

UPPER MORELAND TOWNSHIP
Regular Meeting
October 3, 2022 at 7:00 p.m.
AGENDA ITEMS ARE SUBJECT TO CHANGE

INSTRUCTIONS TO JOIN:

Go to Zoom.us: Click "Join a Meeting"	Webinar ID: 917 5771 7982	Password: 182130
Join by Phone: Dial 1-929-205-6099	Webinar ID: 917 5771 7982	Password: 182130

***Residents requiring special accommodations:
please call the Township during normal business hours at 215-659-3100 x1058 or x1057***

I. Call Meeting to Order

II. Moment of Silent Meditation/Pledge of Allegiance

III. Roll Call

IV. Presentations/Announcements:

- **Motion to Approve** an honorable discharge to Lieutenant Mark F. Drakeley from the Upper Moreland Township Police Department, and in recognition of his retirement effective August 28, 2022, present a proclamation for his service to the residents of Upper Moreland Township.

PUBLIC HEARING

PUBLIC HEARING #1959 – To receive public comments concerning the JERC Partners XXXIX, LLC for a Conditional Use application to request a modification of the prior Conditional Use Approval to permit office or retail within the 2,000 square feet on the first floor previously designed for mixed use (office and retail) for the property known as the Stations at Willow Grove (attachment).

REGULAR MEETING

V. Public Comments – Non-Agenda Items Only

VI. Treasurer's Activity Report – September 2022 (hard copy provided Monday evening)

VII. Approval of Minutes – September 12, 2022 (attachment)

VIII. Committee Recommendations

A. Finance & Administrative Committee – September 26, 2022 – The Committee recommends the Board of Commissioners take action on the following:

1. Appointments/Reappointments:

- a. **Motion to Approve Resolution R-2022-30** - the appointment of Sandra Richman to fill the Alternate position vacancy on the **Zoning Hearing Board** left by Raymond Fox, Jr. and complete the remainder of the current three-year term that will expire on December 31, 2023 (attachment).
- b. **Motion to Approve** the appointment of Albert J. DerMovsesian to fill the Alternate position vacancy on the **Historical Commission** left by Renee Anderley and complete the remainder of the current term that will expire on December 31, 2024.
- c. **Motion to Approve** the appointment of Jennifer T. Mullen to fill the Ward 4 vacancy on the **Advisory Planning Agency** left by Deirdre Barnes and complete the remainder of the current two-year term that will expire on June 1, 2024.

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2. List of Bills Payable (attachment) – The Committee recommends the approval of:

General Funds Checks: Beginning Check No.: 135430
Ending Check No.: 135677

General:	\$ 772,118.62
Debt:	\$ 2,648.33 (Check No.135480, 135481, 135599)
Capital:	\$ -----
Total:	\$ 774,766.95
Voids:	=====

Escrow Fund Checks: Beginning Check No.: 9494
Ending Check No.: 9510

Total: \$ 296,456.40
Voids: -----

Liquid Fuel Fund Checks: Beginning Check No.: 3027
Ending Check No.: 3031

Total: \$ 59,328.53
Voids: -----

4. Other Items:
 - a. **Motion to Approve** advertisement of a public meeting on November 14, 2022 to consider adoption of an amended ordinance to increase the Transportation Impact Fee (attachments)
 - b. **Motion to Approve** the Township's Solicitor's engagement letter and hourly rate increase to \$165.00 (an increase of \$5.00 hourly) for legal services provided by Kilkenny Law, LLC (attachments).
 - c. **Motion to Approve** the purchase of a 2022 Chevrolet Express Cargo Van for the Parks and Recreation Department in 2022 and avoid the 20% increase if purchased in 2023 (attachments).
 - d. **Motion to Approve** a proposed change order for the fire alarm installation at the Public Works facility and the Township Administration Building (attachments).
 - e. **Motion to Approve** a proposed change order for Library Restroom improvements (attachment)
 - f. **Motion to Approve** the bid approval for Solid Waste Direct Haul Disposal Services to Covanta (attachments).
 - g. **Motion to Approve Resolution R-2022-37**, adopting the additional Roth 457 Plan Option as part of the Township's Deferred Compensation Plan (attachments).
 - h. **Motion to Approve** the submission of a State Fire Grant (attachment).

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5. New Business
- B. **Community Development Committee – September 19, 2022** – The Committee recommends the Board of Commissioners take action on the following:
 1. Code Enforcement
 2. Land Development/Subdivision Applications:
 - a. **Motion to Approve Resolution R-2022-31** – Approving the proposed land development of the Olive Garden located at 2402 Eason Road (attachments)
 - b. **Motion to Approve Resolution R-2022-32** – Approving a two-lot consolidation to develop a 1,720 square foot two-story dwelling and two-car garage for the property located on New Street (attachments).
 3. List of Upcoming Zoning Hearing Board Applications – No applications for the October 13, 2022 Hearing. Next Hearing is scheduled for October 27, 2022.
 4. Other Items:
 - a. **Motion to Approve Resolution R-2022-33** – Granting the request for a waiver of curb for the property located at 4121 Blair Mill Road (attachment)
 - b. **Motion to Approve Resolution R-2022-34** – Granting an amended waiver of ADA compliant ramps to Federal Realty Investment Trust’s HOP application for the Moreland Road driveway and request to defer the construction of ramps (attachment).
 - c. **Motion to Approve** authorizing the Township Traffic Engineer’s submission of a grant application to PennDOT for the Traffic Signal Technologies Program (attachment).
 - d. **Motion to Approve** the submission of a Green Light-Go Grant proposal for bids (attachment).
 - e. **Motion to Approve** Change Order #2 for testing, soil removal and disposal beneath Underground Storage Tank #2, as part of the Woodlawn School Demotion project. (attachments).
- C. **Public Health & Safety Committee – September 26, 2022** – The Committee recommends the Board of Commissioners take action on the following:
 1. **Motion to Approve Resolution R-2022-35** - The adoption of the Civil Service Commission’s Resolution 2022-11, which expanded the pool of potential applicants for the position of Patrol Officer in the Police Department by removing the requirement that an applicant either be actively enrolled in the Police Academy or had graduated within two years (attachment).

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2. **Motion to Approve** the submission of a grant to the Pennsylvania Commission on Crime and Delinquency Office of Justice Programs (attachments).
3. **Motion to Approve Resolution R-2022-36** – Approving designating Fire Zones at the following locations (attachments):
 - Walmart
 - The Home Depot

D. **Parks & Recreation Committee – September 26, 2022** – The Committee recommends the Board of Commissioners take action on the following:

1. Motion to Approve request from UM Historical Commission for an October 22, 2022.

IX. Commissioner Comments

A. Upcoming Township Meetings (based on current calendar):

Date	Subject	Location	Time
October 5	Woodlawn Steering Committee	Township Building – Finance Conference Room	7:00 PM
October 5	Environmental Advisory Council	ZOOM	7:00 PM
October 6-9	PML/PSATC Conference	Pittsburgh, PA	
October 11	Historical Commissioner	TBD	7:00 PM
October 13	Zoning Hearing Board	TBD (AV Equipment Installation – Council Room not available)	7:30 PM
October 17	Community Development Committee of the BOC	Township Building – Council Room	7:00 PM
October 20	Advisory Planning Agency (APA)	Township Building – Council Room	5:00 PM
October 24	Committee Meetings of the BOC	Township Building – Council Room	7:00 PM
October 25	Historical Association	Library Community Room	7:00 PM
October 26	Woodlawn Park Steering Council	Township Building – Council Room	7:00 PM
October 27	Zoning Hearing Board	Township Building – Council Room	7:30 PM
November 1	Historical Commission	Library Community Room	7:00 PM

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November 2	Environmental Advisory Council	ZOOM	7:00 PM
November 5	Budget Workshop	Township Building – Council Room	8:30 AM
November 8	ELECTION DAY		
November 10	Zoning Hearing Board	Township Building – Council Room	7:30 PM
November 11	Veterans Day	HOLIDAY	
November 14	Regular Meeting of the Board of Commissioners	Township Building – Council Room	7:00 PM
November 17	Advisory Planning Agency (APA)	Township Building – Council Room	5:00 PM
November 21	Community Development Committee Meeting of the BOC	Township Building – Council Room	7:00 PM
November 22	Historical Association	Township Building – Council Room	7:00 PM
November 24	Thanksgiving Day	HOLIDAY	
November 25	Thanksgiving Day Holiday	HOLIDAY	
November 28	Committee Meetings of the BOC	Township Building – Council Room	7:00 PM
November 30	Woodlawn Steering Committee	Township Building – Council Room	7:00 PM

X. Adjournment

Ad Preview

NOTICE UPPER MORELAND TOWNSHIP

NOTICE IS HEREBY GIVEN THAT THE UPPER MORELAND TOWNSHIP BOARD OF COMMISSIONERS WILL HOLD A PUBLIC HEARING ON OCTOBER 3, 2022, AT 7:00 PM AT THE TOWNSHIP BUILDING LOCATED AT 111 PARK AVENUE, WILLOW GROVE, PA, 19090, TO CONSIDER THE CONDITIONAL USE APPLICATION OF JERC PARTNERS XXXIX, LLC ("APPLICANT").

The application involves Tax Parcel No. 59-00-19807-00-6, located at 73 and 91 N. York Rd., Willow Grove, PA, 19090 (the "Property"). The Applicant previously received conditional use relief in Resolution 2017-09 to construct a mixed use, transit-oriented apartment building known as the Station at Willow Grove and was also granted a modification to said Resolution 2017-09 by Resolution 2019-50 for relief to the minimum sidewalk width construction requirements on certain areas of the Property. The Applicant has requested further modification of Resolution 2017-09, by submitting a conditional use application on August 12, 2022. Applicant seeks relief from the requirement to occupy the first floor of the structure with "no less than 2,000 sq. ft. of designated office and retail space" as Applicant desires to occupy the entire 2,000 sq. ft. for designated office space use. The conditional use application is on file at the Code Enforcement Office of the Township Building and may be inspected during regular business hours.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation should contact Township Manager, Matthew H. Candalan at (215) 659-3100.

Alex J. Baumler
Upper Moreland Township
Solicitor

Blue Bell Executive Campus
460 Norristown Road, Suite 110
Blue Bell, Pennsylvania 19422-2323
610.825.8400 • Fax 610.828.4887
www.wislerpearlstine.com

Andrew R. Freimuth, Esquire
afreimuth@wispearl.com

August 11, 2022

VIA FEDERAL EXPRESS AND EMAIL

Mr. Paul Purtell
c/o Upper Moreland Township
117 Park Avenue
Willow Grove, PA 19090

**RE: Conditional Use Application – Station at Willow Grove
JERC Partners XXXIX, LLC**

Dear Paul:

This office represents JERC Partners XXXIX, LLC, commonly known as J.G. Petrucci (“Petrucci”). Consistent with our telephone conversation, please find enclosed eight (8) copies (one (1) original and seven (7) copies) of a completed Conditional Use Application for the Station at Willow Grove development, and a check made payable to Upper Moreland Township in the amount of \$1,000.00 for the Conditional Use Application Fee.

Please let me know if you require anything additional from me at this time, as well as the dates and times that these matters will be reviewed by the Community Development Committee or any other Township Board, Committee, Commission or Authority prior to consideration by the Board of Commissioners. I would appreciate being advised so that someone from our office can be present on behalf of Petrucci to address any questions with regard to the proposed Development.

Thank you in advance for your cooperation.

Sincerely,



ANDREW R. FREIMUTH

Enclosure

cc: Mr. Greg Rogerson (via email w/ enclosure)
Mr. George Reeves (via email w/ enclosure)
James J. Garrity, Esquire (via email w/out enclosure)

{02685865

}

ATTORNEYS AT LAW

Newtown Office:

Post Office Box 1186 • 301 North Sycamore Street • Newtown, Pennsylvania 18940 • 215.579.5995 • Fax 215.579.7909



Upper Moreland
Township
117 Park Avenue
Willow Grove, PA
19090

RECEIVED

AUG 12 2022

UPPER MORELAND
CODE ENFORCEMENT

Conditional Use Application

PROPERTY OWNER: JERC Partners XXXIX, LLC

(List legal owner, equitable owner and/or lessee of property, and their address.)

NAME OF APPLICANT: Same as above

MAILING ADDRESS: 171 State Route 173, Suite 201

Asbury, New Jersey 08802

TELEPHONE NO. Please contact Counsel at 610-825-8400

PREMISES: 91 N. York Road

Address of Premises

Block 17, Unit 005

Tax Parcel Block and Unit Identification

5.394 acres

Size of Property and Building Dimensions

APPLICANT'S ATTORNEY: James J. Garrity, Esq., & Andrew R. Freimuth, Esq.

Wisler Pearlstine, LLP

460 Norristown Road, Suite 110

Blue Bell, PA 19422

ZONING DISTRICT: "TC" Town Center District

REQUEST: 1. Applicant shall state sections which provide authorization for a conditional use pursuant to the Zoning Code.

Amendment to the conditional use approval provided to the Applicant by Resolution R-2017-09 pursuant to Sections 350-260.B.

