

"SECOND CLASS TOWNSHIP CODE, THE"
Act of May 1, 1933, P.L. 103, No. 69 **Cl. 73**
(Reenacted and amended Nov. 9, 1995, P.L.350, No.60)

AN ACT

Concerning townships of the second class; and amending, revising, consolidating and changing the law relating thereto. (Title reenacted and amended Nov. 9, 1995, P.L.350, No.60)

Compiler's Note: Section 1 of Act 165 of 1970 provided that the limits heretofore imposed by Act 69 upon the rates of interest and interest costs permitted to be paid upon bonds, obligations and indebtedness issued by the Commonwealth or its agencies or instrumentalities or authorities, and by local political subdivisions or their agencies or authorities, are hereby removed for such bonds, obligations or indebtedness.

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TOWNSHIP SUPERVISORS

Section 601. Supervisors and Government of Townships.-- Townships shall be governed and supervised by boards of supervisors. Boards of supervisors shall consist of three members or, if approved by the electors under section 402(b), five members.

Section 602. Organization Meeting; Appointment of Secretary and Treasurer.--(a) The board of supervisors shall meet at a convenient time and place on the first Monday in January of each year. If the first Monday is a legal holiday, the meeting shall be held the following day. The board of supervisors shall elect one member as chairman and another as vice-chairman, and it shall appoint a treasurer and a secretary. The secretary shall be an individual; however, the board of supervisors may select either a trust company, a banking institution or an individual to serve as treasurer, or the board of supervisors may appoint one individual to serve as both secretary and treasurer. Members of the board of supervisors may be appointed as secretary-treasurer, secretary or treasurer. With regard to boards of supervisors which are designated as three-member boards, any supervisor who is to be considered by the board for any appointed township position or for employment by the township as authorized by law shall not be excluded from voting on the issue of such appointment or employment. Action taken by a supervisor shall be deemed to be within the scope of authority as a supervisor and shall not be deemed to constitute an illegal or an improper conflict of interest. ((a) amended Dec. 18, 1996, P.L.1142, No.172)

(b) The meeting under this section may be considered a regular monthly meeting of the board of supervisors. The first order of business at this meeting shall be organization of the board of supervisors.

(c) The board of supervisors may appoint a supervisor to be employed as roadmaster, laborer, secretary, treasurer, assistant secretary, assistant treasurer or in any employe capacity not otherwise prohibited by this or any other act.

(d) The board of supervisors may authorize a supervisor who is employed by the township to be compensated at the supervisor's regular employe rate and a supervisor who is not employed by the township to receive total or partial reimbursement for lost wages or salary if the supervisor's presence is required in a court of law concerning a township-related matter or the supervisor's attendance is required at any meeting of a board, council of government, commission, authority or county government-sponsored committee to which the supervisor has been appointed by the board of supervisors, board of county commissioners or county council of the county in which the supervisor resides. The compensation may be granted at the discretion of the board of supervisors, and any rate may be granted to the supervisor up to the supervisor's normal pay rate or lost wages or salary. This subsection shall be subject to the following conditions:

(1) The court must be in session or other meeting must occur during the supervisor's normal working hours.

(2) The supervisor must not receive any compensation from the other board, council of government, commission, authority or county government committees for the particular meeting the supervisor attends.

(3) No supervisor may be compensated for attending more than 120 hours of court sessions, other board, council of government,

preference to or improperly discriminate in favor of supervisors. No policy of group life insurance shall contain any provision for a cash surrender value, loan value or any other benefit beyond the face amount of insurance. The policy may contain a provision that when the insurance ceases because of termination of employment or term of office, the person is entitled to have issued to him by the insurer, without evidence of insurability, an individual policy of insurance on any form customarily issued by the insurer at the age and for the amount applied for if the amount is not in excess of the amount of life insurance which ceases because of the termination and the application for the individual policy is made and first premium is paid to the insurer within thirty-one days after termination.

