

**EAST GOSHEN TOWNSHIP  
PLANNING COMMISSION  
Meeting Agenda  
Wednesday, September 15, 2021  
7:00 PM**

**Rescheduled from 9/1/2021**

- A. Call to Order / Pledge of Allegiance and Moment of Silence
- B. Chairman will ask if anyone is going to record the meeting
- C. **Review of Tracking Log / Determine need for Workshop Meeting**
- D. Public Comment on Non-Agenda Items
- E. **Approval of Minutes**
  - 1. **August 4, 2021**
- F. **Subdivision and Land Development Applications**
  - 1. **Malvern Institute – LD** **(Presentation rescheduled for October 6, 2021 PC Meeting)**
- G. Conditional Uses and Variances
- H. **Ordinance Amendments**
  - 1. **LED Sign Ord. Amendment**
- I. Old Business
- J. New Business
- K. Any Other Matter
- L. Liaison Reports
- M. Correspondence
- N. Announcements

Click below to access the Malvern Institute plans:

[Malvern Institute Plans - Pages 1-8](#)

[Malvern Institute Plans - Pages 9-15](#)

**Bold Items indicate new information to review or discuss.**

East Goshen Township Planning Commission  
Application Tracking Log

**September 1, 2021 PC Meeting**

Application Name	Application (CU, LD, ZO, SD, V, SE, CA)	Type (Sk, P, F)	Date Filed	Start Date	Date to Township Engineer	Date to CCPC	Date to Abutting Prop. / ABC's	Extension	PC NLT Action Date	BOS NLT Action Date	Hearing Date	Drop Dead date	Comments
The Malvern Institute	LD	P	6/28/2021	7/1/2021	6/30/2021	6/29/2021	8/13/2021	12/30/2021	12/1/2021	12/21/2021	NA	12/30/2021	

**Bold = New Application or PC action required**

**Completed in 2021**

14 Reservoir Rd. / Glossen	V	Sk	5/25/2021	5/25/2021	NA	NA	5/27/2021		6/2/2021	7/6/2021	7/15/2021	7/23/2021	A
ESKE Development LLC	V	S	4/20/2021	4/20/2021	4/27/2021	NA	4/27/2021		5/5/2021	5/11/2021	5/26/2021	6/18/2021	A
Albert and Lynn Greto	V	S	4/26/2021	4/26/2021	NA	NA	4/29/2021		5/5/2021	6/1/2021	6/8/2021	6/25/2021	D
1365 Enterprise Drive	V	Sk	4/1/2021	4/1/2021	NA	NA	4/1/2021		5/5/2021	5/18/2021	TBD	5/31/2021	A
198 Oneida Ln	V	Sk	1/26/2021	1/27/2021	NA	NA	1/28/2021		2/3/2021	1/16/2021	2/25/2021	3/26/2021	A
Pipeline HMS / Consultation Zone C	ZO / SALE	DRAFT	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	AD

**Completed in 2020**

1631 E. Strasburg Rd	V	Sk	9/29/2020	9/29/2020	NA	NA	10/2/2020		10/7/2020	10/20/2020	10/27/2020	11/28/2020	A
Solar Ordinance Amendment	ZO	Sk	10/30/2020	NA	NA	NA	NA		NA	NA	12/1/2020	NA	AD
Synthes USA / 1303 Goshen Parkwa	LD	P/F	4/27/2020	5/6/2020	4/28/2020	4/30/2020	4/30/2020	1	9/15/2020	9/2/2020	NA	10/2/2020	A
Boyle, 1137 N. Chester Rd.	V	Sk	7/29/2020	7/29/2020	NA	NA	7/31/2020		9/2/2020	9/15/2020	8/26/2020	9/25/2020	A

**KEY**

A - Approved  
AD - Adopted  
D - Denied

**Draft**  
**EAST GOSHEN TOWNSHIP**  
**PLANNING COMMISSION MEETING**  
**August 4, 2021**

The East Goshen Township Planning Commission held their regular monthly meeting on Wednesday August 4, 2021. Because of the COVID-19 restrictions the meeting was held via teleconference using Zoom.

**Members present are highlighted:**

**Chair – Ernest Harkness**

**Vice Chair – John Stipe**

**Dan Daley**

**Edward Decker**

**Michael Koza**

**Mark Levy**

Michael Pagnanelli

**Also present was:**

**Mark Gordon, Zoning Officer**

**COMMON ACRONYMS:**

*BOS – Board of Supervisors*

*BC – Brandywine Conservancy*

*CB – Conservancy Board*

*CCPC – Chester Co Planning Commission*

*CPTF – Comprehensive Plan Task Force*

*CVS – Community Visioning Session*

*SWM – Storm Water Management*

*ZHB – Zoning Hearing Board*

**FORMAL MEETING – 7 p.m.**

1. Ernest called the meeting to order at 7:00 pm. He led the Pledge of Allegiance and a moment of silence to remember our first responders and military.
2. Ernest asked if anyone would be recording the meeting and if there were any public comments about non-agenda items. There was no response.
3. The tracking log was checked and no need for a workshop meeting.
4. The minutes of the June 2, 2021 meeting were approved. The July meeting was cancelled.
5. Mark Gordon explained the procedure for public comments.