2. Applicant shall state specific proposal:

a. Type of use: Please see attached addendum

b. Size of use: Please see attached addendum

c. Size and dimensions of lot area to be occupied or utilized by the conditional use: Please see attached addendum

d. Anticipated hours of operation: Please see attached addendum

e. Number of employees: Please see attached addendum

f. If residential, number and type of dwelling use: _____

Please see attached addendum

g. Commercial or industrial vehicles associated with the use:

Please see attached addendum

3. Specific conditions or restrictions offered by the applicant to be considered by the Board of Commissioners: _____

Please see attached addendum

4. Has a previous conditional use application been filed on this property? Yes.

a. If Yes, give date and disposition of previous application:

Board Resolution R-2017-09 granting conditional use approval on April 3, 2017.
Decision and Order dated November 12, 2019 on Conditional Use #19-0050
approving a modification to Resolution R-2017-09.

5.

Has a previous application been filed in connection with this property?

a. If Yes, give date and disposition of previous application:

Yes. Conditional use applications were submitted on December 19, 2016 and August 20, 2019.
Both applications were approved. A Zoning Hearing Board Application was submitted on
August 20, 2019 and relief was granted September 13, 2019.

Applicant shall comply with conditional use procedures as set forth in the Upper Moreland Township Zoning Code.

Submit fifteen copies of plans, 24"x 36", which shall show existing conditions and nature of proposed use.



APPLICANT

James J. Garrity, Esq. and Andrew R. Freimuth, Esq.
on the behalf of JERC Partners XXXIX, LLC

Date: 8/11/2022

Same as above

Date: _____

OWNER

Received by (UMT staff member) _____

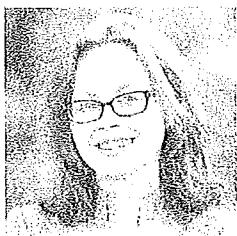
ADDENDUM

JERC Partners XXXIX, LLC, also known as “Petrucci Residential” (the “Applicant”), was granted conditional use approval pursuant to Upper Moreland Township Resolution R-2017-09 (“Prior Conditional Use Approval”), as well as lot consolidation and land development approval by the Board of Commissioners, to construct a mixed-use, transit-oriented, mid-rise apartment and office/commercial development with a parking garage/structure, more commonly known as the “Station at Willow Grove” (the “Development”), on the property located at 73 N. York Road/91 N. York Road in Upper Moreland Township, more particularly identified as Montgomery County (consolidated) Tax Parcel No. 59-00-19807-00-6 (the “Property”). The Applicant is the owner of the Property, which is located in the Township’s “TC” Town Center District and consists of approximately 5.394 acres of land. The Applicant has nearly completed the Development at this time.

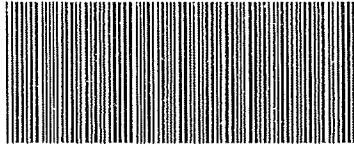
Pursuant to the Prior Conditional Use Approval, the Development is required to have “no less than 2,000 square feet of designated office and retail space on the first floor”, despite the fact that the Upper Moreland Township Zoning Ordinance (the “Zoning Ordinance”) permits mid- or high-rise apartments with a first floor having “no less than 2,000 square feet of office or retail uses”. The Applicant has intensely marketed the first-floor office/retail space for retail use, but has been unsuccessful in its efforts to obtain a retail tenant given current market conditions, perceived issues with parking, etc. As a result, the Applicant would like to use the entire 2,000 square feet for office use, consistent with the Zoning Ordinance. However, a technical reading of the Prior Conditional Use Approval indicates that such space must be used for office and retail uses, and the Township has preliminarily taken the position that some part of the 2000 SF minimum must be utilized for retail despite the language of the ordinance itself. Therefore, the Applicant is filing this Conditional Use Application to request a modification of the Prior Conditional Use Approval to permit office or retail within the 2,000 square feet on the first floor previously designated for such uses.

The Applicant does not believe that the requested modification will be contrary to the public health, safety, or welfare, particularly given the fact that the modification would align with the specific language in the Zoning Ordinance permitting a mid-rise apartment use (such as the Development) with office or retail. The Zoning Ordinance requirement was exactly the same at the time of the Prior Conditional Use Approval, and there is no indication in the Prior Conditional Use Approval as to why the designated first floor office/retail space is described as “office and retail” as opposed to “office or retail”. Notwithstanding, the Applicant has found it impossible to find a retail tenant for a portion of the space, given the significant changes in retail operations as a result of COVID-19 and the unusual parking situation for a retail tenant. In order to lease the space, therefore, the Applicant must be able to use the space for 100% office use, and an office tenant has already been located. The Applicant is therefore requesting a modification to align the Prior Conditional Use Approval with the requirements and express language of the Zoning Ordinance.

Based on the foregoing, the Applicant respectfully requests that the Board of Commissioners grant the requested modification to the conditional use approval granted by Resolution R-2017-09, and pursuant to Sections 350-260.B of the Upper Moreland Township Zoning Ordinance.



DEED BK 6081 PG 01114 to 01121.2
INSTRUMENT # : 2018013129
RECORDED DATE: 02/28/2018 03:39:40 PM



3747380-0011R

RECORDER OF DEEDS
MONTGOMERY COUNTY
Jeanne Sorg

One Montgomery Plaza
Swede and Airy Streets ~ Suite 303
P.O. Box 311 ~ Norristown, PA 19404
Office: (610) 278-3289 ~ Fax: (610) 278-3869

MONTGOMERY COUNTY ROD

OFFICIAL RECORDING COVER PAGE

Page 1 of 10

Document Type: Deed of Consolidation	Transaction #: 3887427 - 6 Doc
Document Date: 02/27/2018	(s)
Reference Info:	Document Page Count: 7 Operator Id: msanabia
RETURN TO: (Mail) LAND SERVICES USA, INC 1 South Church Street Suite 300 West Chester, PA 19382	PAID BY: LAND SERVICES USA INC
* PROPERTY DATA:	
Parcel ID #: 59-00-19801-01-2	59-00-04516-00-6
Address: 215 DAVISVILLE RD	91 N YORK RD
PA	WILLOW GROVE PA
Municipality: Upper Moreland Township (100%)	19090 Upper Moreland Township (0%)
School District: Upper Moreland	Upper Moreland Upper Moreland Upper Moreland

*** ASSOCIATED DOCUMENT(S):**

CONSIDERATION/SECURED AMT: \$1.00	DEED BK 6081 PG 01114 to 01121.2 Recorded Date: 02/28/2018 03:39:40 PM I hereby CERTIFY that this document is recorded in the Recorder of Deeds Office in Montgomery County, Pennsylvania.
FEES / TAXES: Recording Fee: Deed of Consolidation \$86.75 Affidavit Fee \$1.50 Additional Pages Fee \$6.00 Additional Parcels Fee \$180.00 Affordable Housing Pages \$6.00 Affordable Housing Parcels \$6.00 Total: \$286.25	 Jeanne Sorg Recorder of Deeds

Rev1a 2016-01-29

PLEASE DO NOT DETACH

THIS PAGE IS NOW PART OF THIS LEGAL DOCUMENT

NOTE: If document data differs from cover sheet, document data always supersedes.

*COVER PAGE DOES NOT INCLUDE ALL DATA, PLEASE SEE INDEX AND DOCUMENT FOR ANY ADDITIONAL

PREPARED BY & RETURN TO:
Fitzpatrick Lentz & Bubba, P.C.
4001 Schoolhouse Lane
Center Valley, PA 18034
610-797-9000

RECORDER OF DEEDS
MONTGOMERY COUNTY

2018 FEB 28 P 2:58

18-38624

Tax Parcel No.: 59-00-19801-01-2 – (New Parcel) **REGISTERED NEW**

Tax Parcel No.: 59-00-04516-00-6 – 215 Davisville Road

Tax Parcel No.: 59-00-19816-00-6 – 91 N. York Road

Tax Parcel No.: 59-00-04519-00-3 – 217 Davisville Road

Tax Parcel No.: 59-00-19804-00-9 – 65 N. York Road

Tax Parcel No.: 59-00-19807-00-6 – 73 N. York Road

Tax Parcel No.: 59-00-19810-00-3 – 75 N. York Road

Tax Parcel No.: 59-00-19813-00-9 – 81 N. York Road

Tax Parcel No.: 59-00-19153-00-3 – 5 Woodlawn Ave.

Tax Parcel No.: 59-00-19150-00-6 – 5 Woodlawn Ave.

Tax Parcel No.: 59-00-19156-00-9 – Woodlawn Ave.

Tax Parcel No.: 59-00-04522-00-9 – 221 Davisville Road

Tax Parcel No.: 59-00-04525-00-6 – 3 Woodlawn Ave.

PAFA 17-50254

Upper Moreland Twp., County of Montgomery

DEED OF CONSOLIDATION

THIS DEED is made the 29th day of February, in the year Two Thousand Eighteen (2018)

BETWEEN

JERC PARTNERS XXXIX LLC, a Pennsylvania limited liability company ("Grantor")

AND

JERC PARTNERS XXXIX LLC, a Pennsylvania limited liability company ("Grantee")

WITNESSETH, that in consideration of One (\$1.00) Dollar, in hand truly paid by Grantee at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, the Grantor does hereby grant and convey to the Grantee, its successors and assigns,

See Exhibit "A" attached hereto and made a part hereof

BEING THE SAME PREMISES which Willow Grove Lodge No. 1101, Loyal Order of Moose, a Pennsylvania non profit corporation, by Deed dated January 29, 2018 and recorded February 1, 2018 in the Office of the Recorder of Deeds of Montgomery County, Pennsylvania, in Record Book Volume 6078 Page 2292 granted and conveyed to JERC PARTNERS XXXIX LLC, a Pennsylvania limited liability company.

BEING THE SAME PREMISES which Lagrass Enterprises, LLC, a Pennsylvania limited liability company, by Deed dated February 5, 2018 and recorded February 16, 2018 in the Office of the Recorder of Deeds of Montgomery County, Pennsylvania, in Record Book Volume 6080 Page 666 granted and conveyed to JERC PARTNERS XXXIX LLC, a Pennsylvania limited liability company.

BEING THE SAME PREMISES which Leonard A. Winegrad and Bonnie Winegrad, by Deed dated February 6, 2018 and recorded February 9, 2018 in the Office of the Recorder of Deeds of Montgomery County, Pennsylvania, in Record Book Volume 6079 Page 2087 granted and conveyed to JERC PARTNERS XXXIX LLC, a Pennsylvania limited liability company.

BEING THE SAME PREMISES which Lonna G. Ettelson, Sole Executor, Trustee and Beneficiary, Joan B. Goodman, Trustee and Beneficiary, Susan Goodman, Beneficiary, Jane L. Goodman, Beneficiary and Bonnie Goodman Beneficiary, all of the Estate of George Goodman, Deceased, by Deed dated February 14, 2018 and recorded February 21, 2018 in the Office of the Recorder of Deeds of Montgomery County, Pennsylvania, in Record Book Volume 6080 Page 1531 granted and conveyed to JERC PARTNERS XXXIX LLC, a Pennsylvania limited liability company.

BEING THE SAME PREMISES which Three Stars Associates, a Pennsylvania general partnership by Deed dated February _____, 2018 and recorded February _____, 2018 in the Office of the Recorder of Deeds of Montgomery County, Pennsylvania, in Record Book Volume _____ Page _____ granted and conveyed to JERC PARTNERS XXXIX LLC, a Pennsylvania limited liability company.

UNDER AND SUBJECT to all easements and restrictions, if any, as may appear of record.

THIS IS A CONVEYANCE from Grantor to themselves to consolidate multiple parcels into one description and is not subject to Pennsylvania Realty Transfer Tax.

TOGETHER with all and singular the buildings, improvements, ways, waters, water courses, rights, liberties, privileges, hereditaments and appurtenances whatsoever thereunto belonging, or in anywise appertaining, and the reversions and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, property, claim and demand whatsoever of the Grantor, its successors and assigns, in law, equity or otherwise, of, in and to the same, and every part thereof, **subject as aforesaid**.

TO HAVE AND TO HOLD the lot or piece of ground above described, with the improvements thereon erected, hereditaments and premises hereby granted or mentioned, and intended so to be, with the appurtenances, unto the Grantee, its successors and assigns, to and for the only proper use and behoof of the Grantee, its successors and assigns, forever, **subject as aforesaid**.

THE GRANTOR, for itself, its successors and assigns, do by these presents covenant, grant and agree to and with the Grantee, its successors and assigns, that they, the Grantor, and its successors and assigns, all and singular the hereditaments and premises hereinabove described and granted, or mentioned, and intended so to be, with the appurtenances, unto the Grantee, its

successors and assigns, against it, the Grantor and its successors and assigns, and against all and every other person or persons whomsoever, lawfully claiming or to claim the same, or any part thereof, by, from or under said Grantor,

SHALL AND WILL, SUBJECT AS AFORESAID, SPECIALLY WARRANT AND FOREVER DEFEND.

IN WITNESS WHEREOF, the Grantor has caused this Deed to be executed on the day and year first above written.

