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McNees

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March 15, 2024

VIA E-MAIL

Josele Cleary, Esq.
Mount Joy Township Solicitor
Morgan, Hallgren, Crosswell & Kane, P.C.
700 North Duke Street
Lancaster, Pennsylvania 17604

Justin Evans
Mount Joy Township
Community Development Director/Zoning
Officer
8853 Elizabethtown Road
Elizabethtown, PA 17022

RE: Development of 1376 Campus Road

Dear Josele and Justin:

As you know, our office represents 1376 Campus Road Associates, LLC (“Developer”) with respect to the development of the property located at 1376 Campus Road (the “Property”) in Mount Joy Township (the “Township”) for residential purposes (the “Proposed Development”). As discussed in a meeting yesterday between the Developer and Township staff, please accept this correspondence as a request from the Developer for a waiver of Section 119-28 of the Township’s Subdivision and Land Development Ordinance (the “SLDO”).

Section 119-28 of the SLDO permits a developer to install certain improvements depicted on an approved preliminary plan prior to providing financial security for same to the Township upon submission and approval of an “improvement construction plan”. As you are aware, Applicant is currently in the process of addressing all outstanding comments and finalizing the plan for Phase 1 of the Proposed Development for recording. Upon recording of the Phase 1 Plan, Developer intends to bulk grade the entire Property, including portions of the Property outside of Phase 1, and to stabilize same as authorized by Developer’s approved NPDES permit, a copy of which has been provided to the Township (the “Bulk Grading”). Applicant requests a waiver of the requirements of 119-28 of the SLDO such that it can complete the Bulk Grading based on the information depicted on the approved preliminary plan for the Proposed Development and the associated Erosion and Sediment Control Plan filed with the Lancaster County Conservation District without the submission of a separate improvement construction plan.

The Developer is asking for this waiver request to be addressed at the Township’s Planning Commission meeting on March 25, 2024. Please confirm that this matter has been added to the March 25 Planning Commission agenda. A representative of the Developer will be present at the Planning Commission meeting to explain the request and to answer any questions.

Sincerely,

Claudia N. Shank
MCNEES WALLACE & NURICK LLC

c: Andy Miller (via email)
Chris Venarchick, RLA (via email)
Gabe Clark (via email)
Nick Grandi (via email)

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OF COUNSEL
WILLIAM C. CROSSWELL
RANDALL K. MILLER

March 20, 2024

VIA EMAIL

Mount Joy Township Planning Commission
8853 Elizabethtown Road
Elizabethtown, PA 17022

Re: Final Land Development Plan for 1376 Campus Road – Phase 1
Our File No. 10221

Dear Members of the Planning Commission:

The purpose of this letter is to provide you with information relating to the waiver request filed by attorney Claudia Shank on behalf of 1376 Campus Road Associates, LLC (the “Developer”), by letter dated March 15, 2024. The Planning Commission granted conditional approval to the Final Subdivision and Land Development Plan for 1376 Campus Road – Phase 1 (the “Phase 1 Plan”) at its meeting on January 23, 2023. The Planning Commission had previously granted conditional approval to the Preliminary Subdivision and Land Development Plan for 1376 Campus Road (the “Preliminary Plan”) at its meeting on October 24, 2022. As you may recall, both the Preliminary Plan and the Phase 1 Plan include the construction of the roundabout for the intersection of Campus Road and Conifer Road.

The Developer has been working with the Township towards the unconditional approvals of the Preliminary Plan and Phase 1 Plan and the execution of an agreement relating to construction of the roundabout. These matters have taken time for various reasons including, but not limited to, the change of ownership and developers of the property on the north side of Campus Road and the finalization of the necessary agreements. Township representatives met with Developer’s representatives on March 14, 2024, to address issues relating to the Phase 1 Plan and finalization of documents. At that meeting the Developer’s representatives realized that they were operating under a misunderstanding of the Township Subdivision and Land Development Ordinance (“SALDO”).

Section 509(a) of the Pennsylvania Municipalities Planning Code (“MPC”) states that no subdivision or land development plan can be finally and unconditionally approved unless the required improvements have been installed or financial security has been posted. Although this Section of the MPC does not explicitly state how a developer will be constructing the improvements so that the developer can have unconditional final approval without posting financial security, most developers assume that they can do so by constructing off the approved

preliminary plan. The Township SALDO, however, has a specific procedure to set forth how a developer will be able to construct improvements when it has a conditionally approved final plan. SALDO Section 119-28, Improvement Construction Plans, states that it is “an alternative to the guaranteeing of improvements through a letter of credit or other financial security.” This Section provides for the submission and approval of an improvement construction plan.

