

RESOLUTION NO. 33 - 2003

**RESOLUTION APPROVING A ZONE DISTRICT CHANGE AND
MAJOR CHANGE TO AN EXISTING PLANNED UNIT DEVELOPMENT**

WHEREAS, application of Jim Dudley (09-98) was submitted to the Union Township, now West Chester Township, Zoning Commission for a district change for 9.5661 acres of land from A-1 to C-PUD and a Preliminary Development Plan for retail development; and,

WHEREAS, on August 11, 1998, the Butler County Planning Commission recommended approval of the proposed request; and,

WHEREAS, on August 17, 1998, the West Chester Township Zoning Commission recommended approval of the proposed request; and,

WHEREAS, on September 22, 1998, the West Chester Township Trustees approved the request to rezone 9.5661 acres of land from A-1 to C-PUD; and,

WHEREAS, on June 28, 1999, the West Chester Township Zoning Commission approved with conditions a Final Development Plan for a 2,300 square foot drive-thru convenience retail store on an outlot; and,

WHEREAS, on November 22, 1999, the West Chester Township Zoning Commission approved a Revised Preliminary Development Plan for conversion of the previously approved public roads (Cora Drive & James Way) to private roads; and,

WHEREAS, on December 20, 1999, the West Chester Township Zoning Commission approved a Revised Preliminary Development Plan for conversion of the previously approved private roads (Cora Drive & James Way) to public roads; and,

WHEREAS, on May 21, 2001 the West Chester Zoning Commission approved a Revised Final Development Plan for the uses of restaurant and lounge/night club to be added to the existing drive-thru convenience store; and,

WHEREAS, on April 15, 2003, an application was submitted to the West Chester Township Zoning Commission by Midland Atlantic Development for a Zoning Map Amendment from "A-1" and "B-1" to "C-PUD" for approximately 3.36 acres of land and also a Revised Preliminary Development Plan approval for the entire 12.88 acres of land for the development of a multi-tenant retail center and 6 outlots, one of which will be occupied by the existing Dudley's Dented Silo Pub and another outlot will be occupied by the storm water retention basin; and,

WHEREAS, on May 13, 2003, the Butler County Planning Commission recommended approval of the proposed request; and,

WHEREAS, on June 16, 2003, the West Chester Township Zoning Commission recommended approval of the proposed request; and,

WHEREAS, on July 8, 2003, the West Chester Township Trustees held a public meeting for said Zoning Map Amendment and Revised Preliminary Development Plan.

NOW THEREFORE BE IT RESOLVED, that on the basis of the above actions and findings, the West Chester Township Board of Trustees does hereby concur with the recommendation of the Zoning Commission and does hereby approve the Zoning Map Amendment from “A-1” and “B-1” to “C-PUD” and the Revised Preliminary Development Plan for the aforesaid application consistent with the submitted site plan with the following conditions:

SECTION 1. Permitted uses shall include Principal Permitted and Conditional Uses of the B-1 District, excluding Subsection 21.023. Permitted uses shall also include Principal Permitted uses of the B-2 District, excluding Subsections 22.022, 22.023, 22.024, 22.0241, 22.027, 22.028, 22.0210, 22.0211 and 22.0212.

SECTION 2. All uses that are consistent with the Permitted Uses stated in the above Paragraph 3 shall require a Final Development Plan. Any proposed use that is not consistent with the Permitted Uses shall require a Revised Preliminary Development Plan and subsequent Final Development Plan. The existing Dudley’s Dented Silo Pub shall require a Revised Final Development Plan for the proposed changes from the previous approval. The PDP for the multi-tenant retail center illustrates a general layout for the parcel. This layout is only general and revisions to the building footprint, and other site layout characteristics may be approved at the FDP stage, as long as the area of the building footprint does not increase and an adequate access drive is provided to the rear of the building.

SECTION 3. A separate Final Development Plan shall be required for the roadways and common areas, which shall include the following: 1) A landscaping plan with street trees on both sides of all roadways that are similar to the street trees in surrounding developments. If any street trees or landscaping are located within a right-of-way, their maintenance shall be the responsibility of the lot owner and/or the established Property Owners Association. There shall be no expectation of West Chester Township or Butler County to take on any responsibility of the maintenance and/or replacement of any required landscaping; 2) Landscaping detail for all open space areas including “Out Parcel 6”; 3) Specific details for the pylon signs, which include the elevations, building materials, height and sign area; and 4) All other overall plan details such as cross access easements, property owners association documents, etc. Until the aforementioned Final Development Plan is approved with the specified items, no other Final Development Plan may be approved for any outlot within the development, except for a Revised Final Development Plan for the existing Dudley’s Dented Silo Pub.

