

**RESOLUTION NO. 37-2023**

\*\*\*\*\*

**Resolution approving Zoning Map Amendment from R-PUD (Residential Planned Unit Development), C-PUD (Commercial Planned Unit Development District) and R-1A (Suburban Residence District) to C-PUD (Commercial Planned Unit Development) and Preliminary Development Plan for Case #ZMA05-23 – West Chester Plaza – Kroger MarketPlace**

**WHEREAS**, on September 29, 1986, the Butler County Commissioners approved an R-PUD District and Preliminary Development Plan for a development of a church, school, recreation area, retirement center and a 86,000 square feet retail center, which included a Kroger grocery store on approximately 67 acres; and,

**WHEREAS**, on October 3, 1988, the Butler County Commissioners approved a Major Change to the PUD, which eliminated a proposed school building and some of the open space and recreation area and included the addition of approximately 96,000 square feet of commercial use and one outlot along Tylersville Road; and,

**WHEREAS**, on June 21, 2023, Anne McBride submitted an application requesting a Zoning Map Amendment from C-PUD (Commercial Planned Unit Development District), R-PUD (Residential Planned Unit Development District) and R-1A (Suburban Residence District to C-PUD (Commercial Planned Unit Development District) and a Preliminary Development Plan for approximately 118,337 square foot Kroger Marketplace retail/ grocer; 15,017 square foot multi-tenant retail building; a 9,275 retail building; and two open space lots for future development on approximately 28.5 acres; and,

**WHEREAS**, on July 11, 2023, the Butler County Planning Commission conducted a public hearing for the aforesaid application and recommended approval; and,

**WHEREAS**, on July 17, 2023, the West Chester Township Zoning Commission conducted a public hearing for the aforesaid application and recommended approval; and,

**WHEREAS**, by advertisement, a public hearing for the aforesaid application was conducted before the West Chester Township Board of Trustees on August 22, 2023, as applied for by Anne McBride; and,

**WHEREAS**, all those present for the hearing who wished to be heard voiced their opinions with respect thereto; and,

**NOW THEREFORE, BE IT RESOLVED** that on the basis of the above actions and findings, the West Chester Township Board of Trustees hereby approve the Zoning Map Amendment from C-PUD (Commercial Purpose Planned Unit Development District), R-PUD (Residential Planned Unit Development) and R-1A (Suburban Residence District) to C-PUD (Commercial Planned Unit Development District) and the corresponding Preliminary Development Plan with the following conditions:

**SECTION 1.** The permitted uses shall include the following principally permitted uses of the West Chester Township Zoning Resolution's (WCTZR) O-1, O-2, B-1, and B-2, Districts, Articles 18.021, 18.022, 18.023, 18.027, 19.022, 19.026, 19.027, 19.028 (excluding hospitals), 21.022, 21.023, 21.024, 21.028, 21.032, 22.022 (as accessory to the primary retail use and as illustrated on the Preliminary Development Plan (PDP)) and 22.0210 (excluding night clubs and only within Retail Building B as illustrated on the PDP and subject to Final Development Plan (FDP) approval).

- *Public and non-profit parks, Office buildings, Banks, Daycare centers, Public buildings, Research facilities, Art galleries/studios, Veterinarian offices, Medical offices, Convenience business, Personal service business, Restaurants, Fast-casual restaurants, Private clubs, Outdoor dining areas, One (1) accessory automobile fuel station, and One (1) Drive-thru restaurant.*

**SECTION 2.** A Traffic Impact Study (TIS) shall be approved by West Chester Township (WCT) prior to all subsequent FDP. All recommendations of the approved TIS and suggestions of the Butler County Engineer's Office (BCEO), as approved by WCT, shall be incorporated into each corresponding FDP to the extent said requirements are necessary as a result of traffic generated by the subject site.

**SECTION 3.** A vehicular cross-access agreement between the property owners of Parcels M562018000006 and M5620180000037, which corresponds to the proposed shared access drive to the signalized intersection of Cox Road and the proposed "Main Access Drive" for the subject site, shall be agreed upon by both property owners. The easement agreement shall be recorded with the Butler County Recorder's Office and a copy of the recorded easement agreement shall be provided prior to the issuance of a zoning certificate.

**SECTION 4.** All public right-of-way dedications, to include access ways, internal roads, and pedestrian facilities shall be coordinated and constructed as

required by the BCEO and WCT standards for public roads. Additionally, parking shall be prohibited on all public roadways during snow events.