JERC PARTNERS XXXIX LLC

By: Turnkey Associates X LLC, a New Jersey limited liability company, its sole member

By: John D. Reardon
Name: John D. Reardon * Gregory
Title: John D. Reardon * Michael D. Reardon

MONTGOMERY COUNTY COMMISSIONERS REGISTRY
59-00-04516-00-6 UPPER MORELAND
215 DAVISVILLE RD
THREE STARS ASSOC \$15.00
B 017 U 008 L 4275 DATE: 02/28/2018 JW

MONTGOMERY COUNTY COMMISSIONERS REGISTRY
59-00-19816-00-6 UPPER MORELAND
91 N YORK RD
THREE STARS ASSOC \$15.00
B 017 U 007 L 4100 DATE: 02/28/2018 JW

MONTGOMERY COUNTY COMMISSIONERS REGISTRY
59-00-04519-00-3 UPPER MORELAND
217 DAVISVILLE RD
THREE STARS ASSOC \$15.00
B 017 U 009 L 1140 DATE: 02/28/2018 JW

MONTGOMERY COUNTY COMMISSIONERS REGISTRY
59-00-19804-00-9 UPPER MORELAND
65 N YORK RD
THREE STARS ASSOCIATES \$15.00
B 017 U 004 L 4240 DATE: 02/28/2018 JW

MONTGOMERY COUNTY COMMISSIONERS REGISTRY
59-00-19807-00-6 UPPER MORELAND
73 N YORK RD
THREE STARS ASSOCIATES \$15.00
B 017 U 005 L 4100 DATE: 02/28/2018 JW

MONTGOMERY COUNTY COMMISSIONERS REGISTRY
59-00-19810-00-3 UPPER MORELAND
75 N YORK RD
THREE STARS ASSOCIATES \$15.00
B 017 U 040 L 4100 DATE: 02/28/2018 JW

MONTGOMERY COUNTY COMMISSIONERS REGISTRY

59-00-19813-00-9 UPPER MORELAND
81 N YORK RD
THREE STARS ASSOCIATES \$15.00
B 017 U 006 L 4100 DATE: 02/28/2018 JW

MONTGOMERY COUNTY COMMISSIONERS REGISTRY

59-00-19150-00-6 UPPER MORELAND
5 WOODLAWN AVE
LAGRASS ENTERPRISES LLC \$15.00
B 017 U 010 L 3321 DATE: 02/28/2018 JW

MONTGOMERY COUNTY COMMISSIONERS REGISTRY

59-00-19156-00-9 UPPER MORELAND
WOODLAWN AVE
LAGRASS ENTERPRISES LLC \$15.00
B 017 U 026 L 1 2206 DATE: 02/28/2018 JW

MONTGOMERY COUNTY COMMISSIONERS REGISTRY

59-00-04522-00-9 UPPER MORELAND
221 DAVISVILLE RD
JERC PARTNERS XXXIX LLC \$15.00
B 017 U 012 L 4100 DATE: 02/28/2018 JW

MONTGOMERY COUNTY COMMISSIONERS REGISTRY

59-00-04525-00-6 UPPER MORELAND
3 WOODLAWN AVE
JERC PARTNERS XXXIX LLC \$15.00
B 017 U 011 L 5980 DATE: 02/28/2018 JW

MONTGOMERY COUNTY COMMISSIONERS REGISTRY

59-00-19153-00-3 UPPER MORELAND
5 WOODLAWN AVE
LAGRASS ENTERPRISES LLC \$15.00
B 017 U 039 L 3321 DATE: 02/28/2018 JW

STATE OF NJ : SS.
COUNTY OF Hudson

On this the 27 day of Feb, 2018, before me, a Notary Public, the undersigned officer, personally appeared Guy Doyen, who acknowledged himself to be member of Turnkey Associates X LLC, a New Jersey limited liability company, Sole Member of JERC PARTNERS XXXIX LLC, a Pennsylvania limited liability company, and that he as such officer, being authorized to do so, executed the foregoing Deed for the purposes therein contained on behalf of the limited liability company.

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

Notary Public
My Commission Expires:

MICHAEL H. SCHWERTFEGER
NOTARY PUBLIC OF NEW JERSEY
I.D. # 2335117
My Commission Expires 9/28/2020

I hereby certify that the correct address
of the Grantee herein is:

171 State Route 173, Suite 201
Asbury NJ 08802

Amylee Shupp

Exhibit "A"

"EXHIBIT A".
LEGAL DESCRIPTION

UPPER MORELAND TOWNSHIP, MONTGOMERY COUNTY
COMMONWEALTH OF PENNSYLVANIA

BEGINNING AT THE INTERSECTION OF THE TITLE LINE IN BED OF DAVISVILLE ROAD (A.K.A. S.R. 2042, 46' WIDE LEGAL RIGHT-OF-WAY), AND THE TITLE LINE IN THE BED OF YORK ROAD (A.K.A. OLD YORK ROAD, A.K.A. PENNSYLVANIA STATE HIGHWAY ROUTE 611, VARIABLE WIDTH LEGAL RIGHT-OF-WAY), AND FROM SAID POINT OF BEGINNING RUNNING, THENCE;

THE FOLLOWING FIVE (5) COURSES AND DISTANCES ALONG THE TITLE LINE IN THE BED OF DAVISVILLE ROAD:

1. NORTH 38 DEGREES - 45 MINUTES - 00 SECONDS EAST, A DISTANCE OF 369.52 FEET TO A POINT, THENCE;
2. SOUTH 52 DEGREES - 16 MINUTES - 00 SECONDS EAST, A DISTANCE OF 23.37 FEET TO A POINT, THENCE;
3. NORTH 39 DEGREES - 27 MINUTES - 04 SECONDS EAST, A DISTANCE OF 45.15 FEET TO A POINT, THENCE;
4. NORTH 50 DEGREES - 32 MINUTES - 35 SECONDS WEST, A DISTANCE OF 23.36 FEET TO A POINT, THENCE;
5. NORTH 39 DEGREES - 33 MINUTES - 25 SECONDS EAST, A DISTANCE OF 195.00 FEET TO A POINT, THENCE;
6. ALONG THE DIVIDING LINE BETWEEN UNITS 11, 13 & 14, BLOCK 17, LANDS NOW OR FORMERLY WILLOW GROVE LODGE NO. 1101, LOYAL ORDER OF MOOSE AND UNIT 15 & 16, BLOCK 17' LANDS NOW OR FORMERLY UPPER MORELAND TOWNSHIP, SOUTH 50 DEGREES - 32 MINUTES - 35 SECONDS EAST, A DISTANCE OF 253.78 FEET TO A POINT, THENCE;
7. ALONG THE DIVIDING LINE BETWEEN UNITS 11, 13 & 14, BLOCK 17 AND UNIT 10, BLOCK 35, LANDS NOW OR FORMERLY LAGRASS ENTERPRISES, LLC, SOUTH 39 DEGREES - 15 MINUTES - 25 SECONDS WEST, A DISTANCE OF 34.22 FEET TO A POINT, THENCE;
8. ALONG THE COMMON DIVIDING LINE BETWEEN UNIT 39, BLOCK 17, LANDS NOW OR FORMERLY LAGRASS ENTERPRISES, LLC; UNIT 50, BLOCK 17, LANDS NOW OR FORMERLY BENEK; UNIT 51, BLOCK 17, LANDS NOW OR FORMERLY BERNARD AND UNIT 52, BLOCK 17, LANDS NOW OR FORMERLY MOORE, SOUTH 51 DEGREES - 30 MINUTES - 35 SECONDS EAST, A DISTANCE OF 168.62 FEET TO A POINT, THENCE;

THE FOLLOWING THREE (3) COURSES AND DISTANCES ALONG THE DIVIDING LINE BETWEEN UNIT 26, BLOCK 17 AND UNIT 57, BLOCK 17' LANDS NOW OR FORMERLY BLUCAS:

9. SOUTH 39 DEGREES - 18 MINUTES - 19 SECONDS WEST, A DISTANCE OF 89.76 FEET TO A POINT, THENCE;
10. SOUTH 19 DEGREES - 46 MINUTES - 55 SECONDS EAST, A DISTANCE OF 78.63 FEET TO A POINT, THENCE;

11. SOUTH 11 DEGREES - 19 MINUTES - 41 SECONDS EAST, A DISTANCE OF 91.71 FEET TO A POINT, THENCE;
12. ALONG THE COMMON DIVIDING LINE BETWEEN UNIT 26, BLOCK 17; UNIT 31, BLOCK 17, LANDS NOW OR FORMERLY WIPPLINGER AND UNIT 68, BLOCK 17, LANDS NOW OR FORMERLY GANNON, SOUTH 39 DEGREES - 24 MINUTES - 49 SECONDS WEST, A DISTANCE OF 144.24 FEET TO A POINT, THENCE;
13. ALONG THE DIVIDING LINE BETWEEN UNITS 42 & 43, BLOCK 17 AND UNIT 3, BLOCK 17, LANDS NOW OR FORMERLY 45 SOUTH YORK ROAD ASSOCIATES, LLC, NORTH 60 DEGREES - 41 MINUTES - 57 SECONDS WEST, A DISTANCE OF 107.34 FEET TO A POINT, THENCE;
14. ALONG THE DIVIDING LINE BETWEEN UNITS 42 & 43, BLOCK 17 AND UNIT 26, BLOCK 17, NORTH 10 DEGREES - 49 MINUTES - 22 SECONDS EAST, A DISTANCE OF 39.89 FEET TO A POINT, THENCE;

THE FOLLOWING FOUR (4) COURSES AND DISTANCES ALONG A LINE RUNNING THROUGH UNITS 42 & 43, BLOCK 17, LANDS NOW OR FORMERLY GOODMAN, ALSO BEING THE DIVIDING LINE BETWEEN PROPOSED LOT 1 AND PROPOSED LOT 2:

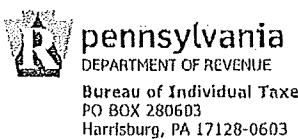
15. NORTH 50 DEGREES - 24 MINUTES - 38 SECONDS WEST, A DISTANCE OF 19.01 FEET TO A POINT, THENCE;
16. SOUTH 39 DEGREES - 35 MINUTES - 22 SECONDS WEST, A DISTANCE OF 74.74 FEET TO A POINT, THENCE;
17. NORTH 50 DEGREES - 38 MINUTES - 39 SECONDS WEST, A DISTANCE OF 11.00 FEET TO A POINT, THENCE;
18. SOUTH 39 DEGREES - 35 MINUTES - 22 SECONDS WEST, A DISTANCE OF 125.29 FEET TO A POINT ON THE TITLE LINE IN THE BED OF YORK ROAD, THENCE;

THE FOLLOWING THREE (3) COURSES AND DISTANCES ALONG THE TITLE LINE IN THE BED OF YORK ROAD:

19. NORTH 50 DEGREES - 46 MINUTES - 00 SECONDS WEST, A DISTANCE OF 63.79 FEET TO A POINT, THENCE;
20. NORTH 60 DEGREES - 22 MINUTES - 00 SECONDS WEST, A DISTANCE OF 88.05 FEET TO A POINT, THENCE;
21. NORTH 61 DEGREES - 25 MINUTES - 00 SECONDS WEST, A DISTANCE OF 131.71 FEET TO A POINT, THENCE;
22. NORTH 61 DEGREES - 05 MINUTES - 00 SECONDS WEST, A DISTANCE OF 124.21 FEET TO THE POINT AND PLACE OF BEGINNING.

CONTAINING 260,688 SQUARE FEET OR 5.985 ACRES

THIS DESCRIPTION WAS WRITTEN BASED UPON A MAP ENTITLED "LOT CONSOLIDATION PLAN, JERC PARTNERS XXXIX LLC, STATION AT WILLOW GROVE, DAVISVILLE ROAD & YORK ROAD, UPPER MORELAND TOWNSHIP, MONTGOMERY COUNTY, COMMONWEALTH OF PENNSYLVANIA", PREPARED BY BOHLER ENGINEERING, DATED 1/9/2018, REVISION NO. 1 DATED 1/15/2018, REVISION NO. 2 DATED 1/22/2018, PROJECT NO. PC151241, SHEET 1 OF 1, recorded in Plan Book _____, Page _____.



REALTY TRANSFER TAX STATEMENT OF VALUE

See reverse for instructions.

RECORDER'S USE ONLY

State Tax Paid 0
 Book Number 6081
 Page Number 114
 Date Recorded 2-28-18

Complete each section and file in duplicate with Recorder of Deeds when (1) the full value/consideration is not set forth in the deed, (2) the deed is without consideration or by gift, or (3) a tax exemption is claimed. If more space is needed, please attach additional sheets. A Statement of Value (SOV) is not required if the transfer is wholly exempt from tax based on family relationship or public utility easement. However, it is recommended that a SOV accompany all documents filed for recording.

