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December 5, 2014

Sent via electronic correspondence

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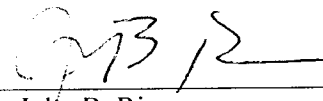
William J. Bolla, Esquire
McNAMARA, BOLLA & PANZER
116 E. Court Street
Doylestown, PA 18901

RE: Radnor Township - Villanova University Conditional Use Decision and Order

Dear Counsel and Individual Parties:

Enclosed please find a copy of the Township's Conditional Use Decision and Order with supporting Findings of Fact and Conclusions of Law. If anyone has any questions regarding the enclosed please feel free to call me.

Sincerely,
GRIM, BIEHN & THATCHER

By: 
John B. Rice

JBR/hlp
Enclosure

cc: Robert Zienkowski (via email)
Radnor Township Board of Commissioners (via email)
Tish Long (sent via certified mail)
Leslie Morgan (sent via certified mail)
Gayla McCloskey (sent via certified mail)
Rick Leonardi (sent via certified mail)
Jonathan Heckscher (sent via certified mail)
Anna Marie Hessman (sent via certified mail)
Sara Pilling (sent via certified mail)
Phillip Ahr (sent via certified mail)
Toni Bailey (sent via certified mail)
Jim Yannopoulos (sent via certified mail)

CONDITIONAL USE APPLICATION OF VILLANOVA UNIVERSITY

ORDER

AND NOW, this 24th day of November, 2014, after due deliberation and discussion at public hearings, the Radnor Township Board of Commissioners does hereby grant the Conditional Use Application of Villanova University, subject to the following conditions:

1. The applicant shall comply with all other applicable Township Ordinances and shall submit a land development plan pursuant to the Township's Subdivision and Land Development Ordinance prior to the construction of any facilities.

2. That the transportation, roadway and signalization and improvements necessary for the construction have full access to Ithan Avenue from both the Pike Lot Parking Garage and Lancaster Avenue housing parking area with provisions for stop control for both parking accesses to Ithan Avenue and a pedestrian activated signal including the new pedestrian crosswalk be required if approved by PennDOT, unless waived by the Board of Commissioners during the land development process.

3. That during the land development process an event circulation plan be developed to address event parking and traffic circulation with the input of the Radnor Township Police Department and Township traffic engineer outlining procedures, traffic patterns, parking configurations and way finding techniques for the various sporting and other events held at the University. Upon development of the event circulation plan, Villanova shall be responsible for constructing and/or installing such signs, structures, or other directional aids necessary to implement the event circulation plan.

4. That Villanova University contributes the sum of One Hundred Seventy-Five Thousand Dollars (\$175,000.00) towards the design, approval and installation of a traffic adaptive signal system that would incorporate the following signalized intersections along Lancaster Avenue:

- a. Sproul Road/Spring Mill Road; Aldwyn Lane/ Kenilworth Street
- b. Church Walk
- c. Ithan Avenue
- d. Lowrys Lane
- e. Airdale Road
- f. County Line Road

5. That during the land development process an emergency evacuation plan for the new student housing be developed.

6. That appropriate fencing be provided on both the north and south sides of Lancaster Avenue in the area of the church walk pedestrian bridge in an effort to restrict pedestrian traffic from accessing the campus. A gate shall be provided for vehicular and pedestrian access during church events if approved by the Board of Commissioners during the land development approval process.

7. That the University preserve the entire area known as the Aldwyn Triangle and restrict it as open space except for that portion of the area necessary to provide pedestrian activity and handicap accessibility improvements for the adjacent SEPTA rail line.

8. That a landscape and buffer plan be developed to comply with Section 280-68.1.D. (3)(b) of the Zoning Ordinance.

9. That Villanova seek permission from PECO to plant screening on the south side of the PECO R-100 line to visually screen the SEPTA bridge from the adjacent residential neighbors. Provided that the applicant receives permission, Villanova shall provide an installation and maintenance plan of the vegetation necessary for this screening during land development.

10. Villanova shall provide Radnor Township a list of contractors, subcontractors and vendors and their addresses within twenty (20) days of the execution of any contracts by Villanova in connection with the development and/or construction of the proposed project. The purpose of this list is to permit the Township to audit for required business privilege/mercantile taxes.

11. During the land development process, the Applicant shall use its best efforts to develop and construct stormwater management facilities, including green infrastructure practices and components that meet or exceed infiltration or retention requirements as currently required by the Radnor Township Stormwater Management Ordinance. The Applicant shall conduct soil testing as necessary to determine whether the site can accommodate volume management in excess of 1-inch of run-off from all impervious surfaces resulting from the project. If soil testing indicates that it is possible to provide volume management in excess of 1-inch of run-off, the Applicant shall construct such necessary stormwater facilities on the site to accommodate this increased volume.