**ORDINANCE AMENDMENTS**

**1. LED Sign Ordinance Amendment/Electric Vehicle Charging & Media Station**

Mark Gordon mentioned that Volta has not submitted a request to install electric vehicle chargers at the Giant on Boot Road yet. The Township Solicitor reviewed the proposed changes to the ordinance.

Ernest asked about a standard for these. If another company wants to install in another shopping center will these changes apply to them.

Ed asked if there is any sound like advertisements, etc. Can they dim and turn off at a certain time?

Mark Gordon has not heard any sound from them, and they can dim or turn off at a set time.

Ernest pointed out that these items aren't list in the proposal. Mark will add them.

Mike Koza asked about the agreement between Volta and Giant. Is there a monthly fee? How long is the agreement?

Mark Levy knows they have regulations in other states which are fairly detailed. There are fast chargers and slower chargers. He just came back from Massachusetts and there are chargers everywhere. They appear to be regulated.

Dan asked Mark Levy about being lit all the time. Mark Levy mentioned that they dim and when you take the cord out it will provide some more light. He didn't see any lit signs for advertising. Dan would like some sound criteria too. If a store is open 24/7, how will the lights be controlled? Mark Gordon

1 mentioned that the Giant has been 24/7 in the past and the parking lot lights are on. Dan feels they should  
2 be required to dim at a certain time.  
3 John believes that Wellington residents can see that lot.  
4 Ernest summarized the comments to sound, auto dim and continue to charge. Mark Gordon will ask  
5 about the lease and maintenance.  
6

#### 7 **OLD BUSINESS**

8 1. Ernest mentioned that the Pipeline Awareness Study Ordinance was passed by the BOS. He  
9 appreciates all the hard work everyone did on this project. The pipeline is looking at an all hazard plan.  
10 Mark Gordon mentioned that a hazard mediation plan is in place.  
11 2. Ernest mentioned that he doesn't feel the TND will move forward at this time.  
12

#### 13 **ANY OTHER MATTER**

14 1. Mark Gordon commented that all meetings will be held in person as of September 1. The next meeting  
15 will be September 1<sup>st</sup> in person at the Township Building.  
16 2. Ernest asked if the ZHB made a decision on the Strasburg Rd. Fence issue. Mark Gordon reported that  
17 it was denied.  
18

#### 19 **LIAISON REPORT**

20 None  
21

#### 22 **ADJOURNMENT**

23 There being no further business, Dan made a motion to adjourn the meeting. Mark Levy seconded the  
24 motion. The meeting was adjourned at 7:35 pm. The next regular meeting will be held on Wednesday,  
25 September 1, 2021 at 7:00 pm.  
26

27  
28 Respectfully submitted,  
29  
30  
31  
32

33 *Ruth Kiefer, Recording Secretary*

# Memorandum

**East Goshen Township**  
**1580 Paoli Pike**  
**West Chester, PA 19380**

Voice: 610-692-7171

Fax: 610-692-8950

E-mail: [mgordon@eastgoshen.org](mailto:mgordon@eastgoshen.org)

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Date: 8/27/2021

To: Planning Commission

From: Mark Gordon, Township Zoning Officer 

Re: 940 King Rd. / The Malvern Institute / Land Development Application

Planning Commission Members,

The Township has received a Land Development application and plan for the Malvern Institute. The application and plan were submitted to the Township on 6/28/2021, however, counsel for the applicant had scheduling conflicts so the applicant granted the Township an extension for the review of this project through 12/30/2021. This allowed for the Township Engineer and the CCPC to review the plan and provide review comments prior to the Planning Commission's first review of the plan.

The applicant has asked to postpone their initial presentation of the plan until October 6, 2021. The plan set and materials have been provide for your information and review. The PC is welcome to review and discuss however the Malvern Institute will not be in attendance.