A. CORRESPONDENT – All inquiries may be directed to the following person:

Name Fitpatrick Lentz & Bubba, P.C.	Telephone Number: (610) 797-9000
Mailing Address 4001 Schoolhouse Lane	City Center Valley
	State PA
	ZIP Code 18034

B. TRANSFER DATA

Date of Acceptance of Document <u>2/28/2018</u>	Telephone Number: (908) 730-6909	Grantee(s)/Lessee(s) JERC PARTNERS XXXIX LLC	Telephone Number: (908) 730-6909
Mailing Address 171 State Route 173, Suite 201		Mailing Address 171 State Route 173, Suite 201	
City Asbury	State NJ	ZIP Code 08802	City Asbury
			State NJ
			ZIP Code 08802

C. REAL ESTATE LOCATION

Street Address See Attached	City, Township, Borough Upper Moreland Twp.
County Montgomery	School District Upper Moreland School District
	Tax Parcel Number See Attached

D. VALUATION DATA

Was transaction part of an assignment or relocation? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N		
1. Actual Cash Consideration 1.00	2. Other Consideration +0.00	3. Total Consideration = 1.00
4. County Assessed Value <u>3,032,420.00</u>	5. Common Level Ratio Factor X <u>1.85</u>	6. Computed Value = <u>5,609,977.00</u>

E. EXEMPTION DATA - Refer to instructions for exemption status.

1a. Amount of Exemption Claimed <u>\$ 5,609,977.00</u>	1b. Percentage of Grantor's Interest in Real Estate 100.00 %	1c. Percentage of Grantor's Interest Conveyed 100.00 %
---	---	---

2. Check Appropriate Box Below for Exemption Claimed.

Will or intestate succession.

(Name of Decedent)

(Estate File Number)

- Transfer to a trust. (Attach complete copy of trust agreement identifying all beneficiaries.)
- Transfer from a trust. Date of transfer into the trust
If trust was amended attach a copy of original and amended trust.
- Transfer between principal and agent/straw party. (Attach complete copy of agency/straw party agreement.)
- Transfers to the commonwealth, the U.S. and instrumentalities by gift, dedication, condemnation or in lieu of condemnation. (If condemnation or in lieu of condemnation, attach copy of resolution.)
- Transfer from mortgagor to a holder of a mortgage in default. (Attach copy of mortgage and note/assignment.)
- Corrective or confirmatory deed. (Attach complete copy of the deed to be corrected or confirmed.)
- Statutory corporate consolidation, merger or division. (Attach copy of articles.)
- Other (Please explain exemption claimed.) THIS IS A CONVEYANCE from Grantor to themselves to consolidate multiple parcels into one description and is not subject to Pennsylvania Realty Transfer Tax.

Under penalties of law, I declare that I have examined this statement, including accompanying information, and to the best of my knowledge and belief, it is true, correct and complete.

Signature of Correspondent or Responsible Party

Date

FAILURE TO COMPLETE THIS FORM PROPERLY OR ATTACH REQUESTED DOCUMENTATION MAY RESULT IN THE RECORDER'S REFUSAL TO RECORD THE DEED.

Exhibit "A"

C. Real Estate

D. Valuation Data

Tax Parcel No.: 59-00-19801-01-2 – (New Parcel)
Tax Parcel No.: 59-00-04516-00-6 – 215 Davisville Road
Tax Parcel No.: 59-00-19816-00-6 – 91 N. York Road
Tax Parcel No.: 59-00-04519-00-3 – 217 Davisville Road
Tax Parcel No.: 59-00-19804-00-9 – 65 N. York Road
Tax Parcel No.: 59-00-19807-00-6 – 73 N. York Road
Tax Parcel No.: 59-00-19810-00-3 – 75 N. York Road
Tax Parcel No.: 59-00-19813-00-9 – 81 N. York Road
Tax Parcel No.: 59-00-19153-00-3 – 5 Woodlawn Ave.
Tax Parcel No.: 59-00-19150-00-6 – 5 Woodlawn Ave.
Tax Parcel No.: 59-00-19156-00-9 – Woodlawn Ave.
Tax Parcel No.: 59-00-04522-00-9 – 221 Davisville Road
Tax Parcel No.: 59-00-04525-00-6 – 3 Woodlawn Ave.
Upper Moreland Twp., County of Montgomery

E. Amount of Exemption Claimed: \$5,609,977.00

Not assessed yet, New parcel
\$46,480.00 x 1.85 = \$85,988.00
\$528,000.00 x 1.85 = \$976,800.00
\$178,770.00 x 1.85 = \$330,724.50
\$415,000.00 x 1.85 = \$767,750.00
\$377,380.00 x 1.85 = \$698,153.00
\$94,120.00 x 1.85 = \$174,122.00
\$173,200.00 x 1.85 = \$320,420.00
\$287,650.00 x 1.85 = \$532,152.50
\$153,670.00 x 1.85 = \$284,289.50
\$54,460.00 x 1.85 = \$100,751.00
\$223,690.00 x 1.85 = \$413,826.50
\$500,000.00 x 1.85 = \$925,000.00

UPPER MORELAND TOWNSHIP
MONTGOMERY COUNTY, PENNSYLVANIA
RESOLUTION NO. R-2017-09

**A RESOLUTION SETTING FORTH THE DECISION OF THE
UPPER MORELAND TOWNSHIP BOARD OF
COMMISSIONERS ON THE CONDITIONAL USE
APPLICATION OF JERC PARTNERS XXXVIII, LLC, AND J.G.
PETRUCCI CO., INC. FOR PROPERTIES LOCATED AT
NORTH YORK ROAD AND DAVISVILLE ROAD**

WHEREAS, the Board of Commissioners of Upper Moreland Township enacted Ordinance No. 1674 making technical amendments to the Zoning Ordinance as it pertains to the TC Town Center Zoning District and rezoning certain parcels, owned by the Applicants or for which the Applicants are the equitable owners, to TC-1 Town Center District in order to facilitate a proposed apartment complex, and

WHEREAS, the Board of Commissioners of Upper Moreland Township also enacted Ordinance No. 1675 on February 6, 2017, vacating a "paper street" on the land owned or equitably owned by the Applicants in order to facilitate the proposed plan for an apartment complex and mixed use, and

WHEREAS, the Board of Commissioners received a Conditional Use Application from JERC Partners XXXVIII, LLC and J.G. Petrucci, Co., Inc. ("Applicants") who filed an Application for Conditional Use Approval under the TC-1 Town Center Zoning District Zoning Ordinance in order to permit a transit oriented midrise apartment redevelopment with a parking structure including sufficient parking for the development itself as well as extra spaces designated to be available for the Willow Grove SEPTA Train Station across the street, averring that the proposed development complies with all applicable requirements of the Zoning

Ordinance and further complies with sections of the Zoning Ordinance involving development standards, design standards, streetscape and green area standards in order to qualify the development for certain bonus provisions under the TC-1 Zoning Ordinance, and

WHEREAS, pursuant to Resolution No. R-2017-02, the Board of Commissioners scheduled a hearing date on the Conditional Use Application of the Applicants and directed that public notice and posting in accordance with law give public notice of the proposed hearing, and

WHEREAS, pursuant to public notice and posting of affected properties, a hearing on the Conditional Use Application was held on March 6, 2017 before the start of a regular Board of Commissioners meeting, and

WHEREAS, the Board of Commissioners of Upper Moreland Township, pursuant to the Findings of Fact and Conclusions of Law stated herein, as well as the testimony and exhibits entered into evidence at the hearing, has determined to grant the conditional use to allow the Applicants to redevelop the site as a midrise transit oriented apartment complex with an associated structured parking garage, under certain conditions expressly stated herein, as well as the requirement that the Applicants pursue land development approval under the Township's Zoning and Subdivision and Land Development Ordinance ("SALDO"),

NOW THEREFORE, the Board of Commissioners of Upper Moreland Township hereby resolves to adopt the following Findings of Fact, Conclusions of Law, and Order granting the Conditional Use pursuant to the conditions stated herein:

I. FINDINGS OF FACT.

1. The subject premises consists of several parcels and several tax parcel numbers including the following:

a. 55 York Road, Montgomery County Tax Parcel No. 59-00-19801-00-3, currently owned by the Estate of George Goodman;

- b. 65 N. York Road, Montgomery County Tax Parcel No. 59-00-19804-00-9, currently owned by Three Star Associates;
- c. 73 N. York Road, Montgomery County Tax Parcel No. 59-00-19807-00-6, currently owned by Three Star Associates;
- d. 75 N. York Road, Montgomery County Tax Parcel No. 59-00-19810-00-3, currently owned by Three Star Associates;
- e. 81 N. York Road, Montgomery County Tax Parcel No. 59-00-19813-00-9, currently owned by Three Star Associates;
- f. 91 N. York Road, Montgomery County Tax Parcel No. 59-00-19816-00-6, currently owned by Three Star Associates;
- g. 215 Davisville Road, Montgomery County Tax Parcel No. 59-00-04516-00-6, currently owned by Three Star Associates;
- h. 217 N. York Road, Montgomery County Tax Parcel No. 59-00-04519-00-3, currently owned by Three Star Associates;
- i. 5 Woodlawn Avenue, Montgomery County Tax Parcel Nos. 59-00-19150-00-6 and 59-00-19153-00-3, currently owned by LaGrass Enterprises, LLC;
- j. Woodlawn Avenue, Montgomery County Tax Parcel No. 59-00-19156-00-9, currently owned by LaGrass Enterprises, LLC;
- k. 3 Woodlawn Avenue, Montgomery County Tax Parcel No. 59-00-04525-00-6, currently owned by Willow Grove Lodge 1101; and
- l. 221 Davisville Road, Montgomery County Tax Parcel No. 59-00-04522-00-9, currently owned by Leonard A. & Bonnie Winegrad;

2. The Premises consists of 13 separate tax parcels, approximately 5.394 acres, and contains 12 existing buildings or related improvements which are scheduled to be removed. The

properties have frontage on York Road, and Davisville Road, and are directly across the street from the SEPTA Willow Grove Train Station on Davisville Road.

3. The Applicants' Conditional Use Application proposed a mixed use transit-oriented development of 241 one-bedroom, two-bedroom and studio apartment units, designated office and retail space on the first floor, landscaped courtyards with a pool, and a parking garage/structure containing approximately 411 parking spaces, with a certain number of those parking spaces reserved for access for passengers of the Willow Grove SEPTA Train Station Regional Rail System.

4. By letter amendment, the Applicants amended their Application to state that the correct number of apartment units proposed was 275 residential units, "all market rate, not subsidized in any way." N.T. 12

5. The Applicants introduced an exhibit packet which was marked A-1 and entered into evidence at the Conditional Use hearing, and upon which the Board of Commissioners relied in reaching its decision on the Conditional Use Application.

6. The Applicants also introduced into evidence a multi-page exhibit prepared by Minno & Wasko Architects and Planners which contains several exhibits including an Illustrative Perspective, a Concept Building Plan (one for each floor), Concept Theme Imagery for interior amenities, Concept Theme Imagery for courtyard amenities, and photograph examples of bench and refuse receptacles, streetlight, sidewalk and crosswalks, and a decorative crosswalk across a public street. The Board of Commissioners relied upon Exhibit A-2 and these "concept" documents in reaching its decision upon the Conditional Use Application.

7. The complex also includes "a fitness center, pool, two interior courtyards with benches and landscaping and other amenities, retail space, offices for buildings' management, 18-foot wide sidewalks, and some outdoor public gathering space and restaurant area." N.T. 12

8. Also marked and admitted into evidence were several review comments from the Township's professionals, and the Township Board of Commissioners relied upon these exhibits in reaching their Conditional Use decision.

9. Exhibit T-8, a letter from Gilmore & Associates, Inc. Engineering and Consulting Services, the Township's own engineer, dated January 18, 2017, stated that the firm had reviewed the proposed Conditional Use Plan for the Petrucci and JERC Partners Application and had comments on the proposed Application including the following:

a. That the Board of Commissioners should approve a rendering of proposed streetscape for the development, to ensure that it is in keeping with the intent of the Town Center District and further that "considering the limited space on-site [for stormwater management] and the redevelopment nature of the project, a creative stormwater design will be necessary and off-site improvements may be required to 'offset' the on-site impervious [coverage]. It should be noted that some waivers from strict compliance with the requirements and provisions of the current Upper Moreland Township Stormwater Ordinance will likely be necessary in order to develop the site as depicted on the Conditional Use Plan. We recommend that the Applicants review the constraints of the stormwater design with the Board during the conditional use phase to ensure the Board is supportive of the alternative approach prior to the submission of land development plans."

b. Since the Board was not given evidence of stormwater management plans for the site during the conditional use hearing, stormwater management must be submitted and approved during the land development process.

10. The Township's Traffic Engineers, McMahon Transportation Engineers & Planners, also issued a letter reviewing the project on February 28, 2017 which was marked as Exhibit T-9 and entered into evidence at the hearing. This exhibit noted that the Applicants have

proposed to create a new site access road which intersects both York Road and Davisville Road and provides direct access to the proposed structured parking garage to be utilized with the development, and McMahon Transportation Engineers & Planners noted that the Applicants propose to make improvements to York Road by providing a minimum 12-foot wide curbed ingress lane and a minimum 12-foot wide curbed egress lane and to restrict York Road and the site access road on York Road to right-in/right-out movements only; to provide a stop control along the site access road as it approaches York Road; and to provide ADA (Americans with Disabilities Act) compliant ramps and crossings for the sidewalk system crossing the site access road and a depressed curb given for the site driveway adjacent to the Enterprise Car Dealership. Other improvements proposed by the developer include a minimum 12-foot curbed ingress lane and a minimum 12-foot wide curbed egress lane on Davisville Road to provide full access to the site along with restriping on Davisville Road to provide a center-lane-for-left-turns, and installing ADA compliant ramps and crossings for the sidewalk system. The Davisville Road intersection with the access road is planned to allow left and right turns in and out of the access road.