(2) Any life, health, hospitalization, medical service or accident insurance coverage contract made by a township between January 1, 1959, and March 31, 1985, that includes or provides coverage for supervisors not employed by the township is not void or unlawful because inclusion of those supervisors was subsequently found to be without lawful authority. No penalty, assessment, surcharge, forfeiture or disciplinary action may occur as a result of participation by those supervisors. Insurance benefits paid or payable to insureds or their beneficiaries arising out of or on account of deaths, injuries, accidents or illnesses occurring before March 30, 1988, are the property of the insureds or their beneficiaries.

(3) All payments made by a township on any group life, health, hospitalization, medical service or accident insurance coverage contracts on behalf of supervisors who were not employes between January 1, 1959, and March 31, 1985, which would have been proper but for the absence of auditor approval are hereby approved. Any benefits payable to any supervisor or his beneficiaries on account of those payments during that time shall continue.

(4) The township may deduct from any compensation payable to a supervisor such part of any insurance premium or charge which is payable by the supervisor within the terms of the particular township's insurance plan.

(5) The township may pay the cost, in whole or in part, of supplemental Medicare insurance coverage for supervisors and employes who are over sixty-five years of age.

((c) amended Feb. 14, 2012, P.L.180, No.14)

Section 607. Duties of Supervisors.--The board of supervisors shall:

(1) Be charged with the general governance of the township and the execution of legislative, executive and administrative powers in order to ensure sound fiscal management and to secure the health, safety and welfare of the citizens of the township.

(2) Have the responsibility for maintenance of township-owned equipment and facilities.

(3) Employ persons as may be necessary for the general conduct of the business of the township and provide for the compensation, organization and supervision of the persons so employed. Records shall be kept and reports made and filed giving the names of all persons employed, dates on which work was done and the number of hours worked with compensation paid to each person and the capacity in which employed.

(4) Authorize attendance at conferences, institutes, schools and conventions. Any supervisor or newly elected supervisor prior to officially taking office, elected or appointed officer or township employe may if directed by the board of supervisors attend any conference, institute, school or convention dealing with the duties and functions of elected or appointed officers or employes. The expenses for attending the meetings may be paid by

Section 1506. General Powers.--The board of supervisors may make and adopt any ordinances, bylaws, rules and regulations not inconsistent with or restrained by the Constitution and laws of this Commonwealth necessary for the proper management, care and control of the township and its finances and the maintenance of peace, good government, health and welfare of the township and its citizens, trade, commerce and manufacturers.



Section 1527. Public Safety.--The board of supervisors may adopt ordinances to secure the safety of persons or property within the township and to define disturbing the peace within the limits of the township.



Township of Westtown, PA
Tuesday, August 22, 2023

Chapter 170. Zoning

Article XX. Administration

§ 170-2009. Conditional uses.

- A. Statement of intent. This chapter provides for certain uses to be permitted within the Township as conditional uses. In so providing, the Board of Supervisors recognizes that these uses may or may not be appropriate at every location within any specific district and, accordingly, has established standards and criteria by which it can evaluate and decide upon applications for such uses. It is intended that these uses, constituting major uses having the potential for substantial impact upon the community, shall comply with the standards for conditional uses hereinafter set forth, in addition to the relevant stipulations of the district in which the conditional use is authorized. In the sole discretion of the Board of Supervisors, failure to comply with these standards may be deemed a basis for the imposition of appropriate conditions to a grant of approval. Where there is a conflict between the standards set forth in this section and other standards elsewhere established by this or other applicable chapters, it is intended that the more stringent standards shall apply, and it is not the intent of this section to abrogate or impair any other such standards or requirements. Where any use or any applicable design criteria subject to conditional use approval also is a part of an overall land development plan subject to application for approval of a special exception, such use or design criteria may be considered for approval by the Zoning Hearing Board as part of the applicable special exception application in lieu of separate submission of an application for conditional use approval. Similarly, where any use or any applicable design criteria subject to special exception approval also is a part of an overall land development plan subject to application for conditional use approval, such use or design criteria may be considered for approval by the Board of Supervisors as part of the applicable conditional use application in lieu of separate submission of an application for approval of a special exception.
- B. Submission and content of conditional use applications.
- (1) It shall be the burden of the applicant to demonstrate compliance with the standards for conditional use contained in this section and with any other relevant stipulations of this chapter, and to indicate means by which potential impacts from the proposed use will be mitigated.
 - (2) An application for conditional use approval shall be submitted on a form provided by or otherwise acceptable to the Township and shall be accompanied by an application fee, the amount of which shall be established by resolution of the Board of Supervisors.
 - (3) An accurate site plan prepared by a qualified professional shall be submitted. Such site plan shall accurately show topography and existing and proposed development.
 - (a) Detailed grading plans, stormwater calculations, profiles and similar engineering details are not required to be submitted until a preliminary or final plan application is made under Chapter 149, Subdivision and Land Development.
 - (b) If a traffic study is required by this chapter or Chapter 149, Subdivision and Land

