and/or other regulation of the Township, or any parts of ordinances, resolutions and/or other regulations of the Township, including but not limited to all prior zoning ordinances and amendments or parts of prior zoning ordinances and amendments, including prior zoning maps, which are inconsistent herewith are hereby repealed. All other provisions of the ordinances, resolutions and/or other regulations of the Township of South Whitehall, Lehigh County, Pennsylvania shall remain in full force and effect.

**SECTION 5. EFFECTIVE DATE**

This Ordinance shall become effective on the first day of the month following the date of adoption by the Board of Commissioners.

**DULY ORDAINED AND ENACTED** this 6<sup>th</sup> day of **May, 2020** by a majority of the Board of Commissioners of the Township of South Whitehall Township, Lehigh County, Pennsylvania, at a duly advertised meeting of the Board of Commissioners. As part of this Ordinance, the Board of Commissioners has directed that the President, or Vice-President in the absence of the President, execute this Ordinance on behalf of the Board.

**BOARD OF COMMISSIONERS  
SOUTH WHITEHALL TOWNSHIP**

\_\_\_\_\_  
**Christina Tori Morgan, President**

**ATTEST:**\_\_\_\_\_  
**Stephen Carr, Secretary**

**A RESOLUTION AMENDING THE WAIVER OF SUBDIVISION AND LAND DEVELOPMENT  
REVIEW AND APPROVAL REQUIREMENTS OF THE SOUTH WHITEHALL TOWNSHIP  
SALDO PREVIOUSLY GRANTED FOR A PLAN ENTITLED “VILLAGE WEST  
REDEVELOPMENT” RELATING TO PROPERTIES LOCATED AT 3100 WEST TILGHMAN  
STREET TO INCLUDE A WAIVER OF SALDO SECTIONS 312-13(f)(3) AND 312-43**

**WAIVER FROM SALDO REQUEST #2019-702**

**ATTACHMENTS**

1. **Memorandum** (page 2)
2. **Applicant’s Request Letter** (page 3)
3. **SALDO Sections 312-13(f)(3) and 312-43** (page 4)
4. **Proposed Resolution** (page 6)

**MEMORANDUM**

**TO: BOARD OF COMMISSIONERS**

**FROM: GREGG R. ADAMS, PLANNER**

**DATE: APRIL 9, 2020**

**RE: A RESOLUTION AMENDING THE WAIVER OF SUBDIVISION AND LAND DEVELOPMENT REVIEW AND APPROVAL REQUIREMENTS OF THE SOUTH WHITEHALL TOWNSHIP SALDO PREVIOUSLY GRANTED FOR A PLAN ENTITLED "VILLAGE WEST REDEVELOPMENT" RELATING TO PROPERTIES LOCATED AT 3100 WEST TILGHMAN STREET TO INCLUDE A WAIVER OF SALDO SECTIONS 312-13(f)(3) AND 312-43**

**COPIES: R. BICKEL, R. COPE, G. KINNEY, APPLICANT, S. PIDCOCK, J. ZATOR, ESQ., FILE**

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**LOCATION AND INTENT**

Cedar Crest Associates, L.P., care of Brixmor Property Group, submitted a request to waive the formal review process of the Subdivision and Land Development Ordinance for a project entitled "Village West Redevelopment", which proposes to renovate the existing Panera Bread store and change the layout of the parking lot surrounding the building on a 0.21 acre portion of the property located at 3100 West Tilghman Street.

**PRIOR APPROVALS**

No zoning relief was required.

At their December 18, 2019 meeting, the Board of Commissioners, through Resolution 2019-65, approved the Village West Redevelopment Waiver from the Land Development Process Request 2019-702.

**WAIVER REQUEST**

The applicant is requesting that the requirements of SALDO Section 312-13(f)(3) and 312-43 related to the requirement that a land development plan be recorded prior to the issuance of building permits for the project be waived. The applicant's request is attached.



17 March 2020

Renee Bickel  
South Whitehall Township  
4444 Walbert Avenue  
Allentown, PA 18104

**RE: Preliminary/Final Minor Plan Review  
Village West Redevelopment  
South Whitehall Township, Lehigh County, Pennsylvania  
Langan Project No.: 220118901**

Dear Ms. Bickel:

On behalf of the applicant, Cedar Crest Associates L.P., we are writing this letter to request a waiver of Section 312-22(g)(3) of the South Whitehall Township Subdivision and Land Development Ordinance for the above referenced project. This section of the ordinance states that *"building permits shall not be issued until such plan is recorded and the receipt from the Office of the Lehigh County Recorder of Deeds has been submitted to Department of Community Development."*

The above-referenced project received Board of Commissioners approval at the 12/18/19 meeting. The applicant is currently in process of finalizing and recording the minor site plans but in advance of that happening, they are requesting to obtain the building permit prior to recording if necessary. Final minor site plans were resubmitted to the township consultants on 3/17/20 addressing all comments. Upon acknowledgement of the plans being compliant, we will then need to circulate for signatures and finally record the plan with the county. Panera, the proposed tenant, has been ready and waiting to begin their construction on the interior of the tenant space and have been informed that their building permit is approved. However, they are told that the permit can't be released until the minor site plans with the proposed drive-thru are recorded. The above waiver request is to grant permission for Panera to begin their interior building work in advance of the minor site plans being recorded. Depending on the timing of the consultant reviews to the 3/17/20 plan resubmission and the subsequent signing of the plans, the waiver may not be needed but we would request to be heard at the next available hearing as an alternative.

Thank you for your assistance and if you have any questions or require additional information, please do not hesitate to contact us.

Sincerely,  
**Langan Engineering and Environmental Services, Inc.**



Brian M. Conlon, P.E.  
Senior Associate / Vice President

cc: Gregg Adams, South Whitehall  
Tracy Fehnel, South Whitehall  
Lucas Heverly, Brixmor

**SALDO Section 312-13(f)(3)**

(f) Recording Approved Plan: The approved final plan bearing the signatures of the Applicant and his technical staff, the Township Engineer, the Township Planning Commission, the Township Board of Commissioners, and the Lehigh Valley Planning Commission, shall be filed by the property owner in the Office of the Lehigh County Recorder of Deeds within ninety (90) days of the later of the date of approval by the Board of Commissioners if the plan is approved without conditions or the date of delivery of an approved plan bearing the signatures of the Applicant and his technical staff following satisfaction of all conditions imposed on the approval. Notwithstanding the foregoing, where the final plan is approved with conditions, the Applicant shall satisfy all such conditions of the final plan approval and the final plan shall be recorded within twelve (12) months of date of the conditional final plan approval by the Board of Commissioners, and if such conditions are not so satisfied, the conditional final plan approval shall be considered void without further action of the Township, and the application for final plan approval shall be considered void and withdrawn unless an extension is approved by the Township Board of Commissioners.

(1) Once recorded, the Applicant shall submit to the Department of Community Development:

(A) A receipt indicating that the plan has been properly recorded.

(B) One (1) permanent reproducible tracing acceptable to the Department of Community Development and three (3) clear and legible white paper prints of the plan as recorded.

(C) Copies of all plans in Environmental Systems Research Institute (ESRI) ArcGIS format and Portable Document Format (PDF).

(2) Failure of the property owner to file the approved plan within this time period will automatically revoke any and all approvals of the plan and the Applicant shall resubmit the plan pursuant to Section 312-13.

(3) Building permits shall not be issued for the subdivision until the receipt from the Office of the Lehigh County Recorder of Deeds has been submitted to the Department of Community Development.

**SALDO Section 312-43**

**312-43 SALE OR LEASING OF LOTS OR SPACE, ERECTING BUILDINGS**

No lot in a subdivision may be sold, no space or lot in a subdivision may be leased, nor permit to erect, alter or repair any building upon land in a subdivision may be issued and no building may be erected in a subdivision, unless and until a final subdivision plan has been approved and where required, recorded, and unless and until the improvements required by the Township Board of Commissioners in connection

therewith have either been constructed or guaranteed as hereinabove provided. Where, owing to special conditions, a literal enforcement of this provision would result in unnecessary hardship, the Township Board of Commissioners may, in its sole and absolute discretion, modify this requirement following referral to and recommendation of the Planning Commission concerning the scope of such reasonable exception thereto as will not be contrary to the public interest, and may permit the sale of a lot, leasing of space, issuance of a permit, or erection of a building, subject to conditions necessary to assure installation of adequate streets and other public improvements.

**TOWNSHIP OF SOUTH WHITEHALL  
LEHIGH COUNTY, PENNSYLVANIA**

**RESOLUTION NO. 2020-\_\_\_\_  
(Duly Adopted April 15, 2020)**

**A RESOLUTION AMENDING RESOLUTION NO. 2019-65 WHICH GRANTED A WAIVER OF  
SUBDIVISION AND LAND DEVELOPMENT REVIEW AND APPROVAL REQUIREMENTS OF  
THE SOUTH WHITEHALL TOWNSHIP SALDO FOR A PLAN ENTITLED “VILLAGE WEST  
REDEVELOPMENT” RELATING TO PROPERTIES LOCATED AT 3100 WEST TILGHMAN  
STREET AND GRANTING AN ADDITIONAL WAIVER PURSUANT TO SALDO SECTIONS  
312-13(f)(3) AND 312-43**

**WHEREAS**, Cedar Crest Associates, L.P., care of Brixmor Property Group (“Applicant”) is the owner of 3100 West Tilghman Street and has expressed a desire to renovate an existing tenant space to include a drive-through and change the layout of the surrounding parking area on a 0.21 acre portion of the property; and,

**WHEREAS**, the South Whitehall Township Board of Commissioners approved Resolution No. 2019-65 on December 18, 2020 granting a waiver of the land development process for plans prepared by Langan Engineering, entitled “*Village West Redevelopment*”, dated July 12, 2019, and last revised September 6, 2019; and,

**WHEREAS**, the applicant has requested that the requirement of Section 312-43 of the Subdivision and Land Development Ordinance pertaining to the prohibition of the issuance of permits prior to the recording of the plan be waived.

**NOW, THEREFORE, BE IT ADOPTED AND RESOLVED** that the Board of Commissioners of the Township of South Whitehall hereby amends its approval of the waiver of the land development process to the plan entitled “*VILLAGE WEST REDEVELOPMENT*”, memorialized in Resolution 2019-65 subject to the applicant’s compliance with the following conditions and amendments to Resolution 2019-65:

1. The conditions of approval stated in Resolution No. 2019-65 (Exhibit “A”), which conditions have been affirmatively accepted by the applicant, and those waivers and deferrals granted by the Board of Commissioners that are reflected in said resolution and any subsequent amendments, remain valid and in effect.
2. In addition to the waivers and deferrals granted under Resolution 2019-65 and any subsequent amendments, the following waiver is hereby granted by the South Whitehall Township Board of Commissioners:

The requirement of Sections 312-13(f)(3) and 312-43 of the Subdivision and Land Development Ordinance pertaining to the prohibition of the issuance of permits prior to the recording of the plan is hereby waived. This Resolution does not waive or modify any other requirements of South Whitehall Township or any

other applicable laws, ordinances or requirements of any County, Commonwealth of Pennsylvania, Federal or other governmental agencies impacting issuance of the building permit. Any and all such requirements, including all permits and approvals incident thereto, are to be obtained by the Applicant and are not to be considered waived or modified by this Resolution. The applicant acknowledges that the Township shall not be required to issue the building permit(s) despite the waiver granted hereby unless and until the applicant complies with all other applicable requirements prior to issuance of such permit. By signing the Acceptance of Conditions attached to this Resolution, the applicant affirmatively agrees that: (i) it shall not be entitled to issuance of a building permit until it has obtained all permits and approvals applicable to the issuance of a building permit; (ii) it shall not be entitled to a certificate of occupancy for the structure for which the work is proposed until the land development plan is recorded; and (iii) if the land development plan is not recorded within the time period specified in condition 9 of Resolution 2019-65, the Township is authorized to issue a cease and desist order for any and all construction work relative to the work proposed by the land development plan.

The conditions of approval have been made known to the applicant, and final approval is to be deemed expressly contingent upon the applicant's affirmative written acceptance of the conditions on a form prescribed by South Whitehall Township on or before 4:00 p.m. May 5, 2020. If an unconditional acceptance of the conditions is not received in writing by that date, the application for approval shall be deemed denied based upon applicant's failure to fulfill the said conditions or agree thereto.

**DULY ADOPTED** this 15<sup>th</sup> day of **April, 2020**, by a majority of the Board of Commissioners of the Township of South Whitehall, Lehigh County, Pennsylvania, at a duly advertised meeting of the Board of Commissioners. As part of this Resolution, the Board of Commissioners has directed that the President, or Vice President in the absence of the President, execute this Resolution on behalf of the Board.

**TOWNSHIP OF SOUTH WHITEHALL  
BOARD OF COMMISSIONERS**

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**Christina Tori Morgan, President**

**ATTEST:**

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**Stephen D. Carr, Secretary**

**EXHIBIT "A"**

115

**TOWNSHIP OF SOUTH WHITEHALL  
LEHIGH COUNTY, PENNSYLVANIA**

**RESOLUTION NO. 2019-65  
(Duly Adopted December 18, 2019)**

**A RESOLUTION GRANTING A WAIVER OF SUBDIVISION AND LAND DEVELOPMENT  
REVIEW AND APPROVAL REQUIREMENTS OF THE SOUTH WHITEHALL TOWNSHIP  
SALDO FOR A PLAN ENTITLED "VILLAGE WEST REDEVELOPMENT" RELATING TO  
PROPERTIES LOCATED AT 3100 WEST TILGHMAN STREET**

**WHEREAS**, Cedar Crest Associates, L.P., care of Brixmor Property Group ("Applicant") is the owner of 3100 West Tilghman Street; and,

**WHEREAS**, the Applicant has expressed a desire to renovate an existing tenant space to include a drive-through and change the layout of the surrounding parking area on a 0.21 acre portion of the property; and,

**WHEREAS**, this proposal is reflected on plans prepared by Langan Engineering, entitled "*Village West Redevelopment*", dated July 12, 2019, and last revised September 6, 2019; and,

**WHEREAS**, the South Whitehall Township Subdivision and Land Development Regulations, consistent with the Pennsylvania Municipality's Planning Code ("MPC"), sets forth regulations for formal review requirements, as well as drawing requirements, for property improvements defined as subdivisions and/or land developments; and,

**WHEREAS**, the South Whitehall Township Board of Commissioners believes that under the circumstances, it is unnecessary for the Project to be reviewed and approved as a subdivision or land development.

**NOW, THEREFORE, BE IT ADOPTED AND RESOLVED** that for the Project, the Board of Commissioners of the Township of South Whitehall hereby grants to the plan entitled "*Village West Redevelopment*" a waiver from the requirements for review and approval under the Township Subdivision and Land Development Regulations, so as to preclude the necessity for review by the Township Planning Commission, specifically the waiver of those Sections 312-11(b)(3) and (4), (c), and (d), and Sections 312-13(b)(3) and (4), (c), and (d), with such waiver being subject to the Applicant's compliance with the following conditions:

1. This Resolution does not in any way waive or modify: any other requirements of South Whitehall Township; any other applicable laws, ordinances, orders, or regulations; or applicable requirements of any County, Commonwealth of Pennsylvania, Federal or other governmental agencies. Any and all such requirements, including all permits and approvals incident thereto, are to be obtained by the Applicant and are not to be considered waived or modified by

this Resolution. Such outside agency reviews, approvals and permits may include by way of example but not limitation the following: Highway Occupancy Permit requirements of the Pennsylvania Department of Transportation (“PennDOT”); stormwater-related requirements of the Lehigh County Conservation District (“LCCD”) and/or the Pennsylvania Department of Environmental Protection (“DEP”); the South Whitehall Township Zoning Ordinance, the South Whitehall Township Building Code, and any other requirements of South Whitehall Township, including any requirements related to parking.