11. The Board finds that intersectional improvements will be necessary to the signalized intersection of York Road and Easton Road/Memorial Park Drive, consisting principally of timing the signals and also to the signalized intersection of York Road and Davisville Road with extended highway improvements including widening to York Road to provide a northbound right turn lane, with installing ADA compliant ramps and crossings for the sidewalk system, as detailed in Exhibit T-9, and also that any improvements to York and Davisville Roads must consider turning radii appropriate to the traffic in the design.

12. The McMahon Transportation Engineers & Planners review letter also recommended that the Applicants' sidewalk, curb, and road improvements include installing a

missing pedestrian crossing of York Road on the north side of the SEPTA railroad tracks for access from the proposed development side of the street to the other side of York Road for annex to the Montgomery County access on the other side of the street, together with pedestrian signalization suitable for Americans with Disabilities Act purposes.

13. The McMahon Transportation Engineers & Planners review letter, labeled T-9, also calculated the Township Transportation Impact Fee at \$109,000.00, for the interim impact fee of \$1,000 for each new vehicular trip generated during the weekday afternoon peak hour, calculating the site trips at 161 trips entering and exiting during the weekday afternoon peak hour and providing a credit for 52 existing site trips, for a total of 109 net "new" trips generated by the redeveloped site.

14. AECOM, the Township's redevelopment consultant, and specifically Marion Hull, the Redevelopment Coordinator, also reviewed the Conditional Use Application and issued a review letter dated January 31, 2017 which was entered into evidence as Exhibit T-9. In pertinent part, the AECOM review letter stated that "The project is generally consistent with the Town Center (TC) Zoning and the goals and objectives of the 2012 Upper Moreland Revitalization Plan," and also that "The application appears to meet all requirements for conditional uses under the proposed zoning amendments, so the Redevelopment Coordinator recommends approval of the conditional use application."

15. Marian Hull, Township Redevelopment Coordinator, also commented, "It is the opinion of the Redevelopment Coordinator that a mid-rise apartment building with structured parking would be an asset to the Town Center and has the potential to add foot traffic to the area to support existing businesses and encourage new ones. Apartments are a transit-oriented use that could also build transit ridership in the area."

16. Before the hearing, the Township's Advisory Planning Agency (APA) met on January 19, 2017 and reviewed the Conditional Use Application. After a discussion with the Applicants and the Applicants' attorney, the Advisory Planning Agency recommended approval of the Conditional Use Application unanimously.

17. Township landscape architects, McCloskey & Faber, P.C., also issued a review letter of the Conditional Use Application and this letter, dated January 17, 2017, was entered into evidence at the hearing, and considered by the Commissioners in reaching the decision on the Conditional Use Application. In pertinent part, McCloskey & Faber, P.C. stated "We have no objection to the proposed Conditional Use," but did recommend that the Applicants provide more information with regard to their streetscape and green area proposals and further noted a concern that with the proposed building height no higher than 65 feet, rooftop mechanical equipment and other appurtenances above this height may impact views from nearby (uphill) residential properties, and recommended that "the relationship of the roof elevation and views thereof are reviewed and special treatment provided in order to provide pleasing sight lines."

18. The Board of Commissioners carefully reviewed the proposed Minno & Wasko Illustrative Perspective, noting that the Applicants' proposed design incorporates streetscape and architectural elements; wide (18 feet) sidewalks to encourage outdoor and pedestrian uses; has concealed the view of the parking garage; has proposed substantial traffic, streetscape and sidewalk improvements; and has proposed additional parking for patrons of the SEPTA Regional Rail Train Station across the street to enhance its development as a "Transit Oriented" plan.

19. The Board of Commissioners specifically took note that the Applicants propose 411 parking spaces in the structured parking garage and will reserve 20 of the spaces on the first floor for customers of the SEPTA Regional Rail Train across the street.

20. Applicants' witnesses testified that the parking garage would have an access to each floor of the apartment building, both for the convenience of the residents who are expected to park on the floor closest to their units, and to ensure that spaces would be available on the first floor for SEPTA Regional Rail customers.

21. In response to questions and comments from Upper Moreland Commissioner Joseph Lavalle, Chair of the Community Development Committee, the Applicants agreed to enhance the streetscape around the project with brick inlays on the sidewalk, rather than stamped concrete.

22. In response to questions from the audience members, the Applicants' witnesses testified that they did not expect the apartment redevelopment project to draw a lot of children, indicating that their target audience were "empty nesters" and "millennials." The Applicants' engineer testified that, in his expert opinion, that "these will be professionals and that they would not have a large number of school aged children." N.T. 20.

23. An issue arose regarding a mid-block pedestrian crosswalk from the parking garage to the SEPTA Regional Rail Station, and the Applicants agreed to install such a crosswalk, if the Pennsylvania Department of Transportation agreed to it.

24. The Commissioners and the community members who spoke evidenced a concern that the design keep a lively streetscape, make provisions for historic markers where appropriate, and praised the design element over the corner of the apartment complex for its attractiveness and pedestrian scale.

25. The Applicants' witnesses testified the four story building would not exceed 65 feet, that the entire property was now zoned TC-1 and that it had 950 feet of frontage on major roads. (N.T. 23, 36).

26. The Applicants acknowledged that a Conditional Use approval would not encompass approval of any particular stormwater management design, or signage for the complex unless that signage were strictly in accordance with the Zoning Ordinance, or, the ability to have rooftop appurtenances without addressing the concerns raised by the APA and McCloskey & Faber. The Applicants also acknowledged that sewage capacity for the development must be directed to the Upper Moreland Hatboro Joint Sewer Authority, and that the issue of deliveries and pedestrians being picked up or dropped off in front of the apartment complex must be addressed during the land development process.

27. Several members of the audience spoke up regarding the proposal and asked questions, and expressed concerns regarding traffic.

28. Jonathan DeJong, a long time member of the Township's Advisory Planning Agency, and a professional of regional planning at Temple University, indicated that he supported the project.

29. The Township's lighting consultant indicated that he had not received enough information regarding lighting for the complex to render a recommendation; accordingly, lighting also remains an issue for the land development process.

30. The Board of Commissioners finds that if the concerns raised by the Township's professionals and the Board at the hearing can be satisfactorily addressed, that the proposed redevelopment is consistent with the Township's goals for the TC-1 District and in the public interest.

II. CONCLUSIONS OF LAW

1. Under Section 913.2 of the Pennsylvania Municipalities Planning Code (MPC), the governing body, the Upper Moreland Board of Commissioners, has jurisdiction to hear an Application for Conditional Use where the Zoning Ordinance has stated Conditional Use is to be

granted or denied by the governing body pursuant to express standards and criteria. MPC Section 913.2(a).

2. Under the Upper Moreland Zoning Ordinance, as amended by Ordinance 1674, the Upper Moreland Zoning Ordinance provides that apartments, including mid-rise and high-rise apartments are permitted by conditional use in the TC Zoning District under Section 350-260B.

3. In addition, under Section 350-265, "Bonus Provisions for Conditional Uses," buildings located in the TC District and served by structured or underground parking are entitled to certain design bonuses by conditional use approval.

4. Under Section 350-266, in considering a Conditional Use Application, the Board of Commissioners is required to "consider the suitability of the property for the use desired, [and] assure itself that the proposal is consistent with the spirit, purpose, and intent of the Zoning Ordinance, Subdivision and Land Development Ordinance, the Comprehensive Plan, and any other relative plans adopted by the Board of Commissioners such as the 2007 Upper Moreland Township Comprehensive Parks and Recreations Plan, the 2003 Willow Grove Redevelopment Area Plan, and the 2003 Willow Grove Revitalization Plan as amended." Upper Moreland Township Zoning Ordinance Section 350-266A. The Board has so found.

5. The Board is also required to make other determinations including, but not limited to considering "the probable effects upon highway traffic and pedestrian movements, and assure adequate access and circulation arrangements in order to protect major roads from undue congestion and hazard." Section 350-266E.

6. Section 350-267 of the Zoning Ordinance requires the Board to consider "design standards" in approving a Conditional Use Application, and to prohibit "windowless walls, if visible from a right-of-way or vehicular or pedestrian circulation area," and to encourage the use

of "streetscaping and green areas to enhance the Town Center District." Section 350-267C and G.

7. The Zoning Ordinance specifically provides that design bonus provisions are applicable "provided that Applicant submits a traffic study with its Conditional Use Application and proposes adequate and appropriate traffic improvements and modifications to streets impacted by new traffic generated by the development."

8. The Zoning Ordinance allows for an increase of 20 feet for a total maximum building height of 65 feet in the TC-1 Town Center Zoning District provided that the building has defining characteristics "such as a clock tower, turret, or other feature deemed similar in nature by the governing body," and is "visible from two streets and located at a prominent corner such as Easton and York Roads." Section 350-265B and C.

9. The same section allows, by Conditional Use Approval, for a design to be exempt from step back requirements contained in Section 350-262A.(7) "provided that the substituted design elements are approved by the Board of Commissioners by Conditional Use in keeping with the intent of the Town Center District."

10. The same section requires that the Board find that the proposed Application include "design oriented to public streets," "building orientation and entrances oriented to a pedestrian scale and local amenities including the Willow Grove Train Station," as well as "frequent doorways and entrances to encourage a pedestrian scaled environment," and attention to be paid to the roofs, building character and facade articulation.

11. The Applicants demonstrated standing to bring the Conditional Use Application by showing it was the owner or equitable owner of all of the properties involved in the redevelopment. No one objected to the Applicants' standing.

12. No one requested party status at the hearing.

13. The Board specifically finds that the Application was advertised in accordance with law and posted as required to provide notice of the upcoming public hearing.

14. Once an Applicant for Conditional Use has met its burden of proving that the requirements of the Zoning Ordinance have been met, the Application for Conditional Use must be granted unless objectors present sufficient evidence that the proposed use has a detrimental effect on the public health, safety and welfare. *In Re Thompson*, 896 A.2d 659 (Pa. Cmwlth. 2005).

15. Moreover, an anticipated increase in traffic from a proposed use is not a sufficient reason to deny a Conditional Use. To deny a Conditional Use, "There must be a high probability that the proposed use will generate traffic patterns not normally generated by [the proposed] type of use and that this abnormal traffic will pose a substantial threat to the health and safety of the community." *Joseph v. North Whitehall Twp*, 16 A.3d 1209 (Pa. Cmwlth. 2011) citing *Orthodox Minyan of Elkins Park v. Cheltenham Zoning Hearing Board*, 552 A.2d 772, 774 (Pa. Cmwlth. 1989).

16. The Applicants' willingness to comply with the recommendations of the Township's consultants, including, but not limited to, roadway improvements, pedestrian connectivity, design elements, streetscape elements, decorative enhancements to the streetscapes, and to pay the interim traffic impact fee were all factors that influenced the Board of Commissioners' decision on the Conditional Use Application.

III. ORDER

And now, this 3rd Day of April, 2017, based on the Findings of Fact and Conclusions of Law stated herein, as well as the testimony and exhibits entered into evidence at the hearing, the Board of Commissioners of Upper Moreland Township hereby grants the Conditional Use Application of JERC Partners XXXVIII, LLC and J.G. Petrucci Co., Inc. to construct a mid-rise

apartment and mixed use development on 13 parcels with frontage on York Road, Davisville Road and Woodlawn Avenue in accordance with the testimony and exhibits at the hearing, and specifically to construct one four-story mid-rise apartment building with a height not exceeding 65 feet, containing 275 apartments including one-bedroom, two-bedroom and studio apartment units, no less than 2,000 square feet of designated office and retail space on the first floor, landscaped courtyards and pools, as well as a structured parking garage containing no fewer than 411 parking spaces, including no fewer than 20 parking spaces available for use by SEPTA Regional Rail passengers for the Willow Grove Train Station, based on the following conditions:

1. The Applicants are required to file for, and receive, land development approval in accordance with the Upper Moreland Township Zoning and Subdivision and Land Development Ordinance. The Plan ultimately submitted for subdivision and land development review shall be substantially in accordance with Exhibit A-2 entered into evidence at the Conditional Use hearing consisting of a multi-page exhibit prepared by Minno & Wasko Architects and Planners, depicting the pedestrian friendly streetscape environment, architectural characteristics such as canopies, stoops and other pedestrian-friendly streetscapes in a pleasing configuration of the apartment buildings, garage and courtyard and pool, and providing amenities as depicted in the exhibits;

2. The Applicants shall make adequate provision for stormwater management as approved by the Township Engineer during the land development review process including, if approved by the Board of Commissioners, offsite stormwater improvements in lieu of strict compliance with the Township's Stormwater Management Ordinance;

3. The Applicants will construct the improvements detailed in the letter of January 19, 2017 of McMahon Transportation Engineers & Planners, including without limitation, dedicated new right turn lanes along York Road and Davisville Road, pedestrian and traffic

signal improvements, and the payment of a transportation impact fee calculated, in accordance with the information presently available, at \$109,000.00;

4. In addition to the foregoing traffic improvements, the Applicants shall install a new pedestrian crossing on the northern leg of the signalized intersection of York Road (State Route 611) and Davisville Road in order to provide connectivity from the SEPTA Regional Rail Station on the northwest corner of the intersection to the existing commercial properties and Montgomery County Courthouse Annex on the northwest corner of the intersection;

5. Provided PennDOT approval is obtained, the Applicant will install a crosswalk on Davisville Road from the new parking garage to the SEPTA Regional Rail Station.