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Development, it shall be submitted with the conditional use application.

- (c) The approximate location of stormwater basins and swales shall be shown.
- (d) The application shall include sufficient information, e.g., preliminary site grading and road profiles, preliminary stormwater management analysis, etc., to preliminarily determine compliance with the Township natural feature, site analysis, conservation design process (if applicable) and density requirements.
- (4) The scale of the site plan shall be one inch equals 50 feet. If the site plan is on more than one sheet, then the overall layout shall also be submitted on a single sheet. If only a portion of a tract is proposed for development, the submittal shall show how this portion will be fully coordinated with the development of future portions of the tract.
- (5) Where specific conditional use submission requirements are contained within another article of this chapter and are applicable to a particular conditional use authorized by that article, those requirements shall be adhered to and shall prevail in any instance of conflict or overlap.
- (6) In addition to demonstrating compliance with all standards applicable to the conditional use being requested, the site plan shall show the applicant's intentions with regard to the following:
 - (a) Site access, interior circulation, and parking.
 - (b) Location, approximate dimension, and arrangement of all areas devoted to ground cover, trees, screen planting, open space, recreation, and similar purposes, as applicable.
 - (c) Adequate handling of stormwater, in the form of a preliminary written analysis and conclusions as to anticipated methods, prepared by a registered professional engineer.
 - (d) Location, planned uses, approximate overall dimensions, gross floor area, coverage, and height of each building or structure.
 - (e) Strong consideration shall be given to incorporation of LEED (Leadership in Energy and Environmental Design) certified building design principals recommended by the US Green Building Council.
[Added 9-15-2008 by Ord. No. 2008-1]
- (7) Site analysis and the conservation design process.

C. Application review procedures.

- (1) The application shall be reviewed by the Zoning Officer. If it is deficient with regard to any required components, procedures, or fees, the Zoning Officer shall so notify the applicant. This review and notification shall occur prior to the scheduling of a public hearing on the application. If such identified deficiencies are not remedied in the form of a resubmitted application, such deficiencies shall constitute grounds for denial of the application by the Board of Supervisors subsequent to public hearing.
- (2) The Board of Supervisors shall schedule and hold a public hearing on the application pursuant to public notice within 60 days of filing unless the applicant, in writing, waives or extends the time limitation.
- (3) Prior to the date of the hearing, one copy of the application shall be furnished to the Township Planning Commission, together with a request that it submit recommendations to the Board for consideration at the hearing. The Planning Commission, in its review of the conditional use application, shall evaluate in particular the generalized site plan in relation to the Township Comprehensive Plan and the physical development of the Township.

[Amended 10-4-2021 by Ord. No. 2021-08]