12. The Applicant shall obtain revisions to both the Radnor Township and Lower Merion Township Act 537 Plans in order to accommodate the increased waste water disposal generated by the project.

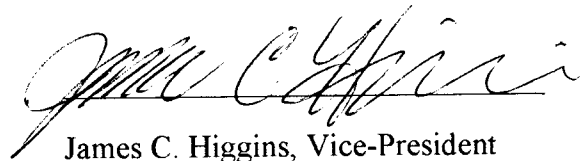
13. The Applicant shall develop a traffic plan during the land development process delineating the paths by which the existing population of commuting and part-time students will be directed to and from parking for each phase of the construction.

14. The Applicant shall permit parishioners to park, on a space available basis, on the north side of Lancaster Avenue on existing Villanova property adjacent to the church for church related events.

15. The Applicant shall maintain a pedestrian crosswalk from the proposed project site to the existing church at the present church walk location if approved by Penn Dot.

16. The Applicant shall insure that no amplified music or other excessive noise shall emanate from any of the south facing dormitories. During the land development process, the Township and applicant shall establish a permissible sound level at the property boundary of the the Aldwyn Lane residential uses.

17. The Applicant's land development plans shall be in substantial conformity with the Conditional use plans dated May 2, 2014 as amended during the hearings.



James C. Higgins, Vice-President

Radnor Township Board of Commissioners

Date of mailing 12/5/14

FACTUAL BACKGROUND, FINDINGS OF FACT AND CONCLUSIONS OF LAW

I. Background

Villanova University (the “*Applicant*”) filed a Conditional Use Application on May 29, 2014 with Radnor Township for development of 13.81 acres on Lancaster Avenue near Ithan Avenue on the south side of the highway. The Conditional Use Application was advertised two times in the July 14th and July 21st, 2014 editions of the Delaware County Daily Times for an initial public hearing to be held on July 28, 2014. Stenographic record of the hearing was made by Norma Gerrity.

The Radnor Township Board of Commissioners held a series of public hearings on the Conditional Use Application on July 28, 2014, August 21, 2014, September 10, 2014, September 17, 2014, September 30, 2014, October 8, 2014, and October 23, 2014. The Board of Commissioners deliberated and rendered a decision and Order on November 24, 2014. These Findings of Fact and Conclusions of Law are in support of that decision and Order.

At hearing, the Applicant was represented by Nicholas J. Caniglia, Esquire. Tish Long & Leslie Morgan (on behalf of Friends to Preserve Radnor), Rick Leonardi, Jonathan Heckscher, Annamarie Hessman, Phillip Ahr (on behalf of the Garrett Hill Coalition), Gayla McCluskey (on behalf of the League of Women Voters), Sara Pilling, Toni Bailey, and James Yannopoulos requested and were granted party status. Commissioners James Higgins, Richard Booker, Donald Curley, John Fisher, John Nagle and William Spingler were present at the hearings, represented by the Township Solicitors, John B. Rice, Esquire and H. Peter Nelson, Esquire. Commissioner Elaine Schaefer voluntarily recused herself from consideration of the application. The Township’s position was represented by Special Counsel, William J. Bolla, Esquire.

The following exhibits were admitted into testimony during the course of the hearings:

Applicant Exhibits:

- A.1.A Conditional Use Plan prepared by Nave Newell, Inc., 900 West Valley Road, Suite 1100, Wayne, PA, dated May 2, 2014, consisting of 11 sheets.
- A.1.B Conceptual Landscape Plan
- A.1.C Development Impact Statement consisting of 54 pages, dated May 2, 2014
- A.1.D Stormwater Narrative prepared by Nave Newell, Inc., dated May 2, 2014
- A.1.E Traffic Impact Assessment of F. Tavani and Associates, Inc., dated May, 2014
- A.2 CV of D. Alexander Tweedie

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|--------|---|
| A.3.A | Campus Coverage Table |
| A.3.B | CICD Zoning Table |
| A.3.C | West Lancaster Ave. Zoning Table |
| A.4.A | Photo Main Lot |
| A.4.B | Photo Pike Lot |
| A.5 | Aldwyn Triangle Site Plan |
| A.6.A | Site Access Plan |
| A.6.B | West Lancaster Ave. Site Plan |
| A.7 | CV of Kevin Smith, Architect |
| A.8.A | Buffer Section @ Housing @ Installation |
| A.8.B | Buffer Section @ Housing @ 10 years |
| A.8.C | Buffer Section @ West Lanc. @ Installation |
| A.6.D | Buffer Section @ West Lanc. @ 10 years |
| A.9 | Bridge Site Plan |
| A.10 | CV of John Cluver, Architect |
| A.11 | CV of Lee Huang, Economist |
| A.12 | CV of Frank Tavani, Traffic Engineer |
| A.13 | CV of Daniel Chieco, Landscape Architect |
| A.14 | Buffering Drawings |
| A.14.A | Buffering Plan Example at West Lancaster Avenue Lot |
| A.14.B | Buffering Plan Example at Parking Structure |
| A.14.C | Key Plan for Buffering Sections |
| A.14.D | Buffering Section 1 at West Lancaster Avenue Lot |
| A.14.E | Buffering Section 2 at West Lancaster Avenue Lot |
| A.14.F | Buffering Section 3 at Student Housing |