6. The Applicants shall install sidewalks no less than a minimum of 18 feet wide with a minimum six foot width planting strip and streetscape enhancements as proposed in the exhibits and testimony at the Conditional Use hearing, including the use of brick inlay in the sidewalk, and decorative street lighting to continue the streetscape improvements of the WAWA development west of Memorial Drive;

7. The Applicants shall provide no fewer than 20 parking spaces on the first floor of the garage accessible to passengers of the Regional Rail line and Willow Grove Train Station;

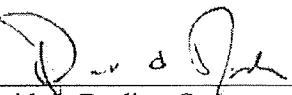
8. Nothing in this decision of the Board of Commissioners on the Conditional Use Application shall be construed as either an express or implied waiver of any provision of any applicable ordinance of Upper Moreland Township, and in particular the Upper Moreland Township's Zoning or Subdivision and Land Development Ordinance;

9. During the land development process, and to the satisfaction of the Board of Commissioners, the Applicants shall demonstrate the location, screening, and other mitigation factors for the proposed redevelopment have been designed so as to buffer neighboring residential properties from unattractive viewscapes, sounds, fumes, or disturbance;

10. This Conditional Use Decision does not guarantee land development approval of any plan for 275 apartments or 411 parking spaces in a structured parking garage unless fully engineered subdivision and land development plans for the properties demonstrate compliance with all applicable zoning and subdivision regulations of Upper Moreland Township, as well as any statute or regulation of any county, state or federal government agency having jurisdiction over the development;

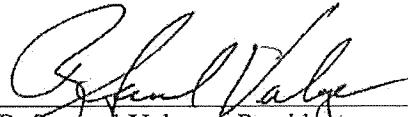
11. During the land development process, Applicant shall demonstrate that the Board of Commissioners' concerns regarding police, fire and emergency safety for the residents of the proposed complex can be satisfactorily addressed.

ATTEST:



David A. Dodies, Secretary

BOARD OF COMMISSIONERS
UPPER MORELAND TOWNSHIP

By: 

R. Samuel Valenza, President

BEFORE THE
BOARD OF COMMISSIONERS
OF UPPER MORELAND TOWNSHIP
MONTGOMERY COUNTY, PENNSYLVANIA

IN RE: JERC Partners XXXIX, LLC

APPLICATION NO.: Conditional Use # 19-0050

PREMISES: 73 N. York Road, Willow Grove, PA 19090

APPLICATION: Conditional Use Addendum: Mid-Rise Apartment-Office/Commercial Building in the Town Center District

MEMBERS PRESENT: Kevin C. Spearing, President
Charles M. Whiting, Commissioner
Joseph Lavalle, Commissioner
Cheryl Lockard, Commissioner
R. Samuel Valenza, Commissioner
Nick Scull, Commissioner
Clifton McFatridge, Commissioner

DECISION AND ORDER

FINDINGS OF FACT

1. This conditional use application (the “Application”) involves the property located at 73 N. York Road, Willow Grove, PA 19090 in the Town Center Zoning District, Montgomery County Tax Parcel Number 59-00-19807-00-6 (the “Property”).

2. The Applicant, JERC Partners XXXIX, LLC (the “Applicant”) was previously granted conditional use approval pursuant to Upper Moreland Township Resolution R-2017-09, as well as lot consolidation and land development approval by the Board of Commissioners to construct a mixed used, mid-rise apartment and office/commercial development with a parking garage/structure, more commonly known as the “Station at Willow Grove” (the “Development”).

3. Section 350-260.A. of the Zoning Ordinance permits mixed use structures containing two or more permitted or conditional uses and Section 250-260.B permits apartments, mid or high rise, by conditional use in the Township’s Town Center Zoning District.

4. Section 350-275.B.(1) of the Zoning Ordinance requires sidewalks along all street frontages within the Town Center District; said sidewalks must be a minimum width of 12 feet, and a planting strip is required between the curb and the sidewalk and shall be a minimum width of 6 feet dedicated to street trees, decorative paving, and/or landscaping. The total distance between the curb and the building front shall be a minimum of 18 feet.

5. The Applicant has undertaken the construction of the Development and is nearing completion of the project. (*See* Conditional Use Application and N.T. 10/7/19 at p. 7).

6. Due to unforeseen circumstances during the installation of certain attractive (offsetting) façade elements on the front of the building, and a miscalculation, at certain discrete points along the frontage of the project building which encroaches York Road there is a minimum sidewalk width of under 12 feet and therefore the 18 total feet of space between the building and curb as required by condition no. 6. of Resolution R-2017-09 and Section 350-275.B.(1) of the Application is not met “as built”. (*See* Conditional Use Application and N.T. 10/7/19 at pp. 7-8).

7. On August 26, 2019, Applicant filed a conditional use addendum application seeking a modification of condition no. 6 of the conditional use approval granted by Resolution R-2017-09 to allow the front yard sidewalk width of the project Building to be shown as depicted on the Applicant’s “as built” plan.

8. The Applicant concurrently with the Application submitted for and received from the Zoning Hearing Board a variance from Section 350-275.B.(1) for the “as-built” condition of the sidewalk on September 12, 2019 (*See* N.T. 10/7/19 at p. 9).

9. The Applicant’s engineer, William R. Rearden, of Bohler Engineering testified on behalf of the Applicant; no objectors testified in opposition to the Application. (*See* N.T. 10/7/19 at p. 10).

10. Mr. Reardon testified that all streetscape enhancements “as-built” at the Development are consistent with the Conditional Use renderings originally presented along with the Land Development Plans other than the dimensions of the sidewalk at certain discrete points. (*See* N.T. 10/7/19 at pp. 11-12).

11. Mr. Reardon testified that the “as-built” plan contains the required 6 foot wide landscaping planting strip along the curb of the Development, that all areas along Davisville Road contain the required 12 feet of sidewalk, and that along York road there are areas where the sidewalk contains the required 12 feet. (*See* N.T. 10/7/19 at pp. 13-14).

12. Mr. Reardon testified that “as built” there are certain areas along York Road where a stoop or foundation planting bed jut out leaving an area of 7½ feet of sidewalk for pedestrians to get past, and that as a result, these portions of sidewalk when combined with the 6 foot-wide planting strip total slightly less than the required 18 total feet of space between the building and curb as required by condition no. 6. of Resolution R-2017-09 and Section 350-275.B.(1). (*See* N.T. 10/7/19 at p. 14).

13. Mr. Reardon testified that the 7 ½ feet of sidewalk along these certain sections of York Road provide adequate space for pedestrian access and accessibility and will not have any negative or detrimental impact on pedestrians either utilizing the sidewalk in the area or from a general safety standpoint. (*See* N.T. 10/7/19 at pp. 14-15).

14. Mr. Reardon testified that Applicant will comply with the Conditional Use Comments and Recommendations set forth in the review letters issued by Township, detailed below (See N.T. 10/7/19 at p. 5, identified as Exhibits T6-12 at hearing):

- a. The October 2, 2019 Review Letter issued by Township Engineer, Gilmore & Associates; (See N.T. 10/7/19 at p. 5)
- b. The October 2, 2019 Review Letter issued by Township Landscape Architect, McCloskey & Faber; (See N.T. 10/7/19 at p. 5)
- c. The September 11, 2019 Review Letter issued by the Montgomery County Planning Commission; and (See N.T. 10/7/19 at p. 5)
- d. The September 19, 2019 Recommendations contained in the minutes of the Upper Moreland Township Advisory Planning Agency. (See N.T. 10/7/19 at p. 5).

15. The Applicant has also agreed to the Board of Commissioners condition that Applicant shall provide three (3) picnic tables to the Upper Moreland Township for placement in Veterans Park, as approved by Township staff. (See N.T. 10/7/19 at p. 25)

CONCLUSIONS OF LAW

1. Section 350-260.A. of the Zoning Ordinance permits mixed use structures containing two or more permitted or conditional uses and Section 250-260.B permits apartments, mid or high rise, by conditional use in the Township's Town Center Zoning District.

2. Section 350-275.B.(1) of the Zoning Ordinance requires sidewalks along all street frontages within the Town Center District, said sidewalks must be a minimum width of 12 feet, and a planting strip is required between the curb and the sidewalk and shall be a minimum width of 6 feet dedicated to street trees, decorative paving, and/or landscaping. The total distance between the curb and the building front shall be a minimum of 18 feet.

3. Applicant, as the legal owner of the Property, possesses standing to apply for the conditional use. *See 53 P.S. § 10107.*

4. A conditional use applicant bears the burden of establishing that the proposed conditional use satisfies the criteria in the municipality's zoning ordinance. *Kretschman Farm, LLC v. Twp. of New Sewickly*, 131 A.3d 1044, 1053 (Pa. Commwth. Ct. 2016).

5. "The fact that a use is permitted as a conditional use evidences a legislative decision that the particular type of use is consistent with the zoning plan and presumptively consistent with the health, safety and welfare of the community." *In re Cutler Group, Inc.*, 880 A.2d 39, 42 (Pa. Commw. Ct. 2005).

6. A township's governing body is the fact-finder at conditional use proceedings, charged with the responsibility of determining credibility and the weight to assign the evidence. *Kretschmann Farm*, 131 A.3d at 1053.

7. If a conditional use applicant persuades a township's board of commissioners that the application complies with the zoning ordinance, a presumption arises that the proposed use is consistent with the general welfare of the community; the burden then shifts to objectors to rebut the presumption by proving that there is a high degree of probability the proposed use will adversely affect the welfare of the community in a way not normally expected from the type of use, and that those impacts would pose a substantial threat to the health and safety of the community. *See Kretschmann Farm*, 131 A.3d at 1053; *In re Cutler Group, Inc.*, 880 A.2d at 43; *Allegheny Tower Assocs., LLC v. City of Scranton Zoning Hearing Bd.*, 152 A.3d 1118, 1125 (Pa. Commw. Ct. 2017).

8. "Pointedly, a conditional use application must be granted unless objectors present sufficient evidence that the proposed use has a detrimental effect on the public health, safety and welfare." *Kretschmann Farm*, 131 A.3d at 1053.

9. The Upper Moreland Township Board of Commissioners (the "Board") finds that Applicant demonstrated through testimony and evidence that the proposed use satisfies the general standards for Board review of conditional use applications, set forth in §350-266 of the Zoning Ordinance.

10. No objectors appeared at the hearing to present evidence that the proposed use would detrimentally affect the public health, safety and welfare of the Township.

11. Therefore, absent evidence presented by objectors that the proposed use has a detrimental effect on the public health, safety and welfare of the Township, the Board must grant the Applicant's requested conditional use.

BEFORE THE
BOARD OF COMMISSIONERS
OF UPPER MORELAND TOWNSHIP
MONTGOMERY COUNTY, PENNSYLVANIA

IN RE: JERC Partners XXXIX, LLC

APPLICATION NO.: Conditional Use # 19-0050

PREMISES: 73 N. York Road, Willow Grove, PA 19090

APPLICATION: Conditional Use Addendum: Mid-Rise Apartment-Office/Commercial Building in the Town Center District

MEMBERS PRESENT: Kevin C. Spearing, President
Charles M. Whiting, Commissioner
Joseph Lavalle, Commissioner
Cheryl Lockard, Commissioner
R. Samuel Valenza, Commissioner
Nick Scull, Commissioner
Clifton McFatridge, Commissioner

ORDER

AND NOW, this 12th day of November, 2019, upon consideration of Applicant JERC Partners XXXIX, LLC's conditional use application #19-0050 and testimony presented at the October 7, 2019 Conditional Use Hearing, the Upper Moreland Township Board of Commissioners hereby grants Applicant's conditional use approval to allow for the front yard sidewalk of the project building on York and Davisville Road to be as shown on the "as built" plan. (the "Use"), subject to the following conditions:

1. The Use shall comply with the testimony and evidence presented at the October 7, 2019 Conditional Use Hearing; and

2. Applicant shall comply with the Conditional Use Comments set forth in the Review Letters issued by the following, incorporated by reference herein:

- a. The October 2, 2019 Review Letter issued by Township Engineer, Gilmore & Associates;
- b. The October 2, 2019 Review Letter issued by Township Landscape Architect, McCloskey & Faber;
- c. The September 11, 2019 Review Letter used by the Montgomery County Planning Commission; and

d. The September 19, 2019 Recommendations contained in the minutes of the Upper Moreland Township Advisory Planning Agency. (See N.T. 10/7/19 at p. 5).

3. The Applicant shall provide three (3) picnic tables to the Upper Moreland Township for placement in Veterans Park as approved by Township staff.