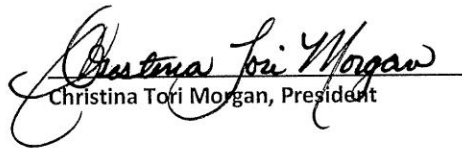
2. The Applicant shall address to the satisfaction of the Township Engineer, the comments of the Township Engineer as contained in his review dated October 7, 2019.
3. The Applicant shall address to the satisfaction of the Township Water and Sewer Engineer, the comments of Mr. Jason Newhard as contained in his review dated October 3, 2019.
4. The Applicant shall address to the satisfaction of the Public Works Department, the comments of Mr. Jerry Charvala as contained in his review dated September 30, 2019.
5. All costs and expenses of the Township, including without limitation, the fees of the Township Engineer and Township Solicitor and/or other consultants relative to review and approval of Applicant’s waiver request, this Resolution, and attending to the conditions in this Resolution following adoption of this Resolution, shall be the responsibility of Applicant. The failure of Applicant to promptly pay invoices in accordance with applicable Township procedures for subdivision/developments review and approval shall give the Township the right to refuse to issue any additional permits until such time as all invoices have been paid in full and the Township escrow procedures have been complied with by the Applicant.
6. All fees associated with submission of a plan for land development, including application fees to cover expenses incurred through review of the plan by Township staff and consultants, recording fees, and realty transfer taxes, shall be the responsibility of the Applicant.
7. Applicant shall be required to provide an engineered record plan, signed by the Applicant and sealed by a registered professional engineer and/or professional land surveyor, as applicable, which Applicant shall file with the Lehigh County Recorder of Deeds Office and Applicant shall provide a copy to the Township be placed on file with the Community Development Department.
8. If for any reason any condition or conditions of this Resolution (or any portion(s) thereof) shall be held by a forum of competent jurisdiction to be invalid, illegal, void, or unenforceable in any respect or to any extent, this Resolution shall automatically be deemed to be null and void in its entirety and shall be deemed

to have been immediately and automatically repealed as if it had never been passed. The Applicant acknowledges that each and every term and provision hereof is an essential, material component to the Township's approval of the Applicant's waiver request.

- 9. The Applicant shall satisfy all conditions of this Resolution within twelve (12) months from the date hereof. The Applicant's failure to do so shall render the approval null and void.

**DULY ADOPTED** this 18<sup>th</sup> day of **DECEMBER, 2019**, by the Board of Commissioners of Township of South Whitehall, Lehigh County, Pennsylvania, in lawful session duly assembled. As part of this Resolution, the Board of Commissioners has directed that the President, or Vice-President in the absence of the President, execute this Resolution on behalf of the Board.

**TOWNSHIP OF SOUTH WHITEHALL  
BOARD OF COMMISSIONERS**

  
Christina Tori Morgan, President

**ATTEST:**

  
Stephen D. Carr, Secretary



TOWNSHIP OF SOUTH WHITEHALL  
LEHIGH COUNTY, PENNSYLVANIA

RESOLUTION NO. 2019-15  
(Duly Adopted July 17, 2019)

A RESOLUTION GRANTING A WAIVER OF SUBDIVISION AND LAND DEVELOPMENT  
REVIEW AND APPROVAL REQUIREMENTS OF THE SOUTH WHITEHALL TOWNSHIP  
SALDO FOR A PLAN ENTITLED "VILLAGE WEST REDEVELOPMENT" RELATING TO  
PROPERTIES LOCATED AT 3100 WEST TILGHMAN STREET

ACCEPTANCE OF WAIVER CONDITIONS

The undersigned Applicant/Owner for the Project described in the foregoing referenced Resolution, in consideration of the grant of the approval of the waiver from the formal planning, Subdivision/Land Development Plan review and approval requirements of SALDO by the Commissioners of South Whitehall Township, and intending to be legally bound hereby, does affirmatively accept the conditions of the grant of the waiver set forth in the foregoing Resolution and does waive any and all rights which Applicant would otherwise possess to contest the imposition of said conditions, both at law or in equity.

WITNESS/ATTEST:



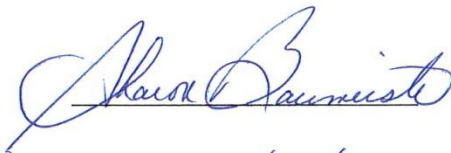
Date: 12/17/19

APPLICANT:

Cedar Crest Associates LP  
c/o Brixmor Property Group

By:   
Name: David Vender  
Title: Executive Vice President


WITNESS/ATTEST:



Date: 12/17/19

RECORD OWNER:

Cedar Crest Associates LP  
c/o Brixmor Property Group

By:   
Name: David Vender  
Title: Executive Vice President

**RESOLUTION NO. 2020-\_\_\_\_**  
**(Duly Adopted April 15, 2020)**

**ACCEPTANCE OF CONDITIONS**

**A RESOLUTION AMENDING RESOLUTION NO. 2019-65 WHICH GRANTED A WAIVER OF SUBDIVISION AND LAND DEVELOPMENT REVIEW AND APPROVAL REQUIREMENTS OF THE SOUTH WHITEHALL TOWNSHIP SALDO FOR A PLAN ENTITLED "VILLAGE WEST REDEVELOPMENT" RELATING TO PROPERTIES LOCATED AT 3100 WEST TILGHMAN STREET AND GRANTING AN ADDITIONAL WAIVER PURSUANT TO SALDO SECTIONS 312-13(f)(3) AND 312-43**

The undersigned, being the applicant of the land shown on the plan entitled "*Village West Redevelopment*" prepared by Langan Engineering, dated July 12, 2019, and last revised September 6, 2019, Township Waiver from Land Development File #2019-702, for a land development at 3100 West Tilghman Street, in South Whitehall Township, Lehigh County, Pennsylvania, intending to be legally bound hereby, does affirmatively accept and consent to all of the conditions set forth in the Resolution amending Resolution 2019-65 to grant additional waivers from SALDO sections 312-13(f)(3) and 312-43, and hereby affirms its acceptance of the conditions set forth in Resolution 2019-65, all of which are incorporated herein by this reference. The applicant does waive any and all rights which the applicant would otherwise possess to contest the imposition of said conditions, both at law or in equity. Further, the applicant hereby certifies that as of the date of the Resolution, the applicant does not dispute (as outlined by the Pennsylvania Municipalities Planning Code, including but not limited to §§ 10503(1) and 10510(g)) any professional consultant fee for which it has received an invoice from the Township through the date hereof.

WITNESS/ATTEST:

APPLICANT:

By:

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

\_\_\_\_\_

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

**JOHN JAINDL**  
**MINOR PLAN 2019-201**  
**ADDITIONAL WAIVER FROM SALDO SECTION 312-36(d)(4)**  
**ATTACHMENTS**

1. **Memorandum** (page 2)
2. **SALDO Section 312-36(d)(4)** (page 3)
3. **Resolution** (page 10)

**TO: BOARD OF COMMISSIONERS**  
**FROM: GREGG ADAMS, PLANNER**  
**SUBJECT: JOHN JAINDL**  
**MINOR PLAN 2019-201**  
**REQUEST FOR ADDITIONAL SALDO WAIVER**

**DATE: APRIL 9, 2020**

**COPIES: R. BICKEL, G. KINNEY, L. HARRIER, J. ZATOR, ESQ., L. PEREIRA, ESQ.,**  
**S. PIDCOCK, APPLICANT, SUB. FILE 2019-201**

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**LOCATION AND INTENT:**

An application to subdivide the property located 2886 Strohl Road. The plan proposes the subdivision of the 14.7125-acre parcel into: Lot 1, the existing single dwelling on 2.1979 acres; and Lot 2, containing 12.5146 acres. The subject property is currently zoned Rural Residential-2 RR-2. David Jaindl is the owner and John Jaindl is the applicant.

**PRIOR APPROVALS**

No zoning relief was required.

The Planning Commission reviewed the plan at their August 15, 2019 meeting and recommended approval with 11 conditions. Additionally, the Planning Commission recommended one SALDO waiver- the deferral of Section 312-35(b)(3) of the Subdivision and Land Development Ordinance pertaining to the Right-of-Way and cartway standards, with the exception of the dedication of right-of-way to Township standards.

Oat the October 16, 2019 meeting, the Board of Commissioners, through Resolution 2019-52, approved the John Jaindl Minor Plan 2019-201 with 7 conditions of approval and one SALDO waiver (the aforementioned Section 312-35(b)(3) as modified).

**WAIVER REQUEST**

The applicant is requesting that the requirements of SALDO Section 312-36(d)(4) be waived. The applicant should be available to present the justification for the waiver.

**SALDO SECTION 312-36(d)(4)**

(4) Open Space Dedication, Recreation Areas and Fees In Lieu of Land Dedication. Developers shall dedicate land or fees to the Township for parks, recreation and open space, and/or pay fees or provide facilities in lieu thereof in accordance with the following provisions:

(A) Applicability. This section 312-36(d)(4) shall be effective with respect to any subdivision or land development for which a preliminary plan or a combined preliminary/final plan is submitted after the publication of notice that revisions to any Sections regulating Open Space are pending, or after the enactment of this revision, except that this section shall not apply to:

(i) Submittals that the Board of Commissioners determines only involve clearly minor adjustments or corrections to a preliminary plan that was duly submitted and actively under consideration or approved prior to the enactment of this revision; or

(ii) Resubdivision as defined in this Chapter where no new dwelling units are proposed; or

(iii) Agricultural purpose subdivisions in zoning districts (as established under Chapter 12) where agriculture is permitted and where no new dwelling units are proposed.

(B) Land Dedication in Subdivisions and Land Development

(i) Except as provided in subparagraphs (F) through (J) of this section 312-36(d)(4), each subdivision or land development regulated under this section shall be required to offer for dedication to the Township an amount of open space which contains "Prime Open Space" in an amount not less than the applicable amount set forth below:

RESIDENTIAL

Percentage of the Total Amount of <u>"Open Space" which is "Prime Open Space"</u>	Minimum Required "Open Space" Per Dwelling Unit in the Residential Portion <u>of the Gross Pre-Development Tract</u>
Not greater than 25%	2,600 sq. ft.
At least 25% but not greater than 50%	2,000 sq. ft.
Greater than 50% but not greater than 75%	1,600 sq. ft.
Greater than 75%	1,200 sq. ft.

The residential land and fee requirements of this section 312-36(d)(4) shall be based upon the maximum number of new dwelling units that would be permitted to be constructed on the lots of the subdivision or land development after the plan is

approved. Should a Residential Land Use, as part of a Subdivision or Development, be required to set aside Open Space as part of a Township Ordinance other than the Subdivision and Land Development Ordinance, that Residential Land Use shall be considered, for the purposes of this subsection (i), to be Non-Residential. Note that this does not include TND Innovation Overlay Districts, Planned Residential Development or similar Special Districts, as they do not constitute a Land Use.

NONRESIDENTIAL

Percentage of the Total Amount of <u>"Open Space" which is "Prime Open Space"</u>	Minimum Required "Open Space" of the Non-Residential Portion <u>of the Gross Pre-development Tract</u>
Not greater than 25%	3,000 sq. ft. per acre
At least 25% but not greater than 50%	2,400 sq. ft. per acre
Greater than 50% but not greater than 75%	2,000 sq. ft. per acre
Greater than 75%	1,600 sq. ft. per acre

Any land proposed for dedication under this section 312-36(d)(4) for which less than 25% of the "Open Space" is "Prime Open Space" shall require the approval of the Board of Commissioners, utilizing the same procedure as the required approval of as Fees In Lieu of Land Dedication as outlined in Section 312-36(d)(4)(G)(i).

(ii) Common Open Space. For the purposes of this section, the term "Common Open Space" shall mean land proposed to be dedicated as an open space which:

(1) Has adequate access for maintenance and for pedestrians;

(2) Is not within any stormwater management facility, unless the Applicant proves to the satisfaction of the Board of Commissioners that the stormwater management facility (or the portion thereof which the Applicant desires to have classified as "Common Open Space" is designed so that it clearly would regularly be accessible and usable for recreation during all times except immediately following a storm of an intensity of a "10 year storm" or greater. Generally, stormwater management facilities, including but not limited to traditional, grass bottomed stormwater detention basins, shall not be permitted as Common Open Space. Any areas that are enclosed with fencing or are otherwise inaccessible shall not be permitted in Common Open Space;

(3) Is not within 15 feet of any principal building;

(4) Is not within 15 feet of a parking area (other than parking areas specifically developed to serve the open space); and

(5) Is part of a total contiguous tract of common open space which contains at least 1 acre and is of such geometry that it provides sufficient spatial ability to conduct normal public recreation activities (i.e., is not sinewy or otherwise unusable for a broad range of recreational activities), unless purposefully and knowingly designed in a more linear fashion with the consent of the Township to accommodate trails or paths, environmental protection, or scenic easements.

(iii) Prime Open Space. For the purposes of this section, the term "Prime Open Space" shall mean land proposed to be dedicated as open space which:

(1) Has a slope of less than six percent (6%) over all distances of no more than three (3) feet;

(2) Is not a wetland under the applicable federal or state laws;

(3) Is part of a contiguous tract of at least 2 acres, which may include preexisting adjacent open space;

(4) None of which is within the "100 Year Floodplain", as defined by official floodplain maps of the Township; and

(5) Has topsoil to a depth of four (4) inches or more at all points.

(C) Open Space to Be Dedicated.

(i) Land to be dedicated under this section 312-36(d)(4) shall be suitable, prior to dedication, for its intended purpose, as determined by the Township Board of Commissioners. Should such land be deemed unsuitable by the Board of Commissioners, the Applicant may offer the following: (a) different lands for dedication; (b) fees in lieu of land dedication; or, (c) a combination of both, as regulated under this Section 312-36(d)(4). The Board of Commissioners shall have sole discretion as to which of the aforementioned options offered by the Applicant is acceptable to the Township.

(ii) The following factors shall be considered in determining the suitability of open space to adequately serve intended recreational needs:

(1) Whether open space in the proposed location would be suitable for active or passive recreation;

(2) Whether open space could be added to an existing adjacent recreation area;

(3) Whether the area surrounding the proposed development has sufficient existing recreation and open space land, and whether it is possible for young pedestrians and bicyclists to safely reach those lands;

(4) Recommendations of the Township Park and Recreation Board, which shall be given an opportunity to provide a review;

(5) Relevant policies of the most current Township Park, Recreation and Open Space Plan;

(6) Whether the proposed open spaces would preserve important natural features (such as woodlands or creek valleys) that might otherwise be disturbed or adversely affected;

(7) Whether the area will involve a significant concentration of residents, especially in homes without large yards;

(8) Whether it will be possible to combine open space on this tract with additional open spaces on an adjacent tract, when that tract is developed in the future; and

(9) Any other factor set forth in this section 312-36(d)(4), or deemed relevant to the particular tract by the Township.