August 16, 2021

EGOST 00124

Mark A. Gordon  
Director of Code Enforcement/Zoning Officer  
East Goshen Township  
1580 Paoli Pike  
West Chester, PA 19380

**RE: Malvern Institute, LLC, 940 West King Road  
Preliminary Land Development Review**

Dear Mark:

As requested, we have reviewed the following information, regarding the referenced revised submission:

- *"Preliminary Land Development Plans for Malvern Institute"* (15 sheet) dated June 28, 2021, prepared by Chester Valley Engineers, Inc.;
- *"Stormwater Management Report for Malvern Institute"* dated June 28, 2021, prepared by Chester Valley Engineers, Inc.; and
- Application and supplemental documents.

The applicant/owner, Malvern Institute, is proposing various improvements to UPI 53-2-18 (9.6 acres) which includes a 2<sup>nd</sup> story building addition, greenhouse, smoking pavilion, additional parking spaces, fence with associated landscaping, lighting and stormwater management. The site is located on the south side of King Road (SR 2022) opposite Madeline Drive, within the R-2 Residential District. A small portion of the site UPI 53-2B-13 (1.0 acre) is located within Willistown Township however no improvements are proposed on this parcel. The property is served by public water and public sanitary sewer.

The applicant was granted relief by the Zoning Hearing Board via an order dated November 25, 2020 and issued December 1, 2020 for the following:

1. A special exception from §240-40.C(2)(e) to expand the floor area of the main building on the property serving the Applicant's legal nonconforming use;
2. A variance from the maximum 25% increase in total floor area of structures devoted to a nonconforming use per §240-40.C(2)(c) in order to permit a 34.04% floor area expansion pursuant to the initial (original) proposal or a 52.92% floor area expansion pursuant to the alternate (revised) proposal;
3. A variance from the four foot (4') maximum height limitations of §240-32.E(2) in order to construct a six foot (6') tall estate fence in the front yard of the property;
4. A variance from the 24-foot driveway minimum width regulation of §240-33.C(10) in order to permit a 22-foot wide driveway for two-way traffic at night;
5. A variance from the 250-foot minimum setback requirement of §240-31.C(2)(mm) in order to permit the first floor of the new building made the subject of the revised proposals to be setback 45.1 feet from the neighboring residential properties;

6. A variance from the 18-month time limit in §240-58.D so that any relief here granted will not lapse or become null and void so long as zoning permits are obtained and actual construction is commenced not later than 15 years from the date of this decision; and
7. Such other relief necessary and appropriate to permit the Applicant's proposed expansion of its nonconforming use.

We offer the following comments:

DECISION AND ORDER

1. *The Applicant shall restrict and limit the treatment program at the King Road facility (the "Facility") to in-patient treatment only.*

We recommend the applicant address this condition as a narrative response, to be included on the plan and recorded with the final plan.

2. *The Applicant shall limit the number of patients receiving treatment at the Facility to a maximum of 80 patients on-site at any one time. The Applicant shall, by formal and binding submission to the appropriate licensing agency, restrict and limit the licensing of the Facility to 80-paitnets. A true and correct copy of the submission shall be provided to the parties hereto.*

We recommend the applicant address this condition as a narrative response, to be included on the plan and recorded with the final plan.

3. *The Applicant shall install additional video cameras at the front entrance and at locations along the main driveway entrance to supplement its existing video security system. The video cameras shall be continuously monitored so as to alert staff and security personnel of incoming and outgoing persons and vehicles. The location of all video cameras shall be depicted on the preliminary and final land development plans. The eastern parking lot gate shall be closed by 11 p.m. each day to ensure that any vehicle entering the site much approach the main building. The Applicant shall no less than one security guard on site at all times in addition, the Applicant shall implement and maintain the use of the security cameras which shall be continuously monitored by properly trained staff.*

We recommend the applicant address this condition as a narrative response, to be included on the plan and recorded with the final plan. Note the locations of the required cameras are not indicated on the plans, as required.

4. *The Applicant shall submit a land development application depicting the improvements to the Property hereby approved and consistent with the testimony and exhibits admitted into the record of these proceedings. The said land development plan shall be submitted to the Township by the Applicant not more than 180 days from final, unappealable and unappealed zoning approval.*

The Township confirmed the application was accepted in a timely fashion on June 28, 2021.



5. *King Road is assumed to run in an east-west direction for the purpose of the following conditions. The Applicant shall install and maintain an 8-foot high fence, approved by the Board of Supervisors during the land development plan review, along the entire western and southern boundaries of the Property except for any areas within the floodplain. The nature of this fence including its dimensions, style, structure, materials, and color(s) shall be fully revealed during the land development plan review.*

The required fence is indicated per the above; the detail for the fence is indicated on Sheet 12A. Board of Supervisors approval is required.

6. *Neighboring property owners within 1,000 feet of the Facility in the Township shall be notified by mail of the scheduling of any and all land development plan review proceedings conducted by the Township Planning Commission and Board of Supervisors pursuant to this Order.*

The Township confirmed a letter was sent to all property owners within 1000 feet of the subject property on August 12, 2021, notifying them of the application and the scheduled meeting dates when the application will be discussed.