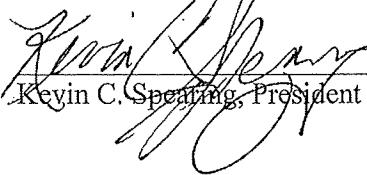
ATTEST:



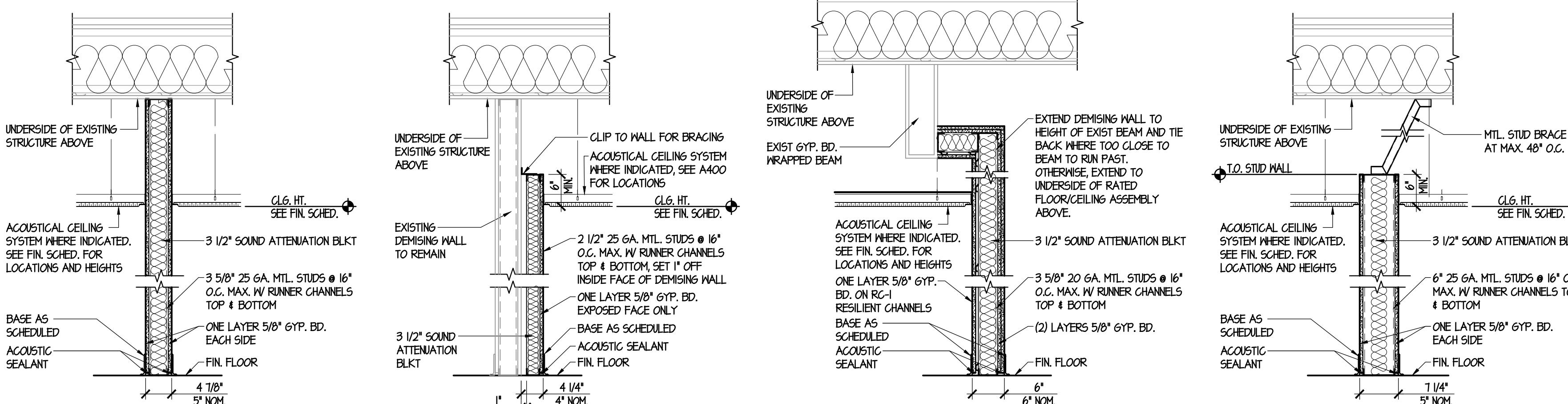
David A. Dodies, Secretary

Date: 11/12/19

UPPER MORELAND TOWNSHIP
BOARD OF COMMISSIONERS


Kevin C. Spearling, President

PARTITION TYPES



1 RATING: NONE REQUIRED
MTL STUDS TO UNDERSIDE OF STRUCTURE
INSULATED PARTITION

1A RATING: NONE REQUIRED
SAME AS TYPE I EXCEPT: 3
NO INSULATION REQUIRED AND
GYP. BD. TO 6" ABOVE CEILING
3

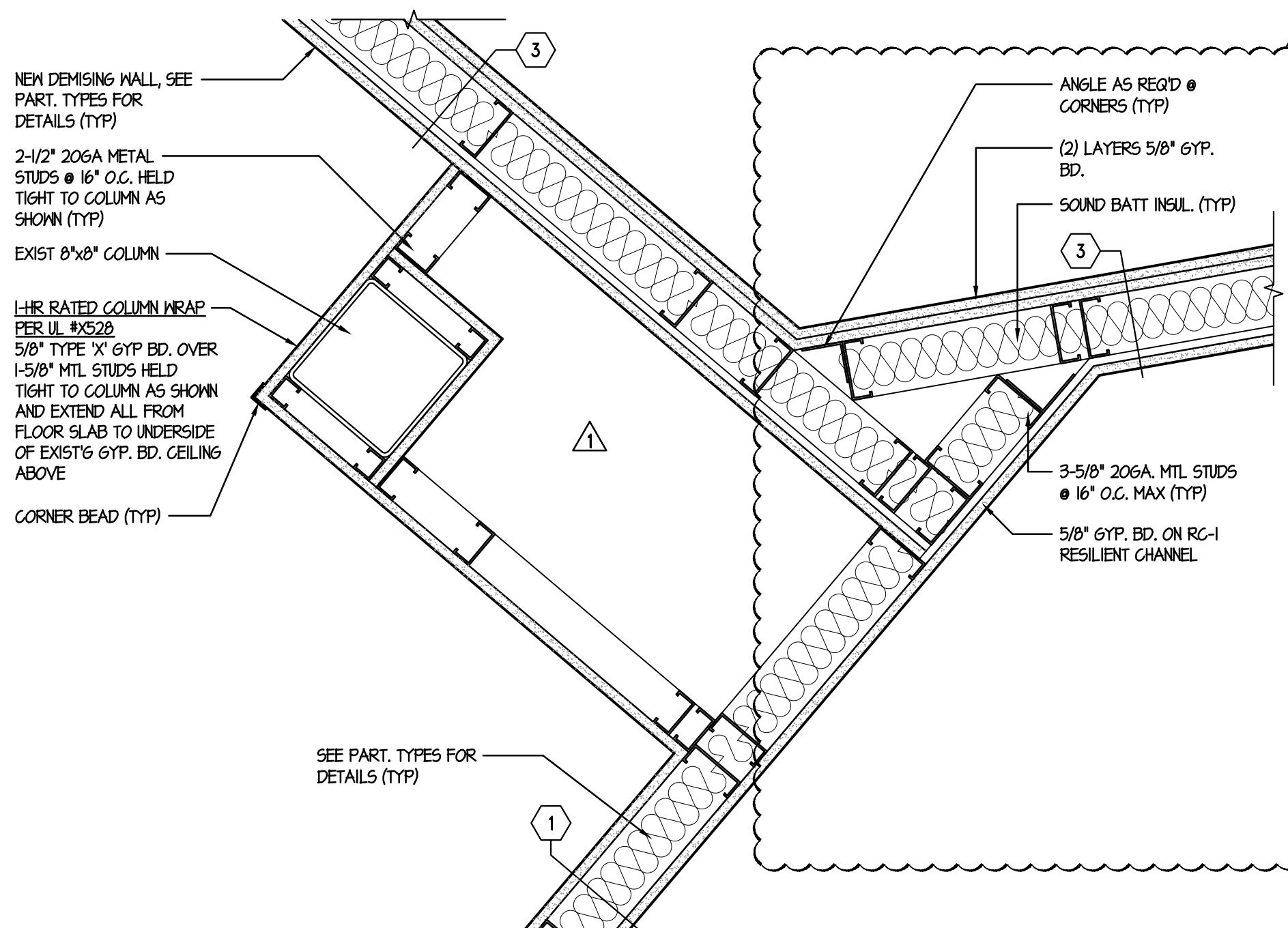
2 RATING: NONE REQUIRED
MTL STUD FURRING TO 6" ABOVE C
INGULATED PARTITION

3 RATING: NONE REQUIRED
MTL STUDS TO EXIST STRUCTURE AT
DEMISING WALL

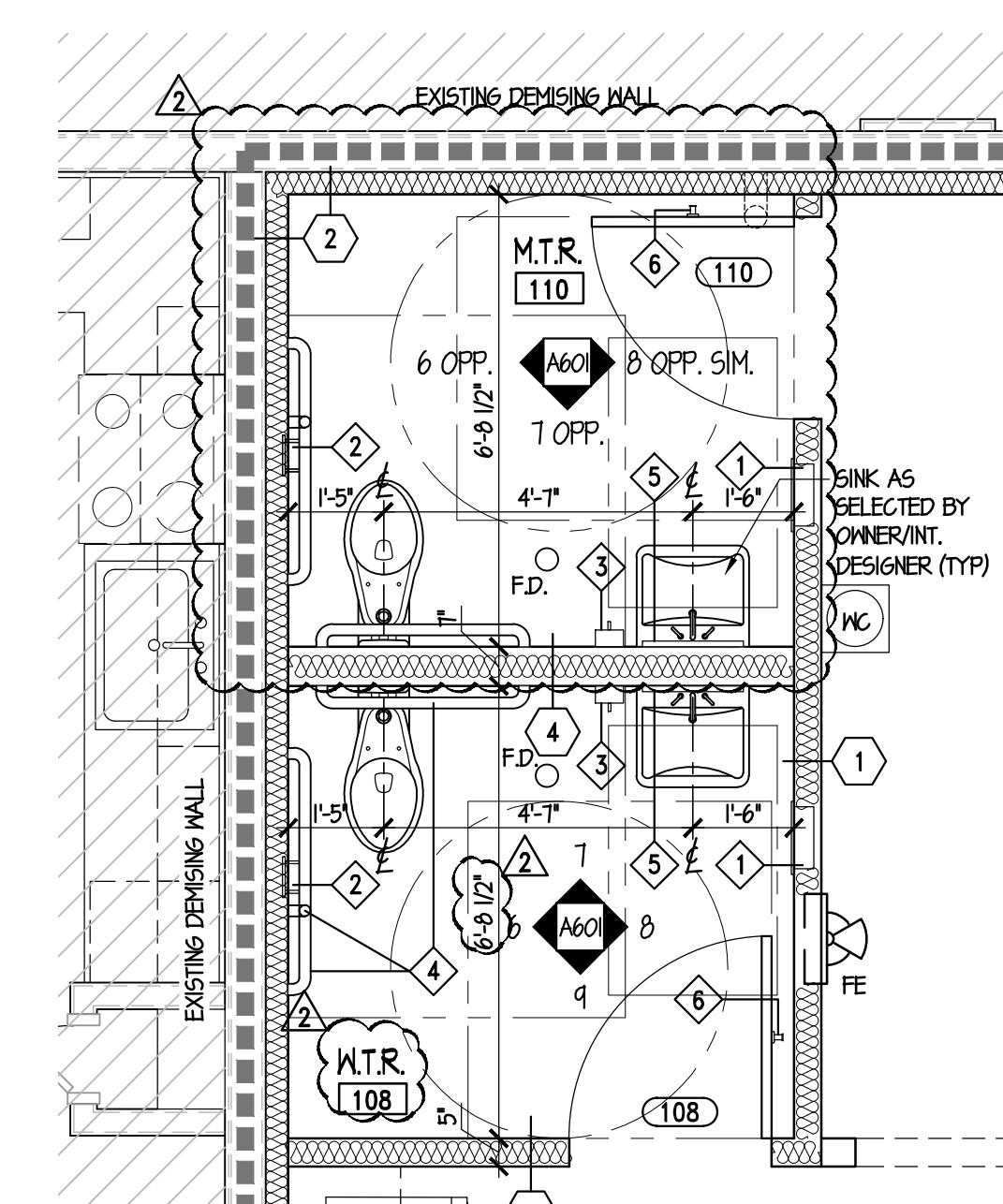
4 RATING: NONE REQUIRED
MTL STUDS TO 6" ABOVE CLG
INSULATED PLUMBING PARTITION

GENERAL PARTITION

1. SIZE & GAUGE OF STUDS LISTED SHALL BE AS DETERMINED BY MANUFACTURER'S HEIGHT LIMITATIONS FOR NON-BEARING INTERIOR WALLS, 5 PSF WIND LOAD & L/240 MIN. DEFLECTION.
2. PROVIDE WATER RESISTANT GYPSUM BOARD AT ALL WET AREAS.
3. PROVIDE CONTROL JOINTS IN GYPSUM WALLS AT 30'-0" MAX INTERVALS IN BOTH DIRECTIONS.
4. TOP OF WALLS TO BE BRACED AS REQUIRED @ 4'-0" O.C. MAX
5. PROVIDE SOLID WOOD BLOCKING AS REQUIRED FOR PLUMBING FIXTURES, GRAB BARS AND ALL MILLWORK INCLUDING COUNTERS & CABINETS. BLOCKING AT GRAB BARS SHALL WITHSTAND A MINIMUM PULL-OUT FORCE OF 250LBS IN ANY DIRECTION AS PER CODE.