(iii) The Board of Commissioners may require that land to be dedicated under this Section 312-36(d)(4) be located along an edge of the property so that it may, in the future, be combined with an open space dedication on the edge of an adjoining property when that adjoining property is subdivided or developed, and/or so that it may be combined with an existing adjacent open space dedicated for open space or recreation purposes. If the Applicant owns one or more adjacent tracts that are not currently proposed to be subdivided or developed (or is not currently planning to develop all of the original tract being subdivided), the Applicant shall provide a sketch of a possible future land dedication on the adjacent lands (or the undeveloped portion of the original tract) in the event of future development.

(iv) The Applicant shall state in his/her application those improvements (if any) he/she intends to make to the land proposed for dedication hereunder to make it suitable for its intended purpose, such as rough grading, drainage improvements, landscaping, clearance of undesirable vegetation or development of trails. Such land shall be free of construction debris, excavated materials and solid waste prior to dedication.

(v) Areas intended for active recreation shall be well-drained, shall have a slope of no greater than 4 percent (4%) over all distances of no more than three (3) feet, and not require that a wetland be filled in in order to be used as intended.



(D) Condition of Open Space. All open space to be dedicated to the Township shall be improved, if necessary, by the Applicant prior to acceptance of dedication by the Township, so that all of the following conditions are satisfied:

(i) Topsoil. Shall be in accordance with the Township Standard Construction Documents (latest revision)

(ii) Lawn Areas. Shall be in accordance with the Township Standard Construction Documents (latest revision)

(iii) Fencing. Shall be in accordance with the Township Standard Construction Documents (latest revision)

(iv) Permanent Monuments. Permanent concrete monuments shall be placed in all locations where a change in horizontal alignment occurs on the property line of the land to be conveyed to the Township.

(v) Maintenance Obligations. The maintenance obligations for the said lands shall not be undertaken by the Township until all of the requirements of this subparagraph (D) have been satisfied.

(E) Terms of Dedication. All open space dedicated under this section 312-36(d)(4) shall include deed restrictions to permanently prevent the development of buildings, except buildings for non-commercial recreation or to support the maintenance of the land for recreation.

(F) Alternate Beneficiaries of Open Space Dedication (Other Than Township).

(i) Open space required under this section 312-36(d)(4) shall be dedicated to the Township, unless the Board of Commissioners agrees to allow a dedication to any of the following: the Parkland School District, the County of Lehigh, the Commonwealth of Pennsylvania, the United States of America, a municipal authority, a condominium association or homeowners association, or an environmental organization acceptable to the Board of Commissioners. In all of the above instances, deed restrictions acceptable to the Township Solicitor shall be inserted into the deed of the open space land stipulating that such land shall be reserved in perpetuity for open space and recreation purposes.

(ii) If required open space is to be owned by a condominium association or home owners association, the Applicant shall establish such association in a form that requires all property owners within the association to annually contribute to the maintenance of the open space. Provisions of any condominium association or homeowners association agreements regarding required open space shall be subject to acceptance by the Board of Commissioners, based upon review by the Township Solicitor.

(G) Fees In Lieu of Land Dedication.

(i) In General. Fees, in the amount provided in this subparagraph (G), may be accepted in lieu of the dedication of open space if both the Applicant and the Board of Commissioners agree. Such an agreement shall be indicated through a motion by the Board of Commissioners in public session after receiving a recommendation from the Parks and Recreation Board regarding the proposed payment of fees in lieu of land dedication. For all residential or mixed-use land developments containing more than fifty (50) residential dwelling units, such an agreement shall be secured prior to preliminary or preliminary/final plan submission. Whenever fees are permitted, the Applicant shall place a note on the preliminary and final record plans stating that such fees are required to be paid as part of the subdivision or land development approval.

(ii) Combination of Land and Fees. The Board of Commissioners and the Applicant may agree on any combination of open space dedication and payment of recreation fees, provided that the value of the combination to the Township, its residents, and/or persons employed in the Township, is consistent with the requirements of this section 312-36(d)(4) when only land is dedicated or only fees are paid. Such an agreement shall be indicated through a motion by the Board of Commissioners in public session after receiving a recommendation from the Parks and Recreation Board regarding the proposed combination of open space dedication and payment of recreation fees. Such an agreement shall be secured prior to preliminary or preliminary/final plan submission for all residential or mixed-use land developments containing more than fifty (50) residential dwelling units.

(iii) Fees for Residential Subdivision or Land Development. The amount of fees to be paid in lieu of open space land dedication in residential portions of subdivisions or land developments shall be a fee per dwelling unit (as listed in the Township Fee Schedule, as amended), based upon the maximum number of new dwelling units that would be permitted to be constructed on the lots of the subdivision or land development after the final plan is approved.

(iv) Fees for Nonresidential Subdivisions or Developments. The amount of fees to be paid in lieu of open space land dedication in nonresidential portions of subdivisions or land developments shall be a fee per square foot (as listed in the Township Fee Schedule, as amended) of additional proposed impervious coverage (post-development impervious surface minus pre-development impervious surface) as depicted on the final plan in lieu of the requirement for public dedication of land. Impervious coverage includes buildings, parking lots and any other man-made impervious surface. Only a net increase in impervious coverage will result in a fee to be charged.

(H) Use of Fees.

(i) Any fees collected under this section shall be placed within an interest-bearing account and shall be accounted for separately from other Township funds

(ii) To ensure that the lands and facilities dedicated or provided hereunder are accessible to the residents and employees of the developments that paid fees toward their cost, the "Recreation Fee District Map" set forth in clause (v) of this subparagraph (H) designates two (2) overlapping "Recreation Fee Districts"-- the "Western Recreation Fee District" and the "Eastern Recreation Fee District". Except as provided in clause (iv), all fees collected under this section 312-36(d)(4) with respect to any given subdivision or land development shall only be expended within that (those) Recreation Fee District(s) which include all or part of the subdivision or land development.

(iii) Such fees shall only be used in accordance with the MPC. Fees do not have to be spent on land acquired as part of a "combination of land and fees" agreement.

(iv) A portion of the fees for each subdivision or land development may also be used for the acquisition and development of centrally located park or recreation area(s) providing programs and facilities for the entire Township.

(v) Recreation Fee District Map (latest edition).

(I) Timing of Fees. Fees to be paid under this section 312-36(d)(4) in lieu of open space land dedication shall be paid prior to the recording of the final plan, except as follows:

(i) If the required fee would be greater than \$10,000.00, and the developer and the Township mutually agree to provisions in a binding development agreement to require the payment of all applicable recreation fees prior to the issuance of any building permits within each clearly defined phase of the development, then the fees are not required to be paid prior to recording of the final plan but may instead be paid within the requirements of that development agreement.

(J) Modifications to Land Dedication and Fee Requirements. The Board of Commissioners may reduce the land dedication or fee requirements of this section 312-36(d)(4) if the developer agrees to undertake one or more of the following actions, provided that the value of the combination of land, fees, and such actions to the Township, its residents, and/or persons employed in the Township, is consistent with the requirements of this section 312-36(d)(4) when only land is dedicated or only fees are paid:

(i) Construction of substantial permanent recreation facilities within the proposed subdivision or land development and/or existing open space;

(ii) Donation (or sale at a price below market value) of appropriate land to the Township (or any other public entity described in subparagraph (F)) for public recreation. In the case of a sale under this clause, the developer or land developer must provide evidence of the fair market value of the property from qualified professionals.

**TOWNSHIP OF SOUTH WHITEHALL  
LEHIGH COUNTY, PENNSYLVANIA**

**RESOLUTION NO. 2020-\_\_\_\_  
(Duly Adopted April 15, 2020)**

**A RESOLUTION AMENDING RESOLUTION NO. 2019-52 WHICH GRANTED  
PRELIMINARY/FINAL APPROVAL TO A MINOR PLAN ENTITLED “JOHN JAINDL”  
TO INCLUDE AN ADDITIONAL WAIVER GRANTED TO SALDO SECTION 312-36(d)(4)**

**WHEREAS**, John Jaindl, pursuant to Article 4 of the South Whitehall Township Subdivision and Land Development Ordinance, submitted an application for preliminary/final approval for a minor subdivision of the 14.7125-acre property located at 2886 Strohl Road, in South Whitehall Township, Lehigh County, Pennsylvania; and,

**WHEREAS**, the South Whitehall Township Board of Commissioners approved Resolution No. 2019-52 on October 16, 2019, granting preliminary/final approval on plans prepared by Lehigh Engineering, entitled “*JOHN JAINDL*”, dated July 9, 2019 and last revised September 24, 2019; and,

**WHEREAS**, the applicant has requested that Subdivision and Land Development Regulations Section 312-36(d)(4) be waived, as the dwelling is located in North Whitehall Township and a recreation fee for the dwelling has been paid to that Township; and,

**NOW, THEREFORE, BE IT ADOPTED AND RESOLVED** that the Board of Commissioners of the Township of South Whitehall hereby amends its preliminary/final approval to the major plan entitled “*JOHN JAINDL*”, memorialized in Resolution 2019-52 subject to the applicant’s compliance with the following conditions and amendments to Resolution 2019-52:

1. The conditions of approval stated in Resolution No. 2019-52 (Exhibit “A”), which conditions have been affirmatively accepted by the applicant, and those waivers and deferrals granted by the Board of Commissioners that are reflected in said resolution and any subsequent amendments, remain valid and in effect.
2. In addition to the waivers and deferrals granted under Resolution 2019-52 and any subsequent amendments, the following waiver is hereby granted by the South Whitehall Township Board of Commissioners:

The requirement of Section 312-36(d)(4) of the Subdivision and Land Development Ordinance as it pertains to the requirement that developers shall dedicate land or fees to the Township for parks, recreation and open space, and/or pay fees or provide facilities in lieu thereof.

**DULY ADOPTED** this 15<sup>th</sup> day of **April, 2020**, by the Board of Commissioners of the Township of South Whitehall, Lehigh County, Pennsylvania, in lawful session duly assembled.

**TOWNSHIP OF SOUTH WHITEHALL  
BOARD OF COMMISSIONERS**

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**Christina Tori Morgan, President**

**ATTEST:**

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**Stephen D. Carr, Secretary**

**EXHIBIT "A"**

**TOWNSHIP OF SOUTH WHITEHALL  
LEHIGH COUNTY, PENNSYLVANIA**

**RESOLUTION NO. 2019-52  
(Duly Adopted October 16, 2019)**

**A RESOLUTION GRANTING PRELIMINARY/FINAL APPROVAL  
TO A MINOR PLAN ENTITLED  
"JOHN JAINDL"**

**WHEREAS**, Posocco Equities, pursuant to Article 4 of the South Whitehall Township Subdivision and Land Development Regulations, submitted an application for preliminary/final approval for a minor subdivision of the 14.7125-acre property located at 2886 Strohl Road, in South Whitehall Township, Lehigh County, Pennsylvania; and,

**WHEREAS**, this proposal is reflected on plans prepared by Lehigh Engineering, entitled "**JOHN JAINDL**", dated July 9, 2019 and last revised September 24, 2019; and,

**WHEREAS**, the South Whitehall Township Planning Commission has reviewed the aforesaid plan on August 15, 2019, and having found it to be in substantial compliance with the Subdivision and Land Development Regulations, has recommended that preliminary/final approval be granted,

**WHEREAS**, the applicant has requested that the requirement of Section 312-35(b)(3) of the Subdivision and Land Development Ordinance pertaining to the Right-of-Way and cartway standards, with the exception of the dedication of right-of-way to Township standards, be deferred, and the Planning Commission is persuaded that the deferrals are appropriate until such time that the properties to the north are developed.

**NOW, THEREFORE, BE IT ADOPTED AND RESOLVED** that the Board of Commissioners of the Township of South Whitehall hereby grants preliminary/final approval to the minor plan entitled "**JOHN JAINDL**", subject to the applicant's compliance with the following conditions:

1. That the applicant address to the satisfaction of the Township Engineer, the comments of the Township Engineer, as contained in his review dated October 7, 2019.
2. That the applicant address to the satisfaction of the Community Development Department, the comments of the Department, as contained in its review dated August 8, 2019.
3. That the applicant shall contribute fees in lieu of parkland dedication, in the amount of \$2,500.00 in order to meet the parkland and open space requirements of the Subdivision and Land Development Ordinance.
4. That the applicant shall dedicate to the Township additional right-of-way along the frontage of Strohl Road at a width acceptable to the Township. The dedication shall occur prior to the plan being recorded. The dedication shall be by Deed of

Dedication in a form acceptable to the Township Solicitor, and an Opinion of Record Title prepared by applicant's counsel indicating that the dedication is free and clear of liens and encumbrances that would affect the Township's use of said property. The applicant shall furnish to the Township Solicitor a description for the dedication that has been approved by the Township Engineer, a copy of the current deed for the property showing current ownership and recites the deed book volume and page reference.

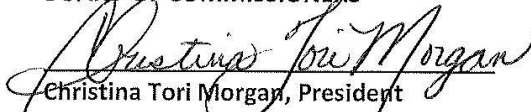
- 5. That the applicant secures plan approval from North Whitehall Township.
- 6. That the applicant reconciles all open invoices for Township engineering and legal services prior to the plan being recorded.
- 7. The applicant shall meet all conditions of the Preliminary/Final Plan approval, and the Record Plan will be recorded within twelve (12) months of Conditional Preliminary/Final Plan approval, and the applicant agrees that if such conditions are not met, the conditional Preliminary/Final Plan approval will be considered void, and the application for Preliminary/Final Plan approval will be considered void and withdrawn unless otherwise approved by the South Whitehall Township Board of Commissioners or the Township Manager, who is expressly empowered to extend the deadline to satisfy the conditions of this resolution.

The requirement of Section 312-35(b)(3) of the Subdivision and Land Development Ordinance pertaining to the Right-of-Way and cartway standards, with the exception of the dedication of right-of-way to Township standards, is hereby deferred.


The conditions of approval have been made known to the applicant, and final approval is to be deemed expressly contingent upon the applicant's affirmative written acceptance of the conditions on a form prescribed by South Whitehall Township on or before 4:00 p.m., November 5, 2019. If an unconditional acceptance of the conditions is not received in writing by that date, the application for approval shall be deemed denied based upon applicant's failure to fulfill the said conditions or agree thereto.

**DULY ADOPTED** this 16<sup>th</sup> day of **OCTOBER, 2019**, by the Board of Commissioners of the Township of South Whitehall, Lehigh County, Pennsylvania, in lawful session duly assembled.

TOWNSHIP OF SOUTH WHITEHALL  
BOARD OF COMMISSIONERS

  
Christina Tori Morgan, President

ATTEST:

  
Stephen D. Carr, Secretary

TOWNSHIP OF SOUTH WHITEHALL  
LEHIGH COUNTY, PENNSYLVANIA

RESOLUTION NO. 2019-52  
(Duly Adopted October 16, 2019)

ACCEPTANCE OF CONDITIONS

A RESOLUTION GRANTING PRELIMINARY/FINAL APPROVAL  
TO A MINOR PLAN ENTITLED  
"JOHN JAINDL"

The undersigned, being the applicant of the land shown on the plan entitled "JOHN JAINDL" prepared by Lehigh Engineering, dated July 9, 2019 and last revised September 24, 2019, Township Minor Plan File 2019-201, for the minor subdivision of the 14.7125-acre property located at 2886 Strohl Road, in South Whitehall Township, Lehigh County, Pennsylvania, intending to be legally bound hereby, does affirmatively accept all of the conditions set forth in the Resolution granting conditional preliminary/final approval to the minor plan entitled "JOHN JAINDL" and does waive any and all rights which the applicant would otherwise possess to contest the imposition of said conditions, both at law or in equity. Further, the applicant hereby certifies that as of the date of the Resolution, the applicant does not dispute (as outlined by the Pennsylvania Municipalities Planning Code, including but not limited to §§ 10503(1) and 10510(g)) any professional consultant fee for which it has received an invoice from the Township through the date hereof.