**SECTION 5.** The portion of Parcel M5610-014-000-063, which is not included in the subject site, shall be split off and consolidated into the adjacent lot for retainment of the existing access way to that lot prior to the issuance of a zoning certificate. The FDP shall reflect this requirement and illustrate it when submitted, as well. In the event this portion of Parcel M5610-014-000-063 is not split off, existing easements shall be maintained.

**SECTION 6.** A draft Reciprocal Easement Agreement (REA) document shall be provided at the FDP stage. The REA shall provide legal vehicular cross-access throughout the C-PUD district and to adjacent properties.

**SECTION 7.** Detailed site civil engineering plans, including grading plans and stormwater drainage plans and calculations shall be coordinated with the BCEO at the FDP stage.

**SECTION 8.** A recirculating pump and fountain feature shall be installed within the retention basin, which shall be consistent with the requirements of the OEPA Rainwater and Land Development Manual, in order to mitigate any detrimental effects due to stagnate waters.

**SECTION 9.** Detailed water and sanitary sewer main installation and sanitary lateral plans shall be coordinated with the Butler County Water and Sewer Department at the FDP stage to include the following:

- a) Existing private fire service to be properly abandoned;
- b) All unused services from the lot consolidation process to be properly abandoned; and
- c) Existing ERU's associated with this site shall remain.

**SECTION 10.** A high water table note shall be required to be added to any final plat if the basements are constructed.

**SECTION 11.** A food facility plan shall be submitted to the Butler County Health Department for all new facilities at the permitting stage.

**SECTION 12.** The applicant shall coordinate with the West Chester Township Fire Department (WCTFD) at the permitting stage in regard to access ways and internal roadways; connections and locations of fire hydrants; fire lane

requirements; and all other applicable building and fire codes, to specifically include the following:

- a) All roadways must support weight of safety service vehicles and meet safety service vehicle turning radius requirements;
- b) Underground fire protection water main shall be a looped system and have isolation valves in locations approved;
- c) Private fire hydrants shall be installed with National Standards threads;
- d) Each building shall have an independent, dedicated Fire Department connection with location approved and individual post indicator valves to isolate fire protection;
- e) All structures shall be located within 400 feet of a fire hydrant;
- f) The street names will need to be submitted for approval at the FDP or permitting stage;
- g) All roads between 20 and 26 feet in width shall be posted "No Parking-Fire Lane." Any streets between 26 and 30 feet in width shall be posted "No Parking -Fire Lane" one on side of the streets;
- h) Additional fire lanes shall be coordinated with the Fire Department at the FDP stage;
- i) Timeline expectations for fire safety, protection and access shall be coordinated at the permitting stage;
- j) Construction shall comply with all applicable fire codes and standards;
- k) No landscaping or vegetation shall extend into drivable areas, including a 13' 6" minimum canopy clearance for mature trees; and
- l) No landscaping or vegetation shall be permitted to be planted or have mature growth within 3 feet or 3 feet above a fire hydrant.

**SECTION 13.** The parking ratios shall only be approved at the FDP stage. A parking matrix for each site shall be provided for each FDP, which meets the WCTZR parking requirements.

**SECTION 14.** The amount of open space shall only be approved at the FDP stage. The percentage of open space for the overall PUD site shall be noted on the initial FDP and the percentage of open space shall be noted for each subsequent FDP site.

**SECTION 15.** Any open space lots shall be designated as such on the record, subdivision plat.

**SECTION 16.** Building setbacks shall be approved at the FDP stage.

**SECTION 17.** Colored building elevations for each building wall shall be provided at the FDP stage.

**SECTION 18.** All building walls shall contain a minimum of 50% high-quality masonry materials.

**SECTION 19.** Detailed floor plans shall be provided at each FDP stage.

**SECTION 20.** Outdoor seating area plans shall be provided at each FDP stage. A minimum of four (4) feet shall be maintained between the back of street curb and the seating area to ensure adequate pedestrian circulation.

**SECTION 21.** Outdoor display and sales shall only be permitted for the Kroger building and accessory uses of the Kroger site, subject to the following conditions:

- a) Limited to areas under a permanent canopy, awning or roof that is attached to the principle building, as long as a five (5) foot pedestrian walkway is maintained at all times;
- b) Display area shall not exceed 50% of the building's length of any wall adjoining the display areas location;
- c) Any outdoor display sales at the fuel center shall be reviewed at the FDP stage and shall only be permitted if it is very limited in nature and incorporated into the design of the kiosk.

**SECTION 22.** Any dumpster locations and dumpster enclosure details shall be provided at each FDP stage. The enclosures shall be pursuant to the West Chester Township Zoning Resolution (WCTZR), Articles 10.031 and 20.043. The enclosure(s) shall be consistent with the high-quality, masonry building materials of the principle building. Dumpster enclosures shall not be located along the public frontages and in a manner to reduce detrimental impacts to residents.