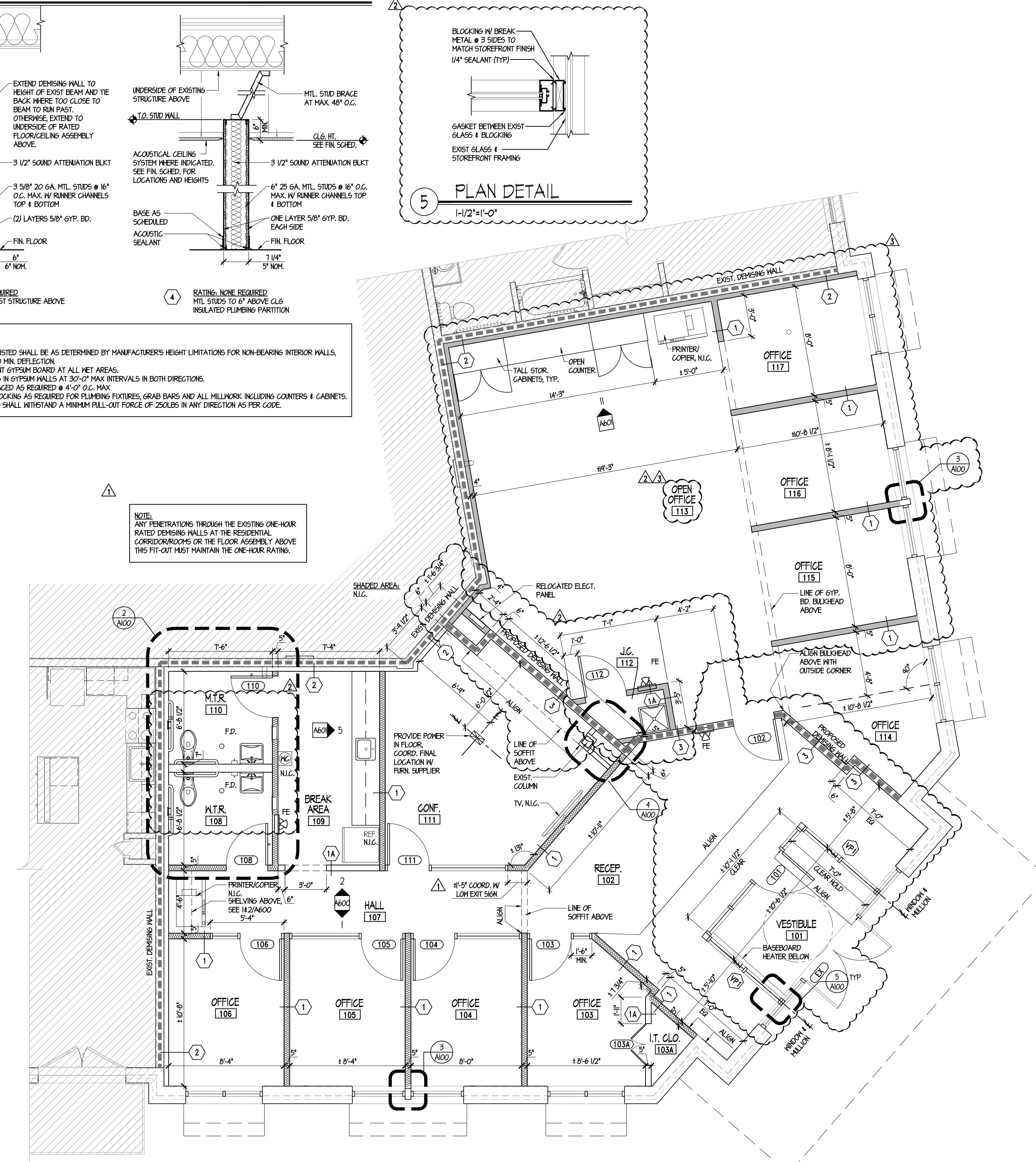
④ COLUMN WRAP DETAIL



This technical drawing illustrates a window wall assembly. The top section shows a vertical wall with a window frame. Labels indicate the 'LINE OF GYP. BD.' and 'WALL BENEATH'. The window frame is labeled 'EXIST ALUM. WINDOW FRAME (TYP)'. The right side of the drawing shows a cross-section of the wall, featuring a vertical column of 'BLOCKING AS REQ'D (TYP)'. A 'J-BEAD (TYP)' is shown at the top of the column. A '1/4" SEALANT (TYP)' is applied to the joints. The bottom section shows a horizontal wall with a window frame, with a label 'WALL & BLOCKING' at the bottom center.

3 PLAN DETAIL

② ENLARGED T.R. P



224 COURTYARD DRIVE
HILLSBOROUGH, NJ 08844
PHONE 908.685.7700 | FAX 526.3019

NEW OFFICE SPACE

FLOOR PLANS & DETAILS

DATE	COMMISSION
<u>29 MAR 21</u>	<u>19017</u>
DRAWN BY	REVISION
<u>LL/AM</u>	
CHECKED BY	
<u>BTC</u>	
SHEET	DRAWING

A|00

This drawing and all information contained herein is authorized for use only by the party for whom the work was contracted or to whom it is certified. This drawing may not be copied, reused, disclosed, distributed or relied upon for any other purpose without the written consent of Cermirara Architect.
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REVISION

REV#	DATE	DESCRIPTION
0	29 MAR 21	ISSUED FOR BULDING PERMIT
1	22 APR 21	PLAN REVIEW COMMENTS REVISIONS
2	04 JUN 21	GENERAL COORDINATION
3	02 SEP 21	FUTURE EXPANSION T1

Page 1 of 1



September 27, 2022

File No. 15-09070

Paul Purtell, Code Enforcement Director
Upper Moreland Township
117 Park Avenue
Willow Grove, PA 19090

Reference: 91 N. York Road
Station at Willow Grove (JERC Partners)
Conditional Use Review

Dear Paul:

Pursuant to your request, Gilmore & Associates, Inc. has reviewed the submitted Conditional Use Application for the above-referenced project.

Upon review, there are no site related improvements proposed and we understand the Applicant's request is to allow for Office Use within the building where Retail was previously approved by the Board. As such, we have no objection to the proposal as this is ultimately a Board of Commissioners decision.

If you have any questions regarding the above, please contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read 'James J. Hersh'.

James J. Hersh, P.E.
Senior Project Manager
Gilmore & Associates, Inc.

JJH/

cc: Mathew Candland, Township Manager
Sean Kilkenny, Esq., Township Solicitor
Kim Flanders, RLA, McCloskey & Faber, PC
Chad Dixon, P.E., McMahon & Associates
Andrew Freimuth, Esq., Wisler Pearlstine, LLP



McCloskey & Faber, P.C.

Landscape Architecture • Land Planning • Graphic Design

September 20, 2022

Mr. Paul E. Purtell
Director, Code Enforcement
Upper Moreland Township
117 Park Avenue
Willow Grove, PA 19090

RE: Conditional Use Review for 91 N. York Road
Station at Willow Grove (JERC Partners)
Upper Moreland Township, Montgomery County, PA, M&F Project No. 215

Dear Mr. Purtell:

We are in receipt of an Application for Conditional Use and Architectural plans, received by our office on August 16, 2022.

We have no objection to the modification of the previously approved Conditional Use to permit Office use instead of Retail use as presented in the Application.

Please contact us if you have any questions regarding our recommendations noted above.

Very truly yours,

Kimberli J. Flanders, R.L.A.

cc: Matt Candland, Township Manager, Upper Moreland Township (email)
Jim Hersh, P.E., Gilmore & Associates (email)
JERC Partners XXXVII LLC, Applicant, c/o George Reeves (email)
James J. Garrity, Applicant's representative (email)
James R. Faber, ASLA, Township Landscape Architect (email)



August 26, 2022

Mr. Paul Purtell
Director of Code Enforcement
Upper Moreland Township
117 Park Avenue
Willow Grove, PA 19090

RE: **Traffic Review – Proposed Amendment to Condition Use Decision**
Station at Willow Grove
Upper Moreland Township, Montgomery County, PA
McMahon Project No. 822919.11

Dear Paul:

Per the request of the Township, McMahon Associates, Inc. (McMahon) has prepared this letter that summarizes our traffic engineering review of the conditional use application dated August 11, 2022 for the Station at Willow Grove located at 91 North York Road (S.R. 0611) in Upper Moreland Township, Montgomery County, PA. Based on our review of the application submitted, we do not have any traffic related comments pertaining to the proposed amendment.

We trust that this review letter responds to your request and satisfactorily addresses the traffic issues that are related to the conditional use application apparent to us at this time. If you or the Township have any questions or require clarification, please contact me.

Sincerely,

Chad Dixson, AICP, PP
Senior Project Manager

cc: Matthew Candland, Upper Moreland Township Manager
Jim Hersh, P.E., Gilmore & Associates

\\WMFTWFS\mcm\eng\UPPERMO1\822919 - Station at Willow Grove CU\2022-08-26 Review Letter #1 - Station at WG CU.docx

**MONTGOMERY COUNTY
BOARD OF COMMISSIONERS**

VALERIE A. ARKOOSH, MD, MPH, CHAIR
KENNETH E. LAWRENCE, JR., VICE CHAIR
JOSEPH C. GALE, COMMISSIONER



**MONTGOMERY COUNTY
PLANNING COMMISSION**

MONTGOMERY COUNTY COURTHOUSE • PO BOX 311
NORRISTOWN, PA 19404-0311
610-278-3722 • FAX: 610-278-3941
WWW.MONTCPA.ORG

SCOTT FRANCE, AICP
EXECUTIVE DIRECTOR

August 23, 2022

Mr. Paul Purtell, Director, Planning, Zoning & Inspections
Upper Moreland Township
117 Park Avenue
Willow Grove, Pennsylvania 19090-3215

Re: MCPC #22-0218-001
Plan Name: 91 N. York Road
(1 lot comprising approximately 5.39 acres)
Situate: N. York Road (cross street: Davisville Road)
Upper Moreland Township

Dear Mr. Purtell:

We have reviewed the above-referenced conditional use proposal as you requested on August 16, 2022. We forward this letter as a report of our review.

BACKGROUND

The applicant, JERC Partners XXXIX, LLC, is proposing a modification to the conditional use approval for the Station at Willow Grove to permit office use on the ground floor. The property is located in the TC Town Center District, which permits mid- or high-rise apartment buildings by conditional use. The development is complete and residential units are rented; however, the applicant has been unsuccessful in finding a tenant for the required commercial portion of the building.

The applicant was granted conditional use approval in 2017 and in 2019, to approve a modification to the Board Resolution. The conditional use approval currently states that the space must be used for office and retail (as per § 350-260.B(1)). The applicant is requesting a modification of the prior Conditional Use Approval language to permit "office *or* retail" as opposed to "office *and* retail," which would allow the ground floor space to be occupied exclusively by office use.

COMPREHENSIVE PLAN COMPLIANCE

- A. *MONTCO 2040* – The proposed modifications to the conditional use approval is generally consistent with *MONTCO 2040: A Shared Vision*, which designates the area as "Regional Mixed Use Center" future land use category. Regional Mixed Use centers typically generate an abundance of traffic, jobs, and overall activity. These centers are intensely developed suburban cores with significant office, retail, and residential land uses. Land uses should be mixed, and developments and public improvements should make it easier to walk to public transportation and other parts of the center.



B. *Upper Moreland 2040 Comprehensive Plan* – The Station at Willow Grove is located in an area identified as the Town Center future land use category. Development in the Town Center should be a dense, intense, and transit- and pedestrian-oriented area, exhibiting high-quality design.

RECOMMENDATION

The Montgomery County Planning Commission (MCPC) generally supports the applicant's proposal; however, in the course of our review we have identified the following considerations that the applicant and township may wish to consider prior to granting the proposed conditional use modification. Our comments are as follows:

REVIEW COMMENTS

STREETSCAPE ACTIVATION

The applicant's experience of being unable to find a tenant for the required amount of commercial space is becoming a more common challenge. Many municipalities require a certain percentage of ground-floor commercial with the intent of using commercial uses/tenants to generate streetscape activity and enliven downtowns and town centers. However, as the amount of vacancies grows, it is important to consider how to activate these areas with other uses to create the same lively effect.

- A. Flexibility in Permitted Uses. As stated in the background section of this letter, above, 50% of commercial space is required for the first floor of a building located on York, Easton, and Davisville Roads as part of the conditional use approval for mid- and high-rise apartment buildings in the Town Center District. In general, the township may wish to consider what constitutes active ground-floor uses, as well as how creating a more flexible requirement could help to encourage activity, not only in the Town Center District, but also in other districts where more pedestrian activity is desired. Ground-floor requirements could include uses like makerspaces for local artisans, day care centers, micro-breweries, community spaces, and educational and medical uses, among others.
- B. Office Uses. Offices bring workers and customers to the area and can help support local businesses and restaurants. If the township supports ground-floor office uses, we recommend that the township ensure that the façade is not altered in a way that would make it less suitable for easy conversion to retail or restaurant space in the future. The township could make a condition of approval that the window and door area on the façade not be reduced and also require that the front door to be usable during business hours.
 1. The township could consider permitting office and community service uses which seek to draw regular clients or students (such as professional offices, educational/training centers, day care centers), but which preclude office uses that do not (such as call centers).

ZONING UPDATE

The township is currently working with the Montgomery County Planning Commission on a comprehensive zoning update, which would include updates to the Town Center Zoning Districts. The township may wish to consider adding acceptable uses to areas that currently have a ground-floor retail requirement. The uses should be those that activate the building space and street frontage while adding a reasonable amount of pedestrian activity.

CONCLUSION

We wish to reiterate that MCPC generally supports the applicant's proposal but we believe that our suggested revisions will better achieve Upper Moreland's planning objectives for development in the Town Center District.

Please note that the review comments and recommendations contained in this report are advisory to the municipality and final disposition for the approval of any proposal will be made by the municipality.

Sincerely,



Claire Warner, Senior Community Planner

cwarner@montcopa.org – 610-278-3755

c: James J. Garrity, Esq., Applicant's Representative
Gerald Foley, Chair, Township Advisory Planning Agency
Matt Candland, Manager, Upper Moreland Township

Addressee's Name

- Attachment A -

Date

ATTACHMENT(S) A, B, C, ETC.

Note: All review letters must include a reduced copy of the plan of subdivision or land development as an attachment. For zoning map amendments a reduced copy of the location map shall also be included as an attachment. All other documents, such as aerials, redesigns, photographs, county models, etc., shall be included at the back of the letter as separate attachments that are referenced in the body of the letter.