WITNESS/ATTEST: DAVID  
APPLICANT: ~~John~~ Jaindl

Ann Louise Hantz  
Witness

David Jaindel  
Applicant

Ann Louise Hantz  
Printed Name

David JAINDL  
Printed Name

Date: 10/29/19



**RESOLUTION NO. 2020-\_\_\_\_**  
**(Duly Adopted May 15, 2020)**

**ACCEPTANCE OF CONDITIONS**

**A RESOLUTION AMENDING RESOLUTION NO. 2019-52 WHICH GRANTED  
PRELIMINARY/FINAL APPROVAL TO A MINOR PLAN ENTITLED "JOHN JAINDL"  
TO INCLUDE AN ADDITIONAL WAIVER GRANTED TO SALDR SECTION 312-36(d)(4)**

The undersigned, being the applicant of the land shown on the plan entitled "*John Jaindl*" prepared by Lehigh Engineering, dated July 9, 2019 and last revised September 24, 2019, Township Minor Plan File #2019-201, for a minor subdivision of the 14.7125-acre property located at 2886 Strohl Road, in North Whitehall and South Whitehall Townships, Lehigh County, Pennsylvania, intending to be legally bound hereby, does affirmatively accept and consent to all of the conditions set forth in the Resolution amending Resolution 2015-22 to grant additional waivers from SALDO section 312-36(d)(4) and hereby affirms its acceptance of the conditions set forth in Resolution 2015-22, all of which are incorporated herein by this reference. The applicant does waive any and all rights which the applicant would otherwise possess to contest the imposition of said conditions, both at law or in equity. Further, the applicant hereby certifies that as of the date of the Resolution, the applicant does not dispute (as outlined by the Pennsylvania Municipalities Planning Code, including but not limited to §§ 10503(1) and 10510(g)) any professional consultant fee for which it has received an invoice from the Township through the date hereof.

WITNESS/ATTEST:

APPLICANT:

By:

\_\_\_\_\_

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

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



RESOLUTION NO. 2020-\_\_\_\_  
(Duly Adopted April 15, 2020)

**Appendix II – Authorized Official Resolution**

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Be it RESOLVED, that the South Whitehall Township (Name of Applicant) of Lehigh County (Name of County) hereby request an Greenways, Trails and Recreation Program (GTRP) grant of \$ \$250,000 from the Commonwealth Financing Authority to be used for Vistas Park Improvements.

Renee C. Bickel,

Be it FURTHER RESOLVED, that the Applicant does hereby designate Township Manager (Name and Title) and Mike Kukitz, P&Rec Mgr. (Name and Title) as the official(s) to execute all documents and agreements between the Twp of South Whitehall (Name of Applicant) and the Commonwealth Financing Authority to facilitate and assist in obtaining the requested grant.

Twp of South

I, Stephen D. Carr, duly qualified Secretary of the Whitehall (Name of Applicant), Lehigh County (Name of County) Allentown, PA, hereby certify that the forgoing is a true and correct copy of a Resolution duly adopted by a majority vote of the SWT Board of Commissioners (Governing Body) at a regular meeting held April 15, 2020 (Date) and said Resolution has been recorded in the Minutes of the Twp of South Whitehall (Applicant) and remains in effect as of this date.

Twp of South

IN WITNESS THEREOF, I affix my hand and attach the seal of the Whitehall (Applicant),  
this 15th day of April, 2020.

\_\_\_\_\_  
Name of Applicant Renee C. Bickel, Township Manager  
South Whitehall Township  
4444 Walbert Avenue  
Lehigh County, Allentown, PA 18104  
County

\_\_\_\_\_  
Secretary - Stephen D. Carr



## REIMBURSEMENT AGREEMENT

THIS AGREEMENT is made this \_\_\_\_ day of \_\_\_\_\_, 2020, by and between the TOWNSHIP OF SOUTH WHITEHALL, a municipal corporation, Township of the First Class, located at 4444 Walbert Avenue, Allentown, Lehigh County, Pennsylvania 18104-1699 (hereinafter referred to as the "Township"), and RIVERBEND SOUTH WHITEHALL PROPERTIES I, LLC, a Pennsylvania limited liability company, with offices at 204 W. Newberry Road, Bloomfield, Connecticut 06002-1308 (hereinafter referred to as the "Owner").

### WITNESSETH

WHEREAS, the Owner has obtained conditional preliminary/final approval of the land development plan titled "Preliminary/Final Land Development Plan Flex-Warehouse Facility, 4741 Chapmans Road" (the "Project"); and

WHEREAS, as part of the Project, the Owner is proposing to install two (2) underground water and sewer pipes (the "Facilities"), which pipes will cross Norfolk Southern Railway Company ("Norfolk") railway; and

WHEREAS, Norfolk is requiring that the Township enter into an agreement with Norfolk regarding the installation and maintenance of the Facilities (the "Facilities Agreement"); and

WHEREAS, the Facilities will be installed by Owner during the construction of the Project; and

WHEREAS, the Facilities are intended to be ultimately owned and maintained by the Township; and

WHEREAS, the Owner has requested the Township to enter into the Facilities Agreement with Norfolk and the Township is willing to enter into said agreement provided that Owner installs all of the Facilities at its sole cost and expense and reimburses the Township for all costs and expenses associated with said Facilities Agreement.

NOW THEREFORE, for and in consideration of the mutual promises and undertakings contemplated by this Agreement, and intending to be legally bound, the parties agree as follows:

1. The foregoing "WHEREAS" clauses are incorporated fully into this Agreement.
2. The Township presently intends to enter into the Facilities Agreement with Norfolk for the installation and maintenance of the Facilities. A true and correct copy of the Facilities Agreement is attached as Exhibit "A" and made a part hereof.
3. The Owner shall install the Facilities at its sole cost and expense in accordance with the approved Project. The Owner shall pay the \$5,000.00 fee to Norfolk as required under the Facilities Agreement. In addition, the Owner shall reimburse the Township for any other

costs and expenses incurred by the Township related to the installation of the Facilities, including but not limited to the fees charged by Norfolk for the inspections and flagmen during construction.

4. The Owner shall defend, indemnify and hold the Township, its Board of Commissioners, officers, officials, employees, engineers and attorneys ("Township Representatives") harmless from any losses, suits, damages, judgments or other claims arising out of the installation of the Facilities, including but not limited to any claims arising out of the Facilities Agreement.

5. During construction, and for eighteen (18) months following the Township's final inspection of the Facilities (the "Maintenance Period"), the Owner shall at all times maintain commercial general liability insurance in the amount of at least \$1,000,000.00 and shall provide Township with a certificate of insurance designating the Township and the Township Representatives as additional insureds. The Owner shall provide the Township with thirty (30) days' notice prior to cancellation of such insurance.

6. Upon the expiration of the Maintenance Period, this Agreement will automatically expire and the Township shall become solely responsible to maintain any required insurance and to pay any remaining or ongoing fees due to Norfolk under the Facilities Agreement.

7. This Agreement contains the entire understanding between and among the parties and supersedes any prior understanding and agreements among them respecting the subject matter of this Agreement.

8. This Agreement may be executed in several counterparts and all so executed shall constitute one agreement, binding on all the parties hereto even though all the parties are not signatories to the original or the same counterpart.

9. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania.

IN WITNESS WHEREOF, the parties have hereunto set their respective hands and seals the day and date first above written.

ATTEST:

SOUTH WHITEHALL TOWNSHIP BOARD OF COMMISSIONERS

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

By: \_\_\_\_\_  
Christina Tori Morgan, President

WITNESS:

RIVERBEND SOUTH WHITEHALL  
PROPERTIES I, LLC

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

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

Title: \_\_\_\_\_

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

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

Title: \_\_\_\_\_

COMMONWEALTH OF PENNSYLVANIA :  
:SS.  
COUNTY OF LEHIGH :

On this \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me, a notary public, the undersigned officer, personally appeared Christina Tori Morgan, who acknowledged herself to be President of SOUTH WHITEHALL TOWNSHIP BOARD OF COMMISSIONERS, a municipal corporation, and that she as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by herself as such officer.

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

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

STATE OF \_\_\_\_\_ :  
:SS.  
COUNTY OF \_\_\_\_\_ :

On this \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me, a Notary Public, the undersigned officer, personally appeared \_\_\_\_\_, who acknowledged himself/herself to be the \_\_\_\_\_ of RIVERBEND SOUTH WHITEHALL PROPERTIES I, LLC, a Pennsylvania limited liability company, and that he/she as such \_\_\_\_\_, being authorized to do so, executed the foregoing instrument for the purpose therein contained by signing the name of the corporation by himself/herself as \_\_\_\_\_.

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

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



EXHIBIT "A"

THIS AGREEMENT, dated as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ is made and entered into by and between

**NORFOLK SOUTHERN RAILWAY COMPANY**, a Virginia corporation, whose mailing address is Three Commercial Place, Norfolk, Virginia 23510 (hereinafter called "Railway"); and

**SOUTH WHITEHALL TOWNSHIP**, a political subdivision of the Commonwealth of Pennsylvania, whose mailing address is 4444 Walbert Avenue, Allentown, Pennsylvania 18104 (hereinafter called "Licensee").

WITNESSETH

WHEREAS, Licensee proposes to install, construct, maintain, operate and remove an underground crossing of a 6-inch casing pipe containing a 2-inch raw sewage pipeline and a 24-inch casing pipe containing a 12-inch potable water pipeline. (hereinafter called the "Facilities") located in, under and across the right-of-way or property and any tracks of Railway, at or near:

- Milepost FJ-6.31, C&F Secondary Line
- Latitude N 40.611183, Longitude W 75.570558
- South Whitehall, Lehigh County, Pennsylvania
- Valuation Section 32P, Map 14, Stationing 333+71

the same to be located in accordance with and limited to the installation shown on print of drawings marked Exhibits A, B and C, received by Railway on November 1, 2019, and Pipe Data Sheets, attached hereto and made a part hereof; and

WHEREAS, Licensee desires a license to use such right-of-way or property of Railway for the installation, construction, maintenance, operation and removal of the Facilities.

NOW, THEREFORE, for and in consideration of the premises, the payment of a non-refundable, non-assignable one-time fee in the amount of FIVE THOUSAND AND 00/100 DOLLARS (\$5,000.00) to cover the Risk Financing Fee (as hereinafter defined) in the amount of \$1,000.00 and a one-time license fee in the amount of \$4,000.00, and the covenants hereinafter set forth, Railway hereby permits and grants to Licensee, insofar as Railway has the right to do so, without warranty and subject to all encumbrances, covenants and easements to which Railway's title may be subject, the right to use and occupy so much of Railway's right-of-way or property as may be necessary for the installation, construction, maintenance, operation and removal of the Facilities (said right-of-way or property of Railway being hereinafter collectively called the "Premises"), upon the following terms and conditions:

1. Use and Condition of the Premises. The Premises shall be used by Licensee only for the installation, construction, maintenance, operation and removal of the Facilities and for no other purpose without the prior written consent of Railway, which consent may be withheld by Railway in its sole discretion. Licensee accepts the Premises in their current "as is" condition, as

suitied for the operation of the Facilities, and without the benefit of any improvements to be constructed by Railway.

2. Installation of the Facilities; Railway Support. Licensee shall, at its expense, install, construct, maintain and operate the Facilities on a lien-free basis and in such a manner as will not interfere with the operations of Railway, or endanger persons or property of Railway. Such installation, construction, maintenance and operation of the Facilities shall be in accordance with (a) the plans and specifications (if any) shown on the prints attached hereto and any other specifications prescribed by Railway, (b) applicable laws, regulations, ordinances and other requirements of federal, state and local governmental authorities, and (c) applicable specifications of the American Railway Engineering and Maintenance-of-Way Association, when not in conflict with the applicable plans, specifications, laws, regulations, ordinances or requirements mentioned in (a) and (b), above. All underground pipes must have secondary pipe containment if the material flowing through the pipeline poses a safety or environmental hazard. Any change to the character, capacity or use of the Facilities shall require execution of a new agreement.

3. Railway Support. Railway shall, at Railway's option, furnish, at the sole expense of Licensee, labor and materials necessary, in Railway's sole judgment, to support its tracks and to protect its traffic (including, without limitation, flagging) during the installation, construction, maintenance, repair, or removal of the Facilities.

4. Electronic Interference. Licensee will provide Railway with no less than sixty (60) days advance written notice prior to the installation and operation of cathodic protection in order that tests may be conducted on Railway's signal, communications and other electronic systems (hereinafter collectively called the "Electronic Systems") for possible interference. If the Facilities cause degradation of the Electronic Systems, Licensee, at its expense, will either relocate the cathodic protection or modify the Facilities to the satisfaction of Railway so as to eliminate such degradation. Such modifications may include, without limiting the generality of the foregoing, providing additional shielding, reactance or other corrective measures deemed necessary by Railway. The provisions of this paragraph 4 shall apply to the Electronic Systems existing as of the date of this Agreement and to any Electronic Systems that Railway may install in the future.

5. Corrective Measures. If Licensee fails to take any corrective measures requested by Railway in a timely manner, or if an emergency situation is presented which, in Railway's judgment, requires immediate repairs to the Facilities, Railway, at Licensee's expense, may undertake such corrective measures or repairs as it deems necessary or desirable.

6. Railway Changes. If Railway shall make any changes, alterations or additions to the line, grade, tracks, structures, roadbed, installations, right-of-way or works of Railway, or to the character, height or alignment of the Electronic Systems, at or near the Facilities, Licensee shall, upon thirty (30) days prior written notice from Railway and at its sole expense, make such changes in the location and character of the Facilities as, in the opinion of the chief engineering officer of Railway, shall be necessary or appropriate to accommodate any construction, improvements, alterations, changes or additions of Railway.

7. Assumption of Risk. Unless caused solely by the negligence of Railway or caused solely by the willful misconduct of Railway, Licensee hereby assumes all risk of damage to the Facilities and Licensee's other property relating to its use and occupation of the Premises or business carried on the Premises and any defects to the Premises; and Licensee hereby indemnifies Railway, its officers, directors, agents and employees from and against any liability for such damage.

8. Entry Upon Premises. Prior to commencement of any work to be performed on or about the Premises, Licensee shall notify the appropriate Division Engineer for the scheduling of protection and inspection. Within seventy-two (72) hours after the Division Engineer's actual receipt of such notification, the Division Engineer shall review the necessity and availability of flagmen for the proposed work and advise Licensee of such matters and the estimated cost therefor. No work shall be permitted on or about the Premises without the presence of Railway's flagman or the Division Engineer's waiver of the requirement for flag protection. Entry on or about the Premises or any other Railway right-of-way without the Division Engineer's prior approval shall be deemed trespassing. Licensee agrees to pay Railway, within thirty (30) days after delivery of an invoice therefor, for any protection and inspection costs incurred by Railway, in Railway's sole judgment, during any such entry.