- (4) A stenographic record of the hearing proceedings shall be made by a court reporter. The appearance fee for the court reporter shall be shared equally by the applicant and the Board. Any party requesting the original transcript or a copy of the transcript shall bear the cost of same.
- (5) The plan presented at the public hearing shall be essentially the same as that reviewed by the Planning Commission. Changes deemed by the Planning Commission to be substantial may result in rescheduling the public hearing where the Planning Commission finds that such changes necessitate a greater period of time for review and comment.
- (6) Upon review of the application in terms of the standards and criteria of this chapter, the Board of Supervisors shall render a decision within 45 days of completion of the public hearing process.
- (7) In approving a conditional use application, where such use is authorized under this chapter, the Board of Supervisors may, at its sole discretion, attach such conditions to its approval as it deems necessary to further the purposes of this chapter. Such conditions may include, but need not be limited to:
 - (a) Specific modifications to area and bulk requirements as might otherwise be applicable;
 - (b) Provisions for additional utility or traffic safety facilities;
 - (c) Securing of additional easements or property to assure proper site design; or
 - (d) Modification to the applicable design standards.
- (8) If the Board of Supervisors approves the application and accompanying generalized site plan, such approved plan shall accompany any application for subdivision or land development as prescribed by Chapter 149, Subdivision and Land Development, in addition to the detailed working drawings normally required, and any application for a building permit. The issuance or rejection of a building permit shall take place in the regularly prescribed manner herein pertaining to building permits, but shall be preceded by compliance with Chapter 149, Subdivision and Land Development.
- (9) Any grant of conditional use approval shall be deemed null and void six months from the date of such approval if, within that period, no application is made for a building permit, a use and occupancy permit, or subdivision or land development approval, as appropriate, unless the Board of Supervisors shall grant an extension.

D. Standards for conditional use approval.

[Amended 5-3-1999 by Ord. No. 99-2]

- (1) In reviewing and acting upon an application for conditional use, the Board of Supervisors shall evaluate the degree of compliance with the following standards:
 - (a) The uses proposed shall be limited to those authorized as conditional uses within the district in which the lot or parcel is situated.
 - (b) The proposal shall be consistent with the Township Comprehensive Plan and with the purpose of this chapter to promote the public health, safety, and general welfare.
 - (c) The appropriate use, and the value, of adjacent property will be safeguarded.
 - (d) The development, if more than one building, will consist of a harmonious grouping of buildings or other structures.
 - (e) If the development is to be carried out in progressive stages, each stage shall be so planned that the conditions and intent of this chapter shall be fully complied with at the

completion of any stage.

2009.D.

- (f) The demand created by the proposed use upon public services and facilities such as water supply, sewage disposal, police and fire protection, emergency services, open space and recreation facilities, and the public school system has been considered and, where necessary, adequate arrangements for expansion or improvement are assured.
- (g) The design and use of any new construction and the proposed change of design (if any) and proposed change in use of existing buildings will be compatible with the existing designs and uses in the immediate vicinity and that the proposed design or use shall be compatible with the character of the neighborhood.

2009.D.

- (h) The burden of proof shall be upon the applicant to prove to the satisfaction of the Board of Supervisors, by credible evidence, that the use will not result in or substantially add to a significant traffic hazard or significant traffic congestion. The peak traffic generated by the development shall be accommodated in a safe and efficient manner. Such analysis shall consider any improvements to streets that the applicant is committed to complete or fund.
[Added 5-3-1999 by Ord. No. 99-2]



- (2) The Board of Supervisors shall weigh each case on its own merits, separately, based upon pertinent information presented or known to it, and without regard to any previous case.



APP 0

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September 11, 2023

Township of Westtown Board of Supervisors
Township of Westtown
1039 Wilmington Pike
West Chester, Pennsylvania 19382

Re: Conditional Use Application
by Fox Clearing, LLC
Tax Map Parcels Nos. 67-2-23, 67-2-8, 67-2-9, & 67-2-7.1

Dear Members of the Township of Westtown Board of Supervisors:

The Township Planning Commission (the "Planning Commission") met on September 6, 2023, and, pursuant to Section 170-2009.C.(3) of the Zoning Ordinance, continued its review of the Amended Conditional Use Application (the "Application") which Fox Clearing, LLC ("Applicant") submitted to the Township on May 4, 2023. Applicant seeks Conditional Use Approval under Section 170-601.C(1) and Section 170-903.A of the Zoning Ordinance for the development of the subject property (the "Property") as a Flexible Residential Development comprised of 85 single family dwellings (the "Proposed Development"). The Proposed Development is depicted on the plan set by D.L. Howell & Associates, Inc. dated April 14, 2023, last revised August 8, 2023 (the "Plan Set").^{1 2} The Planning Commission also reviewed Sheet No. 38 of the Plan Set entitled *Alternative Site Plan With No Lots* (the "No Lot Plan").

The Planning Commission recommends that the Board of Supervisors should deny the Application. Alternatively, if the Board is inclined to approve the Application, the Planning Commission recommends that the Board should impose certain conditions as set forth below.