- A.14.G Buffering Section 4 at Student Housing
- A.14.H Buffering Section 5 at Parking Structure
- A.15 CV of Alice Lenthe, Occupational Safety & Environmental Compliance Consultant
- A.16 CV of Barbara Chance, Parking Management Consultant
- A.17 Special Event Parking Management Plan for Future Conditions
- A.18 Transportation Impact Study prepared by F. Tavani and Associates, Inc., dated September 16, 2014
- A.19 Truck Turning Templates
- A.20 SW Downstream Analysis
- A.21 Acentech correspondence to John Cluver dated September 26, 2014
- A.22 CICD Site Plan
- A.23 Screened Rooftop Mechanical Equipment plan locations
- A.23a Screened Rooftop Mechanical Equipment Lancaster Avenue Elevation
- A.23b Screened Rooftop Mechanical Equipment Ithan Avenue Elevation
- A.23c Screened Rooftop Cooling Towers Ithan Avenue Elevation with Mechanical Section
- A.23d Screened Rooftop Mechanical Equipment Lancaster/Ithan Avenues Elevation -2c
- A.23e Screened Rooftop Mechanical Equipment Lancaster Avenue Elevation
- A.23f Screened Rooftop Mechanical Equipment, Building 1C
- A.23g Screened Rooftop Mechanical Equipment, Building 1C
- A.24 Garage Elevation – Pike Field
- A.24a View Looking West from Pike Field
- A.25 CV of Terence M. Tyson, PE, of Acentech
- A.26 Parking management Entry Exit Plans

- A.27 VU Response to Gannett Fleming Letter dated, July 18, 2014
- A.28 VU Response to Gilmore Letter dated, July 23, 2014
- A.29 VU Response to Rettew Letter dated, August 19, 2014
- A.30 VU Response to Gilmore Letter dated, September 30, 2014
- A.31 VU Response to Rettew Letter dated, September 3, 2014-
- A.32 VU Response to Rettew Letter dated, September 30, 2014-
- A.33 Econsult Letter dated October 17, 2014
- A.34 Villanova Letter and Data – Enrollment
- A.35 F. Tavani and Associates, Inc., correspondence dated October 22, 2014

Township Exhibits:

- T-1 Gannett Fleming correspondence dated July 18, 2014
- T-2 Rettew correspondence dated August 19, 2014
- T-3 Gilmore and Associates, Inc. correspondence dated September 30, 2014
- T-4 Stormwater Memorandum Report by Michele Adams dated July 28, 2014
- T-5 Turn lane warrant and length analysis
- T-6 Traffic Signal clearances workbook
- T-7 Gilmore and Associates pedestrian timing chart and drawing for Lancaster Avenue and Ithan Avenue
- T-8 Memorandum from Jennifer W. Brown, Esquire dated October 20, 2014 regarding local tax impact
- T-9 Rettew Memorandum dated September 3, 2014
- T-10 Rettew Memorandum dated September 30, 2014

Additional Party Exhibits:

- N-1 Stormwater Memorandum Report by Michele Adams dated July 28, 2014
- N-2 Villanova Enrollment document
- B-1 Correspondence from Radnor League of Women Voters dated July 31, 2014

II. Findings of Fact

1. The Applicant is Villanova University.
2. The subject property is located at Ithan and Lancaster Avenues within the PI – Planned Institutional Zoning District of Radnor Township.
3. The Applicant proposes construction of new student residence halls, a 4-level parking structure, a performing arts center, retail space, and associated parking and landscaping improvements.
4. Applicant’s Conditional Use Application designates a 13.81 acre parcel within the PI – Zoning District for a Comprehensive Integrated College Development use (CICD). The entire Villanova Campus consists of a total of 250.35 acres.
5. The Applicant proposes to construct 1,159 dormitory beds and a pedestrian bridge over Lancaster Avenue connecting to the main campus.
6. The composite of all the gross floor areas of the buildings, excluding the parking structure, is 479,800 gross square feet.
7. The retail subordinate uses do not exceed five percent of the total gross floor area of all of the buildings, the total gross floor area for the retail subordinate uses does not exceed 25,000 square feet, and none of the floor areas of any of the individual retail uses exceeds 10,000 square feet.
8. After the CICD development occurs, the campus as a whole will meet the underlying zoning provisions of the PI zoning district. The CICD development will contain 14.4 percent building coverage and will reduce the impervious coverage to 36 percent, in compliance with the existing PI standards. The proposed CICD development provides 37 percent building coverage and 69 percent impervious coverage in accordance with Ordinance No. 2014-21.
9. According to the applicant’s parking analysis, the current parking on campus was reviewed against the code provisions for required parking, that currently 4,464 spaces are required and there are 5,130 spaces currently available, making a surplus of parking onsite of approximately 666 spaces.