9. Liens; Taxes. Licensee will not permit any mechanic's liens or other liens to be placed upon the Premises, and nothing in this Agreement shall be construed as constituting the consent or request of Railway, express or implied, to any person for the performance of any labor or the furnishing of any materials to the Premises, nor as giving Licensee any right, power or authority to contract for or permit the rendering of any services or the furnishing of any materials that could give rise to any mechanic's liens or other liens against the Premises. In addition, Licensee shall be liable for all taxes levied or assessed against the Facilities and any other equipment or other property placed by Licensee within the Premises. In the event that any such lien shall attach to the Premises or Licensee shall fail to pay such taxes, then, in addition to any other right or remedy available to Railway, Railway may, but shall not be obligated to, discharge the same. Any amount paid by Railway for any of the aforesaid purposes, together with related court costs, attorneys' fees, fines and penalties, shall be paid by Licensee to Railway within ten (10) days after Railway's demand therefor.

10. Indemnification. Licensee hereby agrees to indemnify and save harmless Railway, its officers, directors, agents and employees, from and against any and all liabilities, claims, losses, damages, expenses (including attorneys' fees) or costs for personal injuries (including death) and property damage to whomsoever, including, but not limited to, Licensee's agents, workmen, servants or employees, or whatsoever occurring (hereinafter collectively called "Losses") that arise in any manner from (a) the installation, construction, maintenance, operation, presence or removal of, or the failure to properly install, construct, maintain, operate or remove, the Facilities, or (b) any act, omission or neglect of Licensee, its agents, servants, employees or contractors in connection therewith, unless caused solely by the negligence of Railway or caused solely by the willful misconduct of Railway.

11. Insurance.

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(a) Without limiting in any manner the liability and obligations assumed by Licensee under any other provision of this Agreement, and as additional protection to Railway, Licensee shall, at its expense, pay the Risk Financing Fee set forth in subparagraph (i) below and shall procure and maintain with insurance companies satisfactory to Railway, the insurance policies described in subparagraphs (ii) and (iii).

(i) Upon execution of this Agreement, Licensee shall pay Railway a risk financing fee of \$1,000.00 per installation (herein called the "Risk Financing Fee") to provide Railroad Protective Liability Insurance or such supplemental insurance (which may be self-insurance) as Railway, in its sole discretion, deems to be necessary or appropriate.

(ii) Prior to commencement of installation or maintenance of the Facilities or entry on Railway's property, Licensee, and its contractor if it employs one, shall procure and maintain for the course of said installation and maintenance, a general liability insurance policy naming Railway as an additional insured, and containing products and completed operations and contractual liability coverage, with a combined single limit of not less than \$1,000,000 for each occurrence.

(iii) Prior to commencement of any subsequent maintenance of the Facility during the term of this Agreement, unless Railway elects to make available and Licensee pays the then current risk financing fee for each affected installation, Licensee, or its contractor if it employs one, shall furnish Railway with an original Railroad Protective Liability Insurance Policy naming Railway as the named insured and having a limit of not less than a combined single limit of \$2,000,000 each occurrence and \$6,000,000 aggregate. Such policy shall be written using Insurance Services Offices Form Numbers CG 00 35 01 10 01.

(b) All insurance required under preceding subsection (a) shall be underwritten by insurers and be of such form and content as may be acceptable to Railway. Prior to commencement of installation or maintenance of the Facilities or any entry on Railway's property, Licensee, or its contractor if it employs one, shall: furnish to Railway's Risk Manager, Three Commercial Place, Norfolk, Virginia 23510-2191 (or such other representative and/or address as subsequently given by Railway to Licensee in writing), for approval, the original policy described in subsection (a)(iii) and a certificate of insurance evidencing the existence of a policy with the coverage described in subsection (a)(ii).

12. Environmental Matters. Licensee assumes all responsibility for any environmental obligations imposed under applicable laws, regulations, ordinances or other requirements of federal, state and local governmental authorities relating to (a) the installation, construction, maintenance, operation or removal of the Facilities, including notification and reporting of any releases, and (b) any contamination of any property, water, air or groundwater arising or resulting, in whole or in part, from Licensee's operation or use of the Premises pursuant to this Agreement. In addition, Licensee shall obtain any necessary permits to install,

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construct, maintain, operate or remove the Facilities. Licensee agrees to indemnify and hold harmless Railway from and against any and all fines, penalties, demands or other Losses (including attorneys' fees) incurred by Railway or claimed by any person, company or governmental entity relating to (a) any contamination of any property, water, air or groundwater due to the use or presence of the Facilities on the Premises, (b) Licensee's violation of any laws, regulations or other requirements of federal, state or local governmental authorities in connection with the use or presence of the Facilities on the Premises or (c) any violation of Licensee's obligations imposed under this paragraph. Without limitation, this indemnity provision shall extend to any cleanup and investigative costs relating to any contamination of the Premises arising or resulting from, in whole or in part, Licensee's use of the Facilities or any other activities by or on behalf of Licensee occurring on or about the Premises. Licensee further agrees not to dispose of any trash, debris or wastes, including hazardous waste, on the Premises and will not conduct any activities on the Premises which would require a hazardous waste treatment, storage or disposal permit.

13. Assignments and Other Transfers.

(a) Licensee shall not assign, transfer, sell, mortgage, encumber, sublease or otherwise convey (whether voluntarily, involuntarily or by operation of law) this Agreement or any interest therein, nor license, mortgage, encumber or otherwise grant to any other person or entity (whether voluntarily, involuntarily or by operation of law) any right or privilege in or to the Premises (or any interest therein), in whole or in part, without the prior written consent of Railway, which consent may be withheld by Railway in its sole discretion. Any such assignment or other transfer made without Railway's prior written consent shall be null and void and, at Railway's option, shall constitute an immediate default of this Agreement. Notwithstanding the foregoing, upon prior written notice to Railway, Licensee may assign this Agreement to a parent, a wholly-owned subsidiary of Licensee or a wholly-owned subsidiary of Licensee's parent without Railway's consent; provided, however, that no such assignment shall relieve Licensee of its obligations under this Agreement.

(b) Railway shall have the right to transfer and assign, in whole or in part, all its rights and obligations hereunder and in or to the Premises. From and after the effective date of any such assignment or transfer, Railway shall be released from any further obligations hereunder; and Licensee shall look solely to such successor-in-interest of Railway for the performance of the obligations of "Railway" hereunder.

14. Meaning of "Railway". The word "Railway" as used herein shall include any other company whose property at the aforesaid location may be leased or operated by Railway. Said term also shall include Railway's officers, directors, agents and employees, and any parent company, subsidiary or affiliate of Railway and their respective officers, directors, agents and employees.

15. Default; Remedies.

(a) The following events shall be deemed to be events of default by Licensee under this Agreement:

(i) Licensee shall fail to pay the Fee or any other sum of money due hereunder and such failure shall continue for a period of ten (10) days after the due date thereof;

(ii) Licensee shall fail to comply with any provision of this Agreement not requiring the payment of money, all of which terms, provisions and covenants shall be deemed material, and such failure shall continue for a period of thirty (30) days after written notice of such default is delivered to Licensee;

(iii) Licensee shall become insolvent or unable to pay its debts as they become due, or Licensee notifies Railway that it anticipates either condition;

(iv) Licensee takes any action to, or notifies Railway that Licensee intends to file a petition under any section or chapter of the United States Bankruptcy Code, as amended from time to time, or under any similar law or statute of the United States or any State thereof; or a petition shall be filed against Licensee under any such statute; or

(v) A receiver or trustee shall be appointed for Licensee's license interest hereunder or for all or a substantial part of the assets of Licensee, and such receiver or trustee is not dismissed within sixty (60) days of the appointment.

(b) Upon the occurrence of any event or events of default by Licensee, whether enumerated in this paragraph 15 or not, Railway shall have the option to pursue any remedies available to it at law or in equity without any additional notices to Licensee. Railway's remedies shall include, but not be limited to, the following: (i) termination of this Agreement, in which event Licensee shall immediately surrender the Premises to Railway; (ii) entry into or upon the Premises to do whatever Licensee is obligated to do under the terms of this License, in which event Licensee shall reimburse Railway on demand for any expenses which Railway may incur in effecting compliance with Licensee's obligations under this License, but without rendering Railway liable for any damages resulting to Licensee or the Facilities from such action; and (iii) pursuit of all other remedies available to Railway at law or in equity, including, without limitation, injunctive relief of all varieties.

16. Railway Termination Right. Notwithstanding anything to the contrary in this Agreement, Railway shall have the right to terminate this Agreement and the rights granted hereunder, after delivering to Licensee written notice of such termination no less than sixty (60) days prior to the effective date thereof, upon the occurrence of any one or more of the following events:

(a) If Licensee shall discontinue the use or operations of the Facilities; or

(b) If Railway shall be required by any governmental authority having jurisdiction over the Premises to remove, relocate, reconstruct or discontinue operation of its railroad on or about the Premises; or

AD

(c) If Railway, in the good faith judgment of its Superintendent, shall require a change in the location or elevation of its railroad on or about the location of the Facilities or the Premises that might effectively prohibit the use or operation of the Facilities; or

(d) If Railway, in the good faith judgment of its Superintendent, determines that the maintenance or use of the Facilities unduly interferes with the operation and maintenance of the facilities of Railway, or with the present or future use of such property by Railway, its lessees, affiliates, successors or assigns, for their respective purposes.

17. Condemnation. If the Premises or any portion thereof shall be taken or condemned in whole or in part for public purposes, or sold in lieu of condemnation, then this Agreement and the rights granted to Licensee hereunder shall, at the sole option of Railway, forthwith cease and terminate. All compensation awarded for any taking (or sale proceeds in lieu thereof) shall be the property of Railway, and Licensee shall have no claim thereto, the same being hereby expressly waived by Licensee.

18. Removal of Facilities; Survival. The Facilities are and shall remain the personal property of Licensee. Upon the expiration or termination of this Agreement, Licensee shall remove the Facilities from the Premises within thirty (30) days after the effective date thereof. In performing such removal, unless otherwise directed by Railway, Licensee shall restore the Premises to the same condition as existed prior to the installation or placement of Facilities, reasonable wear and tear excepted. In the event Licensee shall fail to so remove the Facilities or restore the Premises, the Facilities shall be deemed to have been abandoned by Licensee, and the same shall become the property of Railway for Railway to use, remove, destroy or otherwise dispose of at its discretion and without responsibility for accounting to Licensee therefor; provided, however, in the event Railway elects to remove the Facilities, Railway, in addition to any other legal remedy it may have, shall have the right to recover from Licensee all costs incurred in connection with such removal and the restoration of the Premises. Notwithstanding anything to the contrary contained in this Agreement, the expiration or termination of this Agreement, whether by lapse of time or otherwise, shall not relieve Licensee from Licensee's obligations accruing prior to the expiration or termination date, and such obligations shall survive any such expiration or other termination of this Agreement.

19. Entire Agreement. This Agreement contains the entire agreement of Railway and Licensee and supersedes any prior understanding or agreement between Railway and Licensee respecting the subject matter hereof; and no representations, warranties, inducements, promises or agreements, oral or otherwise, between the parties not embodied in this Agreement shall be of any force or effect.

20. Attorneys' Fees. If Railway should bring any action under this Agreement, or consult or place the Agreement or any amount payable by Licensee hereunder, with an attorney concerning or for the enforcement of any of Railway's rights hereunder, then Licensee agrees in



each and any such case to pay to Railway all costs, including but not limited to court costs and attorneys' fees, incurred in connection therewith.

21. Severability. If any clause or provision of this Agreement is illegal, invalid or unenforceable under present or future laws effective during the term of this Agreement, then and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby; and it is also the intention of the parties to this Agreement that in lieu of each clause or provision of this Agreement that is illegal, invalid or unenforceable, there be added as a part of this Agreement a clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible and be legal, valid and enforceable.

22. Modifications; Waiver; Successors and Assigns. This Agreement may not be altered, changed or amended, except by instrument in writing signed by both parties hereto. No provision of this Agreement shall be deemed to have been waived by Railway unless such waiver shall be in a writing signed by Railway and addressed to Licensee, and no such waiver shall affect or alter this Agreement, but each and every covenant, condition, agreement and term of this Agreement shall continue in full force and effect. No nor shall any custom or practice that may evolve between the parties in the administration of the terms hereof shall be construed to waive or lessen the right of Railway to insist upon the performance by Licensee in strict accordance with the terms hereof. The terms and conditions contained in this Agreement shall apply to, inure to the benefit of, and be binding upon the parties hereto, and upon their respective successors in interest and legal representatives, except as otherwise herein expressly provided. If there shall be more than one Licensee, the obligations hereunder imposed upon Licensee shall be joint and several.

23. Notice. Any and all other notices, demands or requests by or from Railway to Licensee, or Licensee to Railway, shall be in writing and shall be sent by (a) postage paid, certified mail, return receipt requested, or (b) a reputable national overnight courier service with receipt therefor, or (c) personal delivery, and addressed in each case as follows:

If to Railway:  
c/o Norfolk Southern Corporation  
1200 Peachtree Street, NE – 12<sup>th</sup> Floor  
Atlanta, Georgia 30309-3504  
Attention: Director Real Estate

If to Licensee:  
South Whitehall Township  
4444 Walbert Avenue  
Allentown, Pennsylvania 18104  
Attention: Public Works Superintendent

Either party may, by notice in writing, direct that future notices or demands be sent to a different address. All notices hereunder shall be deemed given upon receipt (or, if rejected, upon rejection).

24. Miscellaneous. All exhibits, attachments, riders and addenda referred to in this License are incorporated into this Agreement and made a part hereof for all intents and purposes. Time is of the essence with regard to each provision of this Agreement. This Agreement shall be construed and interpreted in accordance with and governed by the laws of the State in which the Premises are located. Each covenant of Railway and Licensee under this Agreement is independent of each other covenant under this Agreement. No default in performance of any covenant by a party shall excuse the other party from the performance of any other covenant. The provisions of Paragraphs 7, 9, 10, 12 and 18 shall survive the expiration or earlier termination of this Agreement.

25. Limitations of Grant. Licensee acknowledges that the license granted hereunder is a quitclaim grant, made without covenants, representations or warranties with respect to Railway's (a) right to make the grant, (b) title in the Premises, or (c) right to use or make available to others the Premises for the purposes contemplated herein. Railway is the owner and/or holder of the Premises subject to the terms and limitations under which it is owned or held, including without limitation conditions, covenants, restrictions, easements (including any pre-existing fiber optic easements or licenses), encroachments, leases, licenses, permits, mortgages, indentures, reversionary interests, fee interests, zoning restrictions and other burdens and limitations, of record and not of record, and to rights of tenants and licensees in possession, and Licensee agrees that the rights licensed hereunder are subject and subordinate to each and all of the foregoing. Licensee accepts this grant knowing that others may claim that Railway has no right to make it, and Licensee agrees to release, hold harmless and indemnify (and, at Railway's election, defend, at Licensee's sole expense, with counsel approved by Railway) Railway, its affiliated companies, and its and their respective officers, directors, agents and employees, from and against any detriments to, or liabilities of, any type or nature arising from such claims, including punitive damages and any forfeitures declared or occurring as a result of this grant.

26. Limitations Upon Damages. Notwithstanding any other provision of this Agreement, Railway shall not be liable for breach of this Agreement or under this Agreement for any consequential, incidental, exemplary, punitive, special, business damages or lost profits, as well as any claims for death, personal injury, and property loss and damage which occurs by reason of, or arises out of, or is incidental to the interruption in or usage of the Facilities placed upon or about the Premises by Licensee, including without limitation any damages under such claims that might be considered consequential, incidental, exemplary, punitive, special, business damages or lost profits.

27. This License is authorized by Licensee to be entered into by Resolution / Ordinance Number \_\_\_\_\_, adopted by \_\_\_\_\_, a certified copy of which is attached hereto and made a part hereof.