The Board should deny the Application for, *inter alia*, the following reasons:



- Pursuant to the Environmental Rights Amendment to the Pennsylvania Constitution, "[t]he people have a right to clean air, pure water, and to the preservation of the

¹ As depicted on the Plan Set, the Property is burdened with two (2) pipelines which traverse the eastern portion of the Property (the "Existing Pipelines"). Applicant proposes to construct twenty-three (23) single-family dwellings between the Existing Pipelines with no means of emergency access.


² Applicant submitted the most recent revisions to the Plan Set at the first session of the Conditional Use Hearing on August 14, 2023. Then, Applicant submitted supplementary information to the Township on August 23, 2023. Though the Township Engineer issued a Review Letter regarding the submission which Applicant made on August 14, 2023, he issued his review of the supplementary information after the Planning Commission met on September 6, 2023.

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natural, scenic, historic and esthetic values of the environment.” Based upon the information which Applicant submitted to the Planning Commission, the Planning Commission concludes that, for the other reasons set forth in this letter, the Board’s approval of the Proposed Development as presented would operate to deprive the citizens of the Township of that right. In particular, any such approval may adversely impact the right of the citizens of the Township to preservation of natural, scenic, historic and esthetic values. In particular, those impacts would include, but not necessarily be limited to, a loss of scenic views and a loss of historic resources which would need to be destroyed if the Proposed Development is constructed.

-  Applicant did not present to the Planning Commission sufficient information pursuant to Section 170-2009.D.(1)(g) of the Zoning Ordinance to allow the Planning Commission to determine that the Proposed Development will not result in or substantially add to a significant traffic hazard. Accordingly, the Planning Commission is unable to conclude that the Proposed Development complies with the standards for conditional use approval set forth at Section 170-2009.D. of the Zoning Ordinance. Conversely, because of the presence and location of the Existing Pipelines as depicted on the Plan Set,  [the absence of any means of secondary egress from the eastern portion of the Proposed Development, and the absence of any analyses of the impacts which a pipeline break would have upon traffic flows, the Planning Commission concludes that any emergency situation associated with the Existing Pipelines may create a significant traffic hazard as residents and first responders would not be able to escape from, or get to, the eastern portion of the Property.]
- Given the proximity of the improvements and proposed construction within or over top of the Existing Pipelines and the absence of any analyses of the impacts which a pipeline break would have upon residents at the Proposed Development, generally, the Planning Commission finds that there is a high degree of probability that the Proposed Development will cause a substantial threat to the community and a more harmful impact than what one would ordinarily expect from a proposed flexible development
- The versions of the Plan Set which Applicant presented prior to August 23, 2023, were inconsistent with Section 170-402.D.(3)(f) of the Zoning Ordinance. Pursuant to that Section, “[i]f the total of all area(s) of precautionary slopes on a lot exceed 25% of the total area of a lot, then no more than 50% of the precautionary slopes on that lot shall be disturbed, graded[,] or modified.” The Plan Set, as presented prior to August 23, 2023, showed lots which appeared to violate that rule. As noted, Applicant submitted revised materials to the Township on that date. As noted in Footnote No. 2, the Township Engineer did not yet review the revised materials. In that regard, the

Planning Commission is unable to definitively conclude that the revised submission is consistent with Section 170-402.D.(3)(f) of the Zoning Ordinance.

- Pursuant to Section 170-907.A(5)(e) of the Zoning Ordinance, other than open storage or settling ponds which are accessory to infiltration facilities, areas used for stormwater management purposes may not be counted toward open space calculations. Applicant maintains, but the Planning Commission is unable to conclude, that certain stormwater facilities depicted on the Plan Set as being within open space areas are “open storage or settling ponds which are accessory to infiltration facilities[.]” The Planning Commission does not conclude, therefore, that Applicant’s open space calculations are accurate. Accordingly, the Planning Commission cannot conclude that the Plan Set complies with Article IX of the Zoning Ordinance or that Applicant is entitled to bonus density pursuant to Section 170-904.A.(2) of the Zoning Ordinance.
- Pursuant to Section 170-905.B(1) of the Zoning Ordinance, streets within a flexible residential development must be designed in accordance with the Subdivision and Land Development Ordinance. Pursuant to Section 149-901.F. of that ordinance, the length of any *cul-de-sac* may not exceed 1,500 feet. The Planning Commission concludes that the northern portion of Road C as depicted on the Plan Set does not comply with that regulation. 