**SECTION 23.** Trash compaction and collection for the Kroger MarketPlace shall only occur between the hours of 6:00 AM and 9:00 PM.

**SECTION 24.** A detailed landscaping plan shall be provided at the FDP stage, which consists of adequate landscape screening of the adjacent residential district; any building rear wall that is highly visible from the roadways; throughout any open space areas; building perimeter landscaping details; and ground sign perimeter landscaping details.

**SECTION 25.** The fifty (50) foot wide buffer area located south of the Kroger store shall include a six (6) foot high berm and plantings with the exception of the buffer area located approximately one-hundred and ninety-five (195) feet east of the Cox Road right-of way. From that point one-hundred and fifty (150) feet east, the buffer area shall contain a fence with sound attenuating surface panels in addition to a six (6) foot high berm and six (6) foot high evergreen trees within the one-hundred and fifty (150) foot long buffer area.

**SECTION 26.** The existing, mature tree-line located along the south boundary of the PUD district shall be maintained and/or shall be supplemented with evergreen vegetation that adequately screens the boundary.

**SECTION 27.** The current sign plan shall be permitted, excluding signs E and F, as illustrated on the PDP. A note shall be provided to the FDP to indicate a shut-off timer for signs E and F between an adequate timeframe to be determined by the Zoning Commission at the FDP stage.

**SECTION 28.** All other signage, to include Retail Buildings A and B and the undeveloped lots shall be subject to the West Chester Township Zoning Resolution (WCTZR), Article 17 for office uses and Article 20 for retail uses, excluding freestanding signs for Retail buildings A and B, which were not permitted.

**SECTION 29.** A complete sign plan shall be provided at the FDP stage, to include a site plan illustrating ground sign locations and building elevations illustrating building sign locations. All signage details, including illumination, shall be provided at the FDP stage.

**SECTION 30.** All light locations and light fixture details shall be provided at each FDP stage to ensure a consistent design that minimizes glare and light spillover.

**SECTION 31.** All wall-mounted lights shall be directed upward or downward and shall not be mounted in a manner that is directed outward toward the adjacent residential subdivision to the south.

**SECTION 32.** A draft Declaration of Covenants, Conditions, Restrictions, and Reservations of Easements (DCCRRE), which includes the property owners' association (POA) for the proposed PUD district shall be provided to the WCTCDD for review at the FDP stage. The record DCCRRE shall also include the record, subdivision plat as a supplemental exhibit to the DCCRRE and a copy of which shall then be provided to the WCTCDD for the case file records prior to the issuance of the final zoning certificate.

**SECTION 33.** The DCCRRE shall include a section, which corresponds to a reciprocal easement agreement to designate and allow for cross-access throughout each lot.

**SECTION 34.** The property owner(s) and/ or the POA shall be responsible for keeping all common features and elements well-maintained and free from trash and litter; maintaining all drainage ways to ensure the retention areas perform the designated function; and all landscaping shall be well maintained in good condition and all major landscaping beds shall be irrigated with a permanent system prior to the issuance of a final zoning inspection.

**SECTION 35.** Any outdoor demolition and/or construction for the entire subject site shall only occur between the hours of 6:00 AM and 9:00 PM.


**SECTION 36.** A temporary construction road and vehicle staging area shall be illustrated on each FDP, which shall be designed to support all construction traffic in all weather conditions. All roadways to access the site shall be maintained free of any dirt, debris, dust, etc. due to the construction of the site.

**SECTION 37.** All measures to reduce detrimental effects to the adjacent properties due to construction activities shall be stated within a document and provided at the FDP stage.

**BE IT FURTHER RESOLVED** that all plats, plans, applications, and other data submitted are hereby incorporated into this approval.

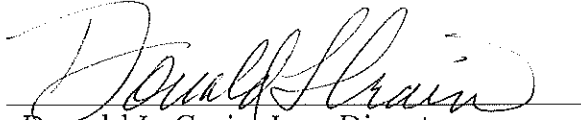
Adopted this 10 day of October, 2023.

**ATTEST:**

  
Bruce Jones, Fiscal Officer

<u>Absent</u> Ann Becker, Chair	<u>Yes/No</u>
<u>Lee Wong</u> Lee Wong, Vice Chair	<u>Yes</u>
<u>Mark S. Welch</u> Mark S. Welch, Trustee	<u>Yes</u>

**APPROVED AS TO FORM:**

  
Donald L. Crain, Law Director