28. This Agreement shall become effective as of the expiration of thirty (30) days from the date when a copy thereof shall be filed by Railway in the office of the Secretary of the Pennsylvania Public Utility Commission ("PA PUC"), provided that, if the PA PUC shall, prior to the expiration of such period institute a proceeding affecting its validity under the provisions of Section 507 of the Public Utility Law, this Agreement shall only become effective upon its approval by the PA PUC.

AD

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate, each part being an original, as of the date first above written.

Witness:

**NORFOLK SOUTHERN RAILWAY  
COMPANY**

\_\_\_\_\_  
As to Railway

By: \_\_\_\_\_  
Real Estate Manager

Witness:

**SOUTH WHITEHALL TOWNSHIP**

\_\_\_\_\_  
As to Licensee

By: \_\_\_\_\_  
Title: \_\_\_\_\_

Activity Number 1276951  
AD: November 18, 2019  
File No. 1801594v1



A-1 received 11/1/19  
 South Whitehall,  
 Pennsylvania  
 Reading RR  
 Lat: N 40.611183  
 Long: W 75.570558



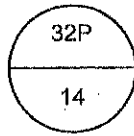
1276951-AD  
**PIPE DATA SHEET**

	CARRIER PIPE	CASING PIPE
CONTENTS TO BE HANDLED	Potable Water	Carrier Pipe
MAX. ALLOWABLE OPERATING PRESSURE	350 psi	n/a
NOMINAL SIZE OF PIPE	12"	24"
OUTSIDE DIAMETER	13.2"	24"
INSIDE DIAMETER	12.46"	24"
WALL THICKNESS	0.37"	0.407"
WEIGHT PER FOOT	45.6 lb/ft	
MATERIAL	Ductile Iron	Steel
PROCESS OF MANUFACTURE	Centrifugally Cast	Welded
SPECIFICATION	ANSI 21.51	ASTM A-139 OR A-252
GRADE OR CLASS (Specified Minimum Yield Strength)	Class 52	Grade B or 2
TEST PRESSURE	150 psi	None
TYPE OF JOINT	Restrained	Welded
TYPE OF COATING	Bituminous (1 mil)	STANDARD MILL PRIMER (14 MIL)
DETAILS OF CATHODIC PROTECTION	n/a	None
DETAILS OF SEALS OR PROTECTION AT END OF CASING	n/a	Type "S" End Seals
CHARACTER OF SUBSURFACE MATERIAL	Washington Silt Loam	Washington Silt Loam
APPROXIMATE GROUND WATER LEVEL	Greater than 80" depth below grade	Greater than 80" depth below grade
SOURCE OF INFORMATION ON SUBSURFACE CONDITIONS	NRCS Web Soil Survey	NRCS Web Soil Survey

Proposed method of installation (refer to NSCE-8 Specification):

- Bore and Jack
- Jacking
- Tunneling (with Tunnel Liner Plate)
- Directional Bore/Horizontal Direction Drilling - Method A
- Directional Bore/Horizontal Direction Drilling - Method B
- Open Cut - *All installations directly under any track must be designed as a bored installation. Open cut installations will be considered on a case-by-case basis by Norfolk Southern's Division Superintendent at the time of installation*
- Other (Specify): .....

Last Revised: 113018



A-1 received 11/1/19  
 South Whitehall,  
 Pennsylvania  
 Reading RR  
 Lat: N 40.611183  
 Long: W 75.570558



1276951-AD



PIPE DATA SHEET

	CARRIER PIPE	CASING PIPE
CONTENTS TO BE HANDLED	Raw Sewage	Carrier Pipe
MAX. ALLOWABLE OPERATING PRESSURE	200 psi	n/a
NOMINAL SIZE OF PIPE	2"	6"
OUTSIDE DIAMETER	2.375"	6.625"
INSIDE DIAMETER	2.135"	6"
WALL THICKNESS	0.120"	0.251"
WEIGHT PER FOOT	0.54 lb/ft	
MATERIAL	PVC	Steel
PROCESS OF MANUFACTURE	Extrusion	Welded
SPECIFICATION	ASTM D-2241	ASTM A-139 OR A-252
GRADE OR CLASS (Specified Minimum Yield Strength)	SDR-21	Grade B or 2
TEST PRESSURE	150 psi	None
TYPE OF JOINT	Push-on Gasketed	Welded
TYPE OF COATING	None	STANDARD MILL PRIMER (14 MIL)
DETAILS OF CATHODIC PROTECTION	n/a	None
DETAILS OF SEALS OR PROTECTION AT END OF CASING	n/a	Type "S" End Seals
CHARACTER OF SUBSURFACE MATERIAL	Washington Silt Loam	Washington Silt Loam
APPROXIMATE GROUND WATER LEVEL	Greater than 80" depth below grade	Greater than 80" depth below grade
SOURCE OF INFORMATION ON SUBSURFACE CONDITIONS	NRCS Web Soil Survey	NRCS Web Soil Survey

Proposed method of installation (refer to NSCE-8 Specification):

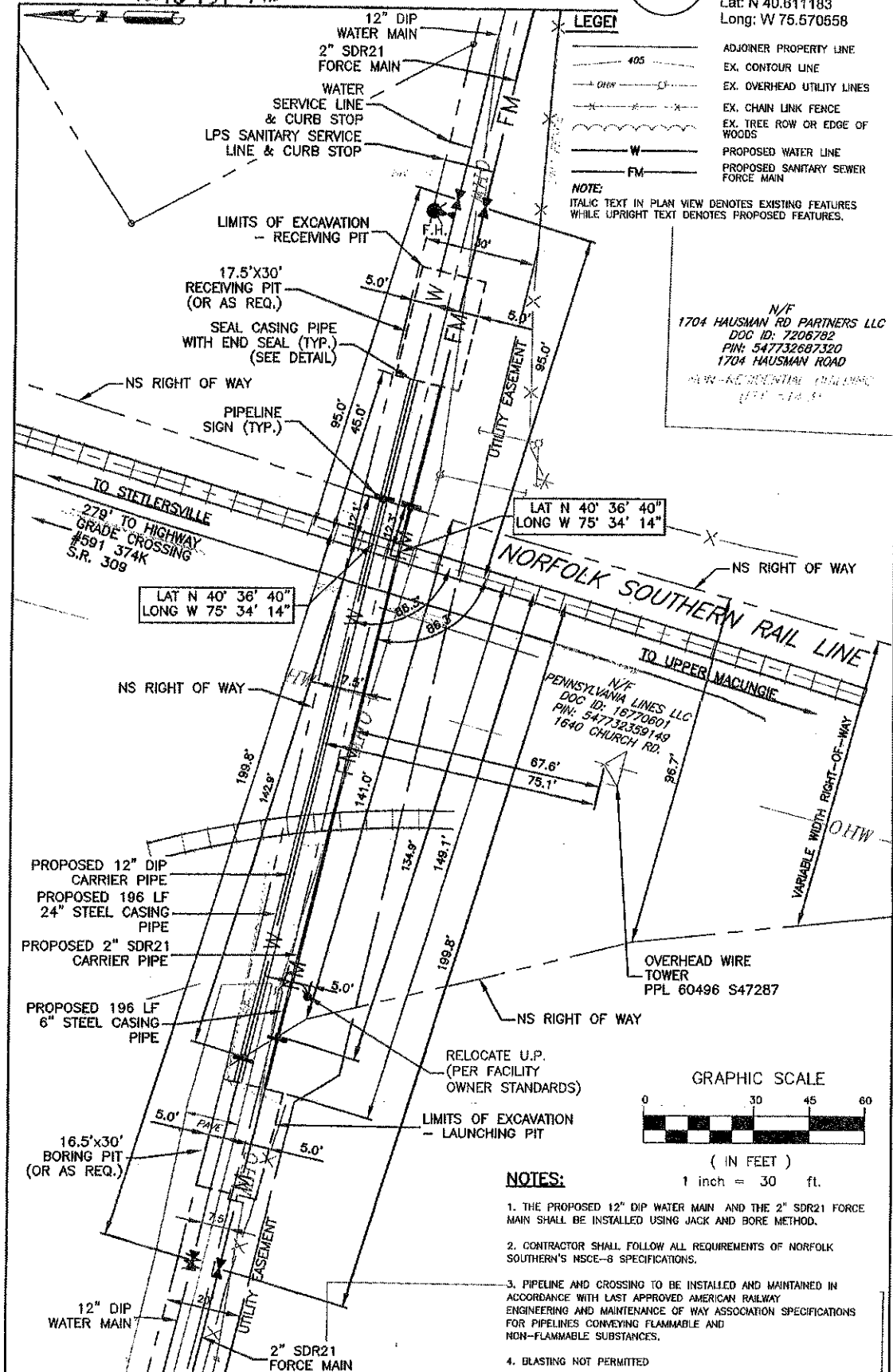
- Bore and jack
- Jacking
- Tunneling (with Tunnel Liner Plate)
- Directional Bore/Horizontal Direction Drilling - Method A
- Directional Bore/Horizontal Direction Drilling - Method B
- Open Cut - All installations directly under any track must be designed as a bored installation. Open cut installations will be considered on a case-by-case basis by Norfolk Southern's Division Superintendent at the time of installation.
- Other (Specify): \_\_\_\_\_

Last Revised: 113018

A-1 received 11/1/19  
 South Whitehall,  
 Pennsylvania  
 Reading RR  
 Lat: N 40.611183  
 Long: W 75.570558

32P  
 14

1276951-AD EXHIBIT A



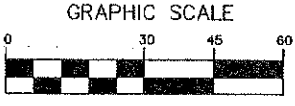
N/F  
 1704 HAUSMAN RD PARTNERS LLC  
 DOC ID: 7206792  
 PIN: 547732607320  
 1704 HAUSMAN ROAD  
 NEW-CASTLE COUNTY PA 17315

LAT N 40° 36' 40"  
 LONG W 75° 34' 14"

LAT N 40° 36' 40"  
 LONG W 75° 34' 14"

N/F  
 PENNSYLVANIA LINES LLC  
 DOC ID: 18770601  
 PIN: 547732359149  
 1640 CHURCH RD.

OVERHEAD WIRE  
 TOWER  
 PPL 60496 S47287



- NOTES:**
1. THE PROPOSED 12" DIP WATER MAIN AND THE 2" SDR21 FORCE MAIN SHALL BE INSTALLED USING JACK AND BORE METHOD.
  2. CONTRACTOR SHALL FOLLOW ALL REQUIREMENTS OF NORFOLK SOUTHERN'S NSCE-8 SPECIFICATIONS.
  3. PIPELINE AND CROSSING TO BE INSTALLED AND MAINTAINED IN ACCORDANCE WITH LAST APPROVED AMERICAN RAILWAY ENGINEERING AND MAINTENANCE OF WAY ASSOCIATION SPECIFICATIONS FOR PIPELINES CONVEYING FLAMMABLE AND NON-FLAMMABLE SUBSTANCES.
  4. BLASTING NOT PERMITTED

DESIGNED BY: KJH  
 DRAWN BY: GJG  
 CHECKED BY: SIP  
 DATE: 10-16-18  
 SCALE: 1"=30'  
 JOB NUMBER: 0817-158  
 SHEET: 1 OF 4

REVISIONS		NORFOLK SOUTHERN PIPELINE OCCUPANCY - PLAN VIEW
NO.	DATE	
		<b>FLEX-WAREHOUSE FACILITY            NORFOLK SOUTHERN PIPE CROSSING PLAN</b> 4741 CHAPMANS ROAD SOUTH WHITEHALL TOWNSHIP LEHIGH COUNTY, PENNSYLVANIA

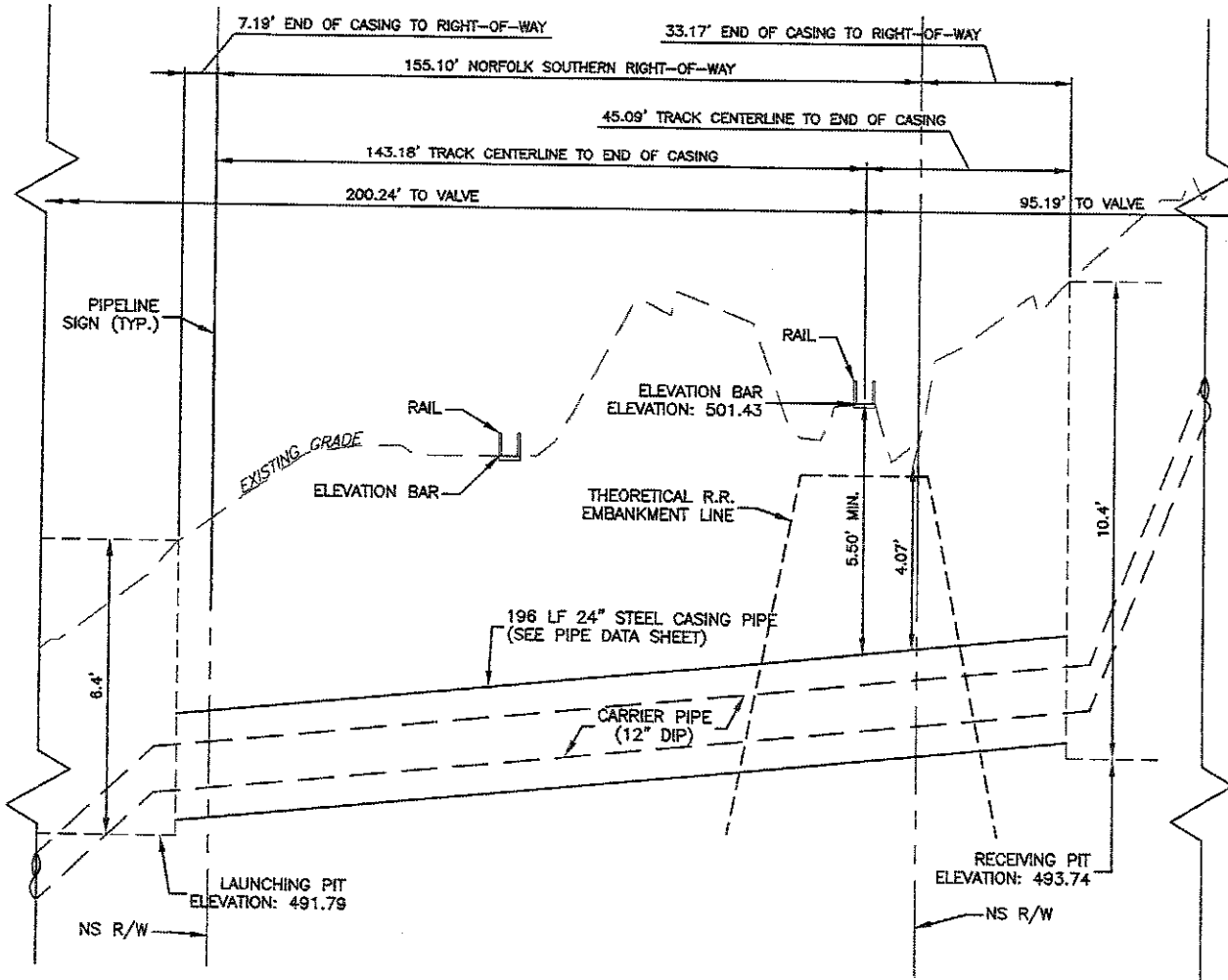
**KCE** KEYSTONE CONSULTING ENGINEERS  
 5012 Medical Center Circle, Suite 1  
 Allentown, PA 18106 610-395-0971  
 www.KCEinc.com