The Developer has now taken title to the property shown on the Preliminary Plan by a deed recorded on March 18, 2024, at Document No. 6776199 (the “Property”). The Developer desires to record the Phase 1 Plan, which may be divided into a Phase 1A and Phase 1B, posting security for the improvements within the phase line. However, the Developer also desires to perform grading of the entire land shown on the Preliminary Plan in accordance with its NPDES permit. Ms. Shank’s letter refers to this as “bulk grading”. The Developer does not propose to install any streets, water or sewer utilities or similar improvements outside of the phase line shown on a recorded plan. The Township staff has discussed this proposal with the Developer’s representatives and is not opposed to the limited work being performed to grade the Property.

The Township staff believes that if the Planning Commission is inclined to grant the waiver requested by Developer in the March 15, 2024, letter from Ms. Shank the Planning Commission condition the waiver so that it applies only to bulk grading and not to installation of other improvements not included on the Phase 1 Plan. I recommend that the Planning Commission consider the following motion:

I move that the Township Planning Commission grant 1376 Campus Road Associates, LLC, a waiver from the requirements of Section 119-28, Improvement Construction Plans, of the Subdivision and Land Development Ordinance to enable the Developer to perform grading on the property identified as 1376 Campus Road subject to the following conditions:

1. Developer records the Final Subdivision and Land Development Plan for 1376 Campus Road-Phase 1 or, if divided, the Final Subdivision and Land Development Plan for 1376 Campus Road Phase-1A.
2. The improvements to be made outside of the phase line of Final Subdivision and Land Development Plan for 1376 Campus Road-Phase 1 or, if divided, the Final Subdivision and Land Development Plan for 1376 Campus Road-Phase 1A, as applicable, shall be limited to grading in accordance with the approved NPDES permit and the referenced Erosion and Sedimentation Control Plan drawings dated December 13, 2021, and last revised March 23, 2023, and the Post-Construction Stormwater Management (PCSM) Plan dated December 14, 2021, last revised February 21, 2023.

Board of Supervisors
March 20, 2024
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3. The Township Engineer shall be permitted to inspect such grading in the same manner as the Township Engineer inspects the improvements on a recorded subdivision and land development plan.

If you have any questions concerning the recommended Motion, please contact me.

Very truly yours,



Josele Cleary

JC:sle
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cc: Justin S. Evans, AICP, Community Development Director/Zoning Officer (via email)
Patricia J. Bailey, Secretary (via email)
Benjamin S. Craddock, P.E. (via email)
Claudia N. Shank, Esquire (via email)

**PROPOSED MOTION FOR A WAIVER REQUEST
ASSOCIATED WITH THE

SUBDIVISION & LAND DEVELOPMENT PLAN FOR
1376 CAMPUS ROAD**

**M.J.T.P.C. File # 21-17-PLDP (PRELIMINARY PLAN)
M.J.T.P.C. File # 21-17-PLDP (PHASE 1 FINAL PLAN)**

I move that the Township Planning Commission grant 1376 Campus Road Associates, LLC a waiver from the requirements of Section 119-28, Improvement Construction Plans, of the Subdivision and Land Development Ordinance to enable the Developer to perform grading on the property identified as 1376 Campus Road subject to the following conditions:

1. Developer records the Final Subdivision and Land Development Plan for 1376 Campus Road-Phase 1 or, if divided, the Final Subdivision and Land Development Plan for 1376 Campus Road Phase-1A.
2. The improvements to be made outside of the phase line of Final Subdivision and Land Development Plan for 1376 Campus Road-Phase 1 or, if divided, the Final Subdivision and Land Development Plan for 1376 Campus Road-Phase 1A, as applicable, shall be limited to grading in accordance with the approved NPDES permit and the referenced Erosion and Sedimentation Control Plan drawings dated December 13, 2021, and last revised March 23, 2023, and the Post-Construction Stormwater Management (PCSM) Plan dated December 14, 2021, last revised February 21, 2023.
3. The Township Engineer shall be permitted to inspect such grading in the same manner as the Township Engineer inspects the improvements on a recorded subdivision and land development plan.