10. With the CICD use, the total number of required parking spots is increased to 5,051 spaces, and the applicant will be providing a total of 5,149 spaces, making a surplus of 98 excess parking spaces throughout the campus as a whole.

11. The proposed CICD development project will reduce existing impervious coverage within the project area from 92% to 69%.

12. The Applicant's project proposes to preserve to 2 acres of land in the Aldwyn triangle.

13. The Applicant proposes to construct the overall project in 4 phases.

14. The Applicant's proposed plans meet the requirements for off-street loading in accordance with Section 280-68.1 D(3)(e)[2] of Ordinance No. 2014-21.

15. The Applicant's plan for screening or above ground level mechanicals meet the requirements of Section 280-68.1 D(3)(f)[2] of Ordinance No. 2014-21.

III. Applicable Case law

Section 913.2 of the Pennsylvania Municipalities Planning Code permits the governing body of a municipality to grant or deny a conditional use in accordance with express standards and criteria as set forth in its ordinance. Additionally, Section 913.2(a) permits a governing body to "attach such reasonable conditions and safeguards, in addition to those expressed in the ordinance, as it may deem necessary to implement the purposes of this act and the zoning ordinance." "Reasonable conditions are those that advance a valid zoning interest, are supported by the record, and *relate to the specific zoning ordinance at issue.*" In re Maibach, LLC, 26 A.3d 1213, 1216 (Pa. Cmwlth. 2011) (HHI Trucking & Supply, Inc. v. Borough Council of Borough of Oakmont, 990 A.2d 152 (Pa. Cmwlth. 2010)) (emphasis included). "[W]here a municipality imposes a condition to prevent 'harm' for which there is no evidence in the record, that condition is not reasonable. Stated otherwise, the municipality abuses its discretion when it imposes a condition without supporting evidence in the record." HHI Trucking & Supply, Inc., 990 A.2d at 160.

Conditional uses are similar to special exceptions in that both are permitted uses subject to additional scrutiny either before a Zoning Hearing Board when it is a special exception application, or before a governing body with respect to conditional uses." White Advertising Metro, Inc., v. Zoning Hearing Board of Susquehanna Township, 453 A.2d 29 (Pa. Cmwlth 1982). Because the law regarding conditional uses and special exceptions is virtually identical, the burden of proof standards are the same for both. Sheetz, Inc., v. Phoenixville Borough Council, 804 A.2d 113 (Pa. Cmwlth 2002), Petition for Allowance of Appeal denied, 573 Pa. 669, 820 A.2d 706 (2003).

IV. Conclusions of Law

1. On March 31, 2014 Radnor Township passed Ordinance No. 2014-21 amending Section 280-68 by providing for a new Comprehensive Integrated College Development use (CICD) within the PI - Planned Institutional Zoning District.

2. Section 280-68.1 sets forth the conditional use requirements for a CICD use within the PI- Planned Institutional Zoning District. Section 280.68.1 contains comprehensive performance standards, use regulations, dimensional requirements, and other development and special regulations for a CICD use.

3. Chapter 280, Article 23 sets forth general requirements for conditional use applications and standards for approval for conditional uses. The Applicant presented sufficient testimony and evidence indicating compliance with the specific requirements of Section 280-68.1 and the general requirements of the zoning ordinance for conditional uses.

4. 53 P.S. §10603(c)(2) provides for conditional uses to be allowed or denied by the governing body after hearing and pursuant to express standards and criteria set forth in a Zoning Ordinance.

5. 53 P.S. §10603(c)(2) permits the governing body to attach such reasonable conditions as safeguards other than those related to off-site transportation or road improvements and as expressed in the Zoning Ordinance in order to implement the purposes of the Township Zoning Ordinance.

6. The Applicant met its legal burden of proof by presenting testimony and evidence establishing sufficient compliance with Section 280-68.1 the conditional use requirements for a CICD use within the PI – Planned Institutional Zoning District.

7. The Applicant's proposed plan constitutes a land development and as such requires land development approval by the Board of Commissioners.