A-1 received 11/17/19  
 South Whitehall,  
 Pennsylvania  
 Reading RR  
 Lat: N 40.611183  
 Long: W 75.570568

32P  
 14

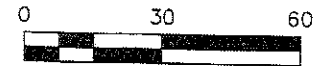
EXHIBIT B

1226951-A0

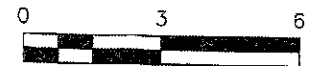


**NOTES:**

1. THE PROPOSED 12" DIP WATER MAIN AND THE 2" SDR21 FORCE MAIN SHALL BE INSTALLED USING JACK AND BORE METHOD.
2. CONTRACTOR SHALL FOLLOW ALL REQUIREMENTS OF NORFOLK SOUTHERN'S NSCE-8 SPECIFICATIONS.
3. PIPELINE AND CROSSING TO BE INSTALLED AND MAINTAINED IN ACCORDANCE WITH LAST APPROVED AMERICAN RAILWAY ENGINEERING AND MAINTENANCE OF WAY ASSOCIATION SPECIFICATIONS FOR PIPELINES CONVEYING FLAMMABLE AND NON-FLAMMABLE SUBSTANCES.
4. BLASTING NOT PERMITTED



HORIZONTAL



VERTICAL

**KEYSTONE CONSULTING ENGINEERS**  
 5012 Medical Center Circle, Suite 1  
 Allentown, PA 18106 610-395-0971  
 www.kceinc.com

NORFOLK SOUTHERN PIPELINE OCCUPANCY - PROFILE VIEW  
 FLEX-WAREHOUSE FACILITY  
 NORFOLK SOUTHERN PIPE CROSSING PLAN  
 4741 CHAPMAN ROAD  
 SOUTH WHITEHALL TOWNSHIP  
 LEHIGH COUNTY, PENNSYLVANIA

REVISIONS	NO.	DATE

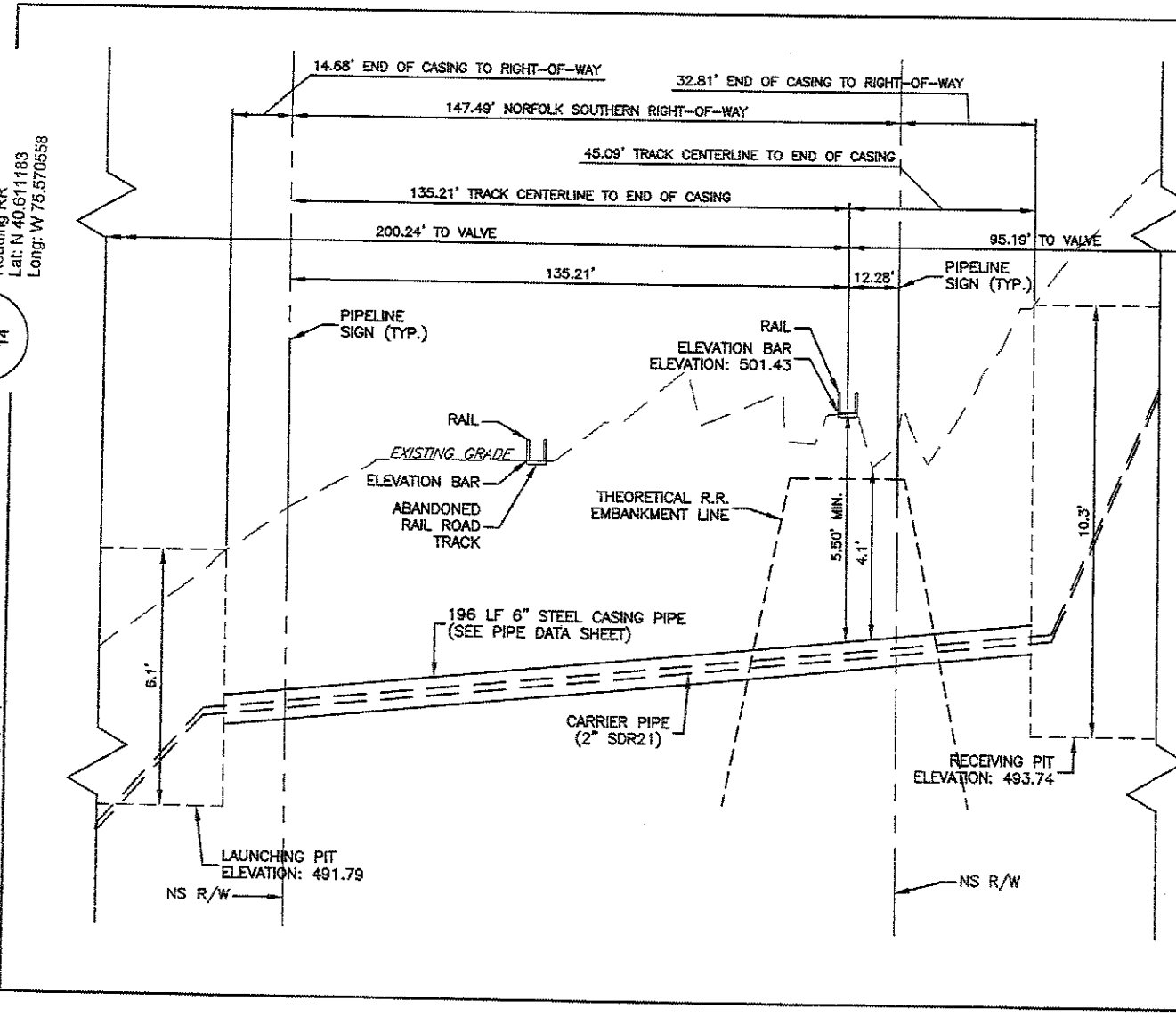
DESIGNED BY: MJK	DATE: 10-16-19
DRAWN BY: CUG	SCALE: AS SHOWN
CHECKED BY: STP	JOB NUMBER: CNT17-158
	SHEET: 2 OF 4

A-1 received 11/1/19  
 South Whitehall,  
 Pennsylvania  
 Reading, RR  
 Lat: N 40.611183  
 Long: W 75.570558

32P  
 14

**EXHIBIT C**

1226951-AD



**NOTES:**

1. THE PROPOSED 12" DIP WATER MAIN AND THE 2" SDR21 FORCE MAIN SHALL BE INSTALLED USING JACK AND BORE METHOD.
2. CONTRACTOR SHALL FOLLOW ALL REQUIREMENTS OF NORFOLK SOUTHERN'S NSCE-8 SPECIFICATIONS.
3. PIPELINE AND CROSSING TO BE INSTALLED AND MAINTAINED IN ACCORDANCE WITH LAST APPROVED AMERICAN RAILWAY ENGINEERING AND MAINTENANCE OF WAY ASSOCIATION SPECIFICATIONS FOR PIPELINES CONVEYING FLAMMABLE AND NON-FLAMMABLE SUBSTANCES.
4. BLASTING NOT PERMITTED

NORFOLK SOUTHERN PIPELINE OCCUPANCY - PROFILE VIEW <b>FLEX-WAREHOUSE FACILITY</b> <b>NORFOLK SOUTHERN PIPE CROSSING PLAN</b>	
4741 CHAPMAN ROAD SOUTH WHITEHALL TOWNSHIP LEHIGH COUNTY, PENNSYLVANIA	
DESIGNED BY: M/H DRAWN BY: G/S CHECKED BY: S/P DATE: 10-16-19 SCALE: AS SHOWN JOB NUMBER: CW17-156 SHEET: 3 OF 4	REVISOR NO. DATE
5012 Medical Center Circle, Suite 1 Allentown, PA 18106 610-395-0971 www.kceng.com	



**COOPERATION, REIMBURSEMENT, AND INDEMNIFICATION AGREEMENT**

**THIS COOPERATION, REIMBURSEMENT, AND INDEMNIFICATION AGREEMENT (“Agreement”)** is made the \_\_\_\_ day of \_\_\_\_\_, 2020, by and between the TOWNSHIP OF SOUTH WHITEHALL, a municipal corporation, Township of the First Class, located at 4444 Walbert Avenue, Allentown, Lehigh County, Pennsylvania 18104-1699 (“**Township**”), IPT ALLENTOWN DC LLC, a Delaware limited liability company with a principal business address of 518 17<sup>th</sup> Street 17<sup>th</sup> Floor, Denver, Colorado 80202-4130, and IPT ALLENTOWN DC II LLC, a Delaware limited liability company with a principal business address of 518 17<sup>th</sup> Street 17<sup>th</sup> Floor, Denver, Colorado 80202-4130 (IPT Allentown DC LLC and IPT Allentown DC II LLC shall be collectively referred to herein as “**Developer**”).

**WITNESSETH:**

**WHEREAS**, Developer is developing a commercial warehouse development at Crackersport and Eck Roads (the “**Development**”); and

**WHEREAS**, Developer will be making certain improvements to an existing Norfolk Southern Railway Company (“**Norfolk**”) rail crossing on Eck Road as depicted on Exhibits “A” and “B” attached hereto and incorporated herein (the “**Project**”); and

**WHEREAS**, Township has been requested by Developer to execute an Agreement for Preliminary Engineering Services (“**Engineering Agreement**”) required by Norfolk, which imposes upon the Township liability and financial obligations regarding the Project; and

**WHEREAS**, Developer has requested that Township execute any other agreements related to or arising out of the Project (collectively with Engineering Agreement, “**Norfolk Southern Agreements**”); and

**WHEREAS**, Township opposes signing the Norfolk Southern Agreements without the signing of this Agreement and the payment of security as described herein; and

**WHEREAS**, Township has required Developer, and Developer has agreed, to deliver to Township this Agreement by which Developer, for itself and its agents, contractors, employees, representatives, successors and assigns, agrees to reimburse the Township for the performance of the Township’s responsibilities and provide such indemnification to the Township as the Township must provide under the Norfolk Southern Agreements, and also such indemnification to the Township as may be needed to fully protect the Township.

**NOW THEREFORE**, incorporating the foregoing recitals as a material part hereof, in consideration of Township agreeing to sign the Engineering Agreement and to sign other Norfolk Southern Agreements if consistent with the terms of this Agreement, and with an express intent to be legally bound, Developer, for itself, its agents, contractors, employees, representatives, successors and assigns, and Township hereby agree as follows:

## AGREEMENT

1. **Reimbursement; Scope.** Developer agrees that it shall pay the Township in full for the performance by or on behalf of the Township of all work, including but not limited to legal and engineering work, related to or arising from the Project including but not limited to all work performed by the Township under the Engineering Agreement. It is the express intent of the parties hereto that Developer pay Township for any and all sums, costs, charges, fees and expenses whatsoever incurred or expended in connection with or incidental to the Township's duties and responsibilities under the Norfolk Southern Agreements. Township shall request such payment by providing invoices to Developer, which detail the payment to be made. Developer shall make such payment to the Township within thirty (30) days of the date of the Township's invoice.

2. **Sums, Costs, Charges, Fees and Expenses.**

a. All sums, costs, charges, fees and expenses, which the Township seeks to have the Developer pay or reimburse pursuant to this Agreement, shall be consistent with those customarily charged by the Township in matters other than those related to this Project, and shall not exceed the amount actually incurred or expended by the Township on the item to be reimbursed. Developer shall pay an administrative charge in the amount of Twenty Dollars (\$20.00), which shall be assessed on each invoice.

b. The Township shall maintain itemized statements for all sums, costs, charges, fees and expenses charged to the Developer. Copies of each such statement shall be provided to Developer by Township in connection with each request for payment. Statements shall be kept on file at the Township office for the duration of this Agreement and shall be available for public inspection as public records during regular business hours.

c. If Developer disputes Developer's obligation to pay or the amount of any sums, costs, charges, fees or expenses charged to Developer by Township pursuant to this Agreement, Developer shall no later than thirty (30) days after the date of transmittal of the invoice to the Developer, notify the Township that such fees are disputed. Developer's failure to timely notify the Township within thirty (30) days shall be a waiver of the Developer's right to dispute said fee. If Developer notifies Township within thirty (30) days after the date of transmittal of the invoice that it disputes some or all of the amount, Developer shall have the right to make payment under protest to the Township of such amount and then to have Developer's obligation to pay such amount judicially determined. Township shall be entitled to recover from Developer its reasonable attorneys' fees and other costs incurred, including but not limited to engineering fees, in the event that Township is the prevailing party in any dispute resolution proceeding in connection with this Agreement.

d. If the Developer fails to make payment as required herein, the Township may pursue those remedies available to it at law or in equity. In addition, all sums not paid by Developer within sixty (60) days shall bear a compound interest charge of fifteen percent (15%) per annum on the amount of the past due balance.

**3. Security.**

a. Contemporaneously with the execution of this Agreement, Developer shall pay to the Township cash security in the amount of Twenty Thousand Dollars (\$20,000.00) (“**Security**”). The Township shall hold the Security in a separate account and may in its sole discretion request increased Security. The Security shall be released upon the completion of the Project provided Developer has met all of its obligations hereunder.

b. If a Township invoice providing notice that sums are due, owing and payable remains outstanding without payment for a period of forty-five (45) calendar days after the date of mailing thereof, the Township shall pay said sums from the Security posted by the Developer as set forth in this Agreement and provide notice to the Developer thereof.

c. Developer shall, within thirty (30) days from the date that the Township has withdrawn funds from any Security account to pay invoices tendered by the Township, replenish such account by the full amount so withdrawn.

**4. Township’s Right to Review.** Developer shall provide reasonable advance notice to the Township of any proposed Norfolk Southern Agreements. Township expressly reserves the right to review all Norfolk Southern Agreements and determine in its reasonable discretion whether or not to consent to the terms expressed therein. The Township may condition its approval or consent, if given, in any way.

**5. Indemnification.** Developer, on behalf of itself, its agents, contractors, employees, representatives, successors and assigns, hereby agrees to indemnify and hold harmless Township and its officers, engineers, solicitors, appointees, agents and employees (individually an “**Indemnified Party**” and collectively the “**Indemnified Parties**”), from any and all claims, actions, awards, verdicts and judgments, together with reasonable counsel fees (“**Claims**”), based upon or arising out of the Project and the work contemplated therein for damages or injuries, including without limitation death, to person or property caused by or sustained in connection with the Project and the work contemplated therein; and if requested by any of the Indemnified Parties to assume, without expense to the Indemnified Party, the defense of any Claims against that Indemnified Party. The provisions of this Paragraph 5 shall survive the expiration or earlier termination of this Agreement.

**5. Notice.** All notices, statements, requests, demands, consents, and other communications (each referred to herein as “notice”) permitted or desired to be made relative to this Agreement shall be given by one of the methods described in this paragraph. Notice shall be effective and deemed to have been received as follows: one day after deposit for overnight delivery with a nationally recognized courier requiring signature for receipt or providing tracking of delivery to a person at the recipient’s address; or two days following deposit with the U.S. Postal Service, postage prepaid, certified mail. All notices shall be directed to the parties at the addresses shown in this Agreement. Any party may change its address for notices under this Agreement by giving written notice in like manner to the other party, specifying that the purpose of the notice is to change the party's address.

6. **Binding Nature.** The terms of this Agreement shall be binding upon Developer, its agents, contractors, employees, representatives, successors and assigns.

7. **Recording of Agreement.** This Agreement shall not be recorded in the Office of the Recorder of Deeds of Lehigh County.