If Applicant revises the Plan Set and presents sufficient evidence to demonstrate that the Proposed Development does not unreasonably or significantly affect the protected values under the Environmental Rights Amendment and presents sufficient evidence to satisfy its burden under the foregoing Sections of the Zoning Ordinance (and, as applicable, the Subdivision and Land Development Ordinance), the Planning Commission recommends that the Board approve the Application subject to the following conditions.

1. Applicant shall comply with outstanding comments in the Cedarville Engineering Group's (“Cedarville”) review letters regarding the Proposed Development. Such comments include but are not limited to the following:
 - (a) Applicant shall demonstrate that all lots within the Proposed Development meet the slope requirements of §170-402.D(3)(f) and that no more than 50% of the precautionary slopes on such lots is proposed to be disturbed, graded or modified.
 - (b) The maximum number of lots permitted in the Proposed Development shall be finally determined after Applicant complies with the outstanding comments

Township of Westtown, PA
Sunday, October 22, 2023

Chapter 149. Subdivision of Land

Article IX. Development and Design Standards

§ 149-901. General standards for public streets.

- A. The location and width of all public streets shall conform to the Westtown Township Official Map or to such parts thereof as may have been adopted by the Township.
- B. The proposed public street system shall extend existing or recorded streets at the same or greater width, but in no case at less than the required minimum width.
- C. Where Westtown Township determines that it is desirable to provide for public street access to adjoining property, public streets shall be extended by dedication to the boundary of such property.
- D. New minor public streets shall be so designed as to discourage through traffic, but the applicant shall give adequate consideration to provision for the extension and continuation of major and collector streets into and from adjoining properties.
- E. Where a development abuts an existing public street of improper width or alignment, the Township may require the dedication of land sufficient to widen the street or correct the alignment.
- F. The length of a cul-de-sac shall be a minimum of 350 feet and a maximum of 1,500 feet. Any proposed cul-de-sac longer than 1,500 feet must be approved by the Board upon recommendation of the Township Engineer. In no case shall any cul-de-sac street serve more than 25 dwelling units. Cul-de-sac length shall be measured from the radius of the cul-de-sac turnaround to the edge of paving/curbline of the closest through street.
[Amended 7-22-2002 by Ord. No. 2002-5]



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Township of Westtown, PA
Sunday, October 22, 2023

Chapter 149. Subdivision of Land

[[HISTORY: Adopted by the Board of Supervisors of the Township of Westtown 8-21-1995.
Amendments noted where applicable.]]



GENERAL REFERENCES

- Building construction — See Ch. 57.
- Erosion, sediment control and grading — See Ch. 80.
- Fire hydrants — See Ch. 84.
- Fire prevention — See Ch. 87.
- Sewers — See Ch. 132.
- Streets and sidewalks — See Ch. 146.
- Trees — See Ch. 158.
- Zoning — See Ch. 170.

Article I. Purpose; Scope; Interpretation

§ 149-100. Short title.

This chapter shall be known and may be cited as the "Westtown Township Subdivision and Land Development Ordinance."

§ 149-101. Purpose.

The purpose of this chapter is to assure sites suitable for building purposes and human habitation, to provide for the harmonious development of the Township of Westtown and to provide for adequate open spaces, smooth flow of traffic, light and air, and for the proper distribution of population, thereby creating conditions favorable to the health, safety and general welfare of the citizens of Westtown Township.

§ 149-102. Relationship to Comprehensive Plan and zoning regulations.

This chapter is adopted to promote an orderly plan of development in accordance with the Westtown Township Comprehensive Plan and Chapter 170, Zoning.

§ 149-103. Scope.

From and after the effective date of this chapter, any subdivision and/or land development shall be in conformity with this chapter and all standards and specifications adopted as a part of such chapter.

§ 149-104. Interpretation.