SECTION 4. All proposed roadways shall be dedicated public roadways and constructed as approved by the Butler County Engineer’s Office (BCEO) using standards for commercial drives with curb and gutter. All sidewalks shall be provided as approved on the FDP for the roadways, which shall meet the approval of the BCEO and West Chester Township Planning & Zoning Department. Cross-access easements shall be provided for the public use of all sidewalks within the development that are located outside of the right-of-way. Details regarding the construction of sidewalks on “Out Parcel 6” along James Way shall be provided with the FDP, and shall either be constructed immediately or an acceptable surety shall be in place to guarantee its construction when James Way is extended. No Zoning Certificate shall be issued until the BCEO and the West Chester Planning and Zoning Department has approved the construction drawings for any proposed public roadway, including sidewalks, and the appropriate cross-access easements are recorded and documentation of such is provided. All easements shall be approved by the West Chester Planning & Zoning

Department prior to the recording of the easement. No Final Zoning Certificate shall be issued until all proposed roadways are constructed, except for the existing Dudley's Dented Silo Pub.

SECTION 5. If it is determined by the BCEO that a traffic light and/or other traffic control devices are needed at the intersection of Tylersville Road and Cora Drive, the developer shall incur all costs for the installation of such devices. All required traffic control devices shall be installed prior to the approval of any Final Zoning Certificate, except for the existing Dudley's Dented Silo Pub.

SECTION 6. Prior to submitting the application for the Final Development Plan for the roadways, a typical section showing where utilities will be located along the proposed roadways shall be provided to the BCEO, and if determined necessary the appropriate easement shall be provided on the submitted FDP.

SECTION 7. Access to the parcels shall be provided through curb-cuts in the general locations as illustrated on the Preliminary Development Plan. Exact location, width and design of the curb-cuts shall be determined at the Final Development Plan stage and approved by the BCEO and the West Chester Township Planning and Zoning Department. The specific location and width of the curb-cuts illustrated on the PDP does not guarantee its approval with the FDP, and there shall be no additional curb-cuts.

SECTION 8. No Zoning Certificate shall be issued until the common open space and green space areas have been permanently dedicated as such and a Property Owner's Association has been established. Said association shall be responsible for keeping all open space areas free from trash and litter and shall be required to maintain all sidewalks, drainage ways and retention/detention basins to perform designated function and maintain all landscaping as illustrated on the approved FDP. Prior to the issuance of a Zoning Certificate, the officers and responsible members and their addresses of the POA shall be reported to the West Chester Township Planning and Zoning Department.

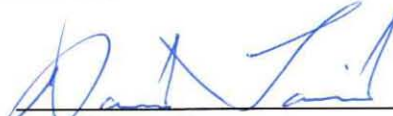
SECTION 9. One monument sign is permitted for each lot that shall not exceed 21.3 square feet of display area per side. Outlots with frontage on multiple roads shall be permitted two monument signs, but at no time shall both signs be located on the same frontage road. Each monument sign shall not exceed 21.3 square feet of display area per side. The location and height restrictions for all monument signs shall be pursuant to Article 17 of the West Chester Zoning Resolution. Building signage shall be pursuant to Article 20 of the West Chester Township Zoning Resolution.

SECTION 10. Prior to the submission of a Final Development Plan, the final drainage plan and calculations that are prepared and stamped by a professional engineer, shall be submitted and approved by the BCEO and the West Chester Planning & Zoning Department. The drainage plan shall include the storm water runoff from "Out Parcel 4," which was previously served by an individual retention basin, but removed with the approved PDP.

SECTION 11. The parking lot configuration for all Final Development Plans shall be coordinated with the West Chester Fire Department.

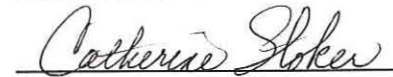
SECTION 12. All Final Development Plans shall include a fire hydrant system and fire hydrant location that meets the approval of the Fire Department and Butler County Environmental Services.

Adopted this 12th day of August, 2003.



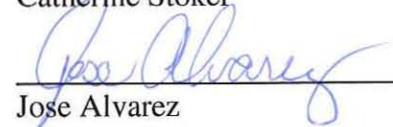
David Tacosik

yes
Yes / No



Catherine Stoker

YES
Yes / No



Jose Alvarez

yes
Yes / No

ATTEST:



Patricia Williams, Township Clerk

APPROVED AS TO FORM:



Donald L. Crain, Law Director

CERTIFICATE OF PUBLICATION

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| July 22, 2003 | |
| Date | First Reading |
| | |
| Date | Emergency Reading |
| August 12, 2003 | |
| Date | Second Reading |
| August 18, 2003 Journal News | |
| Date and Newspaper | First Publication (After Approval) |
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