8. **Severability.** If any term, covenant or condition of this Agreement or the application thereof to any person, partnership, association, corporation, or other entity is held to be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant, or condition to persons, partnerships, associations, corporations or other entities other than those as to which it shall be held invalid or unenforceable, shall not be affected thereby, and each such remaining term, covenant or condition of this Agreement shall be valid and be enforceable to the fullest extent permitted by law.

9. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed an original, and the counterparts shall constitute but one and the same instrument which may be sufficiently evidenced by one counterpart.

10. **Waiver of Default.** No waiver by either party of any default or defaults and no course of dealing shall affect that party's rights with respect to any subsequent default. All rights and remedies of either party are cumulative.

11. **Term.** The term of this Agreement shall coincide, and be concurrent with, the Project, and this Agreement shall remain in full force and effect for so long as the Township is obligated to Norfolk pursuant to any Norfolk Southern Agreements related to this Project.

12. **Entire Agreement; Beneficiaries.** The parties agree that this Agreement and its Exhibits contain all of the agreements between the parties regarding the Project and that there are no other agreements or representations made by either of them. Any representations, oral or written, not contained therein, are without effect. In addition, it is expressly understood and agreed that no third-party beneficiaries are created by this Agreement.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be properly executed the day and year first above written.

**SOUTH WHITEHALL TOWNSHIP**

By: \_\_\_\_\_  
Renee Bickel, Township Manager

Attest: \_\_\_\_\_  
Stephen D. Carr, Secretary

**[DEVELOPER SIGNATURE BLOCKS FOLLOW]**

**DEVELOPER:**

IPT ALLENTOWN DC LLC, a Delaware limited liability company  
BY: BTC II PA Allentown DC Holdco LLC, a Delaware limited liability company, its sole member  
By: BTC II Holdco LLC, a Delaware limited liability company, its sole member  
By: Build-To-Core Industrial Partnership II LP, a Delaware limited partnership, its manager  
By: IPT BTC II GP LLC, a Delaware limited liability company, its general partner  
By: IPT Real Estate Holdco LLC, a Delaware limited liability company, its sole member  
By: Industrial Property Operating Partnership LP, a Delaware limited partnership, its sole member  
By: Industrial Property Trust Inc., a Maryland corporation, its general partner

By: \_\_\_\_\_  
James R. Murray, Senior Vice President

Attest:

\_\_\_\_\_  
(Assistant) Secretary

IPT ALLENTOWN DC II LLC, a Delaware limited liability company  
BY: BTC II PA Allentown DC II Holdco LLC, a Delaware limited liability company, its sole member  
By: BTC II Holdco LLC, a Delaware limited liability company, its sole member  
By: Build-To-Core Industrial Partnership II LP, a Delaware limited partnership, its manager  
By: IPT BTC II GP LLC, a Delaware limited liability company, its general partner  
By: IPT Real Estate Holdco LLC, a Delaware limited liability company, its sole member  
By: Industrial Property Operating Partnership LP, a Delaware limited partnership, its sole member  
By: Industrial Property Trust Inc., a Maryland corporation, its general partner

By: \_\_\_\_\_  
James R. Murray, Senior Vice President

Attest:

\_\_\_\_\_  
(Assistant) Secretary

**[NOTARY PAGES TO FOLLOW]**

COMMONWEALTH OF PENNSYLVANIA :  
 :ss.  
COUNTY OF LEHIGH :

On this \_\_\_ day of \_\_\_\_\_, 2020, before me, a notary public, the undersigned officer, personally appeared Renee Bickel, who acknowledged herself to be the Township Manager of SOUTH WHITEHALL TOWNSHIP, a municipal corporation, and that she as the Township Manager, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by herself as the Township Manager.

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

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

STATE OF \_\_\_\_\_ :  
 : ss.  
COUNTY OF \_\_\_\_\_ :

On this \_\_\_ day of \_\_\_\_\_, 2020, before me, a Notary Public, the undersigned officer, personally appeared James R. Murray, who acknowledged himself to be the Senior Vice President of Industrial Property Trust Inc., General Partner of Industrial Property Operating Partnership LP, Sole Member of IPT Real Estate Holdco LLC, Sole Member of IPT BTC II GP LLC, General Partner of Build-To-Core Industrial Partnership II LP, Manager of BTC II Holdco LLC, Sole Member of BTC II PA Allentown DC Holdco LLC, Sole Member of IPT ALLENTOWN DC LLC, a Delaware limited liability company, and that he as such Senior Vice President, being authorized to do so, executed the foregoing instrument for the purpose therein contained by signing the name of the corporation as general partner by himself as Senior Vice President.

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

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

STATE OF \_\_\_\_\_ :  
 : ss.  
COUNTY OF \_\_\_\_\_ :

On this \_\_\_\_ day of \_\_\_\_\_, 2020, before me, a Notary Public, the undersigned officer, personally appeared James R. Murray, who acknowledged himself to be the Senior Vice President of Industrial Property Trust Inc., General Partner of Industrial Property Operating Partnership LP, Sole Member of IPT Real Estate Holdco LLC, Sole Member of IPT BTC II GP LLC, General Partner of Build-To-Core Industrial Partnership II LP, Manager of BTC II Holdco LLC, Sole Member of BTC II PA Allentown DC II Holdco LLC, Sole Member of IPT ALLENTOWN DC II LLC, a Delaware limited liability company, and that he as such Senior Vice President, being authorized to do so, executed the foregoing instrument for the purpose therein contained by signing the name of the corporation as general partner by himself as Senior Vice President.

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

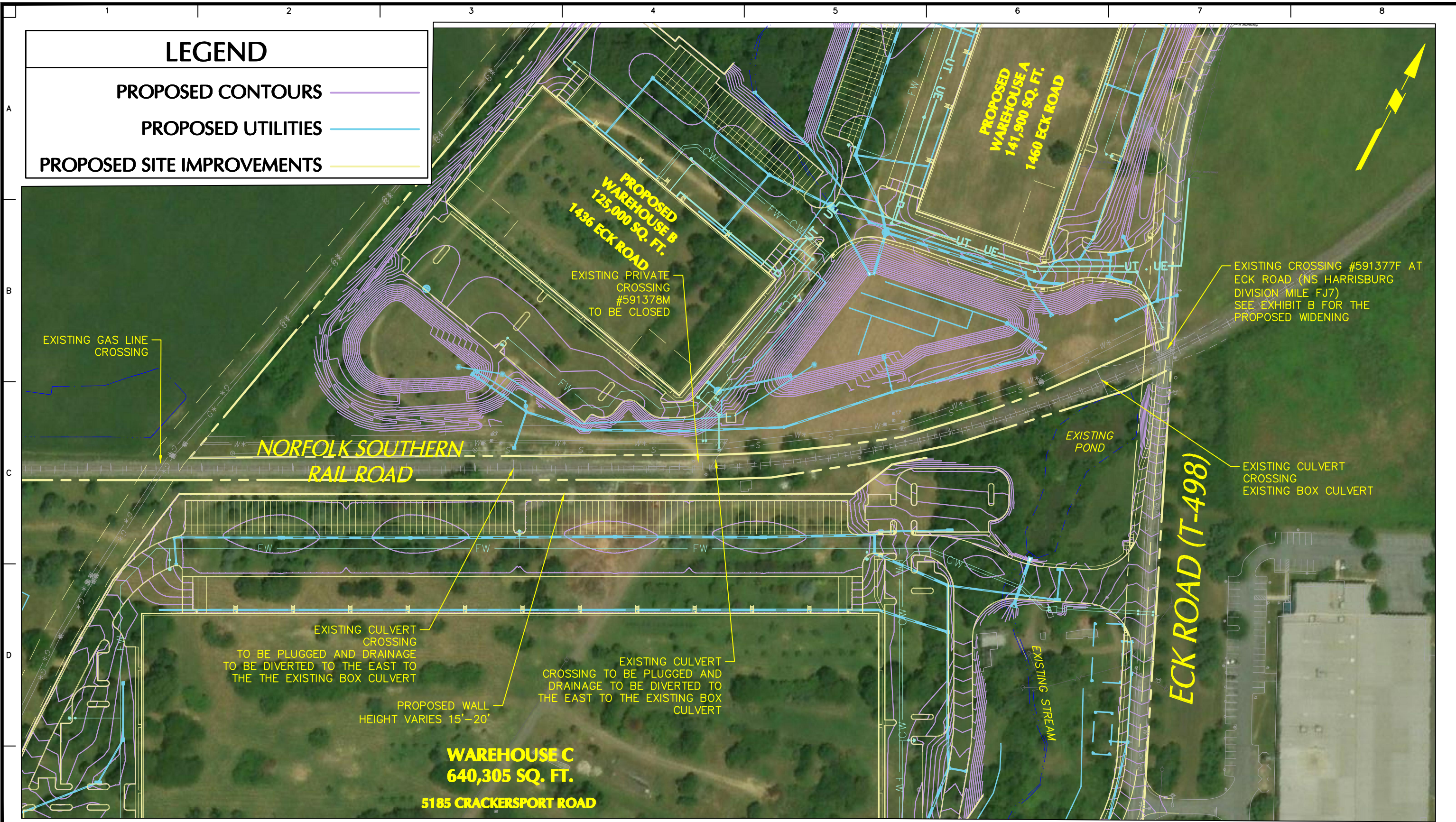
\_\_\_\_\_  
Notary Public





# LEGEND

- PROPOSED CONTOURS
- PROPOSED UTILITIES
- PROPOSED SITE IMPROVEMENTS



**LANGAN**  
 Langan Engineering and Environmental Services, Inc.  
 One West Broad Street, Suite 200  
 Bethlehem, PA 18018  
 T: 610.984.8500 F: 610.984.8501 www.langan.com

Project  
**CRACKERSPORT & ECK RD WAREHOUSING**  
 SOUTH WHITEHALL & UPPER MACUNGIE TOWNSHIPS  
 LEHIGH COUNTY PENNSYLVANIA

Drawing Title  
**NORFOLK SOUTHERN EXHIBIT**

Project No.  
 240045601  
 Date  
 4-05-2019  
 Drawn By  
 JDM  
 Checked By  
 FG

Drawing No.  
**EXHIBIT A**  
 Sheet 1 of 2

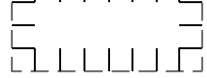


# LEGEND

**MILL AND OVERLAY AREA**



**FULL DEPTH PAVEMENT AREA**



N/F PENNSYLVANIA LINES LLC  
BLOCK 6 LOT 15

N/F PARTNERS PROFIT GROUP LLC  
BLOCK 6 LOT 3

DRAINAGE TO BE DIRECTED TO THE EXISTING BOX CULVERT

EXISTING SANITARY MANHOLE (TO BE RESET TO FINAL GRADE)

PROPOSED SANITARY MANHOLE

PROPOSED SANITARY CONNECTION

END CURB W/ 5' CURB TAPER

EXTEND TIMBERS FOR ASPHALT PAVING

79 LF PAVEMENT BASEDRAIN

PROPOSED CONCRETE SIDEWALK

R=60'

SITE DRIVEWAY 3

R=60'

CURB RAMP TYPE 2

100LF TYPE 31-S GUIDERAIL  
PROPOSED CONCRETE SIDEWALK

END CURB W/ 5' CURB TAPER

PROPOSED ASPHALT WIDENING

**ECK ROAD**

ECK RO

EXISTING WATER VALVE (TO REMAIN)

143 LF PAVEMENT BASEDRAIN

EXISTING WATER VALVE (TO REMAIN)

CONNECT TO EXISTING SANITARY MANHOLE

84 LF PAVEMENT BASEDRAIN

N/F DARYL AND CHERYL LONG  
BLOCK 7 LOT 2

EXISTING CROSSING #591377F AT ECK ROAD (NS HARRIDBURG DIVISION MILE FJ7)

N/F PENNSYLVANIA LINES LLC  
BLOCK 7 LOT 3

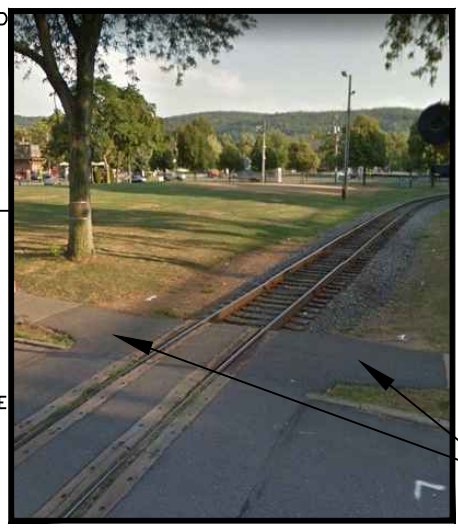
EXISTING RAILWAY

TOWNSHIP LEGAL RIGHT-OF-WAY

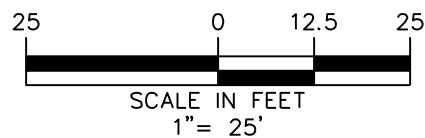
EXISTING WATER VALVE (TO REMAIN)

EXISTING FIRE HYDRANT (TO REMAIN)

EXISTING SANITARY MANHOLE (TO BE RESET TO FINAL GRADE)



EXAMPLE OF CONCRETE SIDEWALK TRANSITIONING TO ASPHALT PAVING TO CROSS RAILWAY



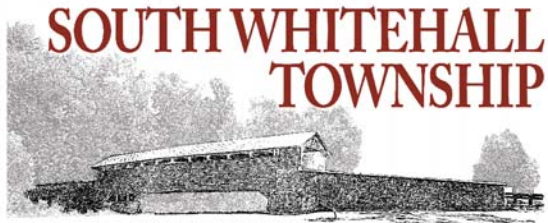
**LANGAN**  
Langan Engineering and Environmental Services, Inc.  
One West Broad Street, Suite 200  
Bethlehem, PA 18018  
T: 610.984.8500 F: 610.984.8501 www.langan.com

Project  
**CRACKERSPORT & ECK RD WAREHOUSING**  
SOUTH WHITEHALL & UPPER MACUNGE TOWNSHIPS  
LEHIGH COUNTY PENNSYLVANIA

Drawing Title  
**ROAD WIDENING CONCEPT- NORFOLK SOUTHERN AT-GRADE CROSSING #591377F**

Project No. 240045601  
Date 4-05-2019  
Drawn By JDM  
Checked By FG

Drawing No. **EXHIBIT B**  
Sheet 1 of 2



## INTEROFFICE MEMORANDUM

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**TO:** South Whitehall Township Commissioners  
**FROM:** Herb Bender, Public Works Superintendent  
**DATE:** April 7, 2020  
**SUBJECT:** Used Leaf Vac Trailer

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Public Works is seeking approval to purchase a used leaf vac trailer from upper Macungie for \$8,750. This leaf machine has 5846 hours, which for machine like this is low hours. The machine is in good working condition. New leaf machines typically cost between \$90,000 to \$110,000.00. From a township perspective it is hard to spend \$90,000.00 on a piece of equipment that is used for only 3 months out of the year.

This machine was budgeted in State Highway Aid account # 35430003/40760







105



**GIANT - VAC**

**Municipal**

Built & Designed  
by Janiak Manufacturing, Inc.  
South Windham, CT 06266



107









WIX  
51001  
Full Flow  
Oil Filter  
100% Protection  
100% Efficiency  
100% Durability

WPA

SAFETY  
DANGER

109



GRANT V

E. M. KUTZ INC.  
READING PA

110

CAUTION! CAUTION!

NO Standing - No Riding - No Using  
on machine at ANY TIME!  
When Operating Machine STAY SAFE  
DISTANCE FROM DANGER ZONE  
(off road)