7. *The Applicant shall submit and implement a landscape plan in accordance with §240-27.C(2) for the western and southern portions of the property except for any areas within the floodplain.*

A landscaping plan (Sheet 9) and details (Sheet 11) have been provided. The proposed landscaping is robust and appears to meet the intent of the Code and the Decision and Order. We will defer to the Conservancy Board for additional comments.

8. *The Applicant and its successors in interest shall plant and maintain the aforesaid buffer yard landscaping in accordance with §240-28.C(3), for so long as the Property is devoted to non residential use, subject to accommodation of the fence and wood chip walking path within said buffer yard landscaping. The required high-level screen shall consist of a combination of evergreen and deciduous trees planted with specimens no less than ten feet in height. These plantings are intended to mitigate the view of the 8-foot fence from the neighboring properties. As part of the land development plan approval process, the Applicant shall meet with the Conservancy Board or present its proposed landscape plan. The Conservancy Board shall provide recommendations to the Board of Supervisors as to whether the Applicant's landscape plan provides a completely planted visual barrier or landscape screen to mitigate the view of the fence.*

A landscaping plan (Sheet 9) and details (Sheet 11) have been provided and the evergreens are specified as 10-feet in height. The proposed landscaping is robust and appears to meet the intent of the Code and the Decision and Order. We will defer to the Conservancy Board for additional comments.

9. *The Applicant shall install a 6-foot high estate fence and deer resistant landscaping to buffer the fencing along the eastern property boundary in accordance with Willistown Township regulations. The Applicant shall install deer resistant understory landscape buffer plantings in the wooded area on the eastern side of the Property prior to the installation of any proposed walking paths and/or mediation areas on the east side of the Ridley Creek. The fencing and landscaping shall be shown on the landscape plans submitted with the land development application for the review of the Board of Supervisors as part of the land development approval.*



Note:

- a. The fence and landscaping are indicated as required.
- b. It may be appropriate to substitute a more deer resistant species for the proposed mountain laurel; please review with the Conservancy Board.
- c. We will defer to the Conservancy Board of additional comments.
- d. The applicant shall submit the fencing plan to Willistown Township for review and comment and a determination if any permits are required.

10. *The Applicant shall install 6-foot high estate fencing along the right of way line for King Road. The fencing shall go around the pump station. The fencing shall be connected to the 8-foot fence and the estate fencing referred to above. The purpose of the fencing referred to in this condition and condition 9 above are to limit ingress and egress to the main entrance of the Facility.*

The required fence is indicated along the right of way line of King Road. The detail for the fence is indicated on Sheet 12A.

11. *All proposed fencing shall be shown in detail in the land development plan and shall be continually maintained by the owner.*

Details for the proposed fence are indicated on Sheet 12A. It may be appropriate for the record plan to note maintenance requirements.

12. *The applicant shall identify in its preliminary land development plan submission all proposed fencing including location, height and general type and style. The location of all proposed fencing shall be shown in plan view with the height, type, style, colors and materials shown in a detailed plan attachment which shall also identify the fence manufacturer and a location, if available, where a similar fence may be inspected. The estimated cost of all proposed fencing shall be included in the improvements for which financial security must be posted by the Applicant.*

Note:

- Details for the proposed fence are indicated on Sheet 12A.
- We will confirm the fence is included in the financial security at such time it is submitted.
- Fence manufacture for the proposed solid PVC fence shall be provided
- Sample locations for both fences should be provided
- It may be appropriate to provide shop drawings, or similar, of each proposed fence from a fencing contractor or supplier

13. *The Applicant shall actively prohibit all patient activity in the area between the existing building and the southern and western property lines other than the garden, the greenhouse, and the pedestrian walking paths.*

We recommend the applicant address this condition as a narrative response, to be included on the plan and recorded with the final plan.

14. *The Applicant shall identify all existing and proposed active recreation areas on the land development plan which shall be reviewed by the Township Engineer who shall recommend the installation of appropriate sound attenuation measures as are necessary to mitigate potential noise from these facilities.*

To be discussed further with all parties.

15. *The Facility shall be restricted to one outdoor smoking area for patients (smoking pavilion). The Applicant shall agree to require all patients to smoke within the smoking pavilion. Staff and visitors shall be restricted to smoking in the front of the building.*

We recommend the applicant address this condition as a narrative response, to be included on the plan and recorded with the final plan. Note the plans indicate a proposed smoking pavilion just in front of the main building.

16. *The smoking pavilion shall be equipped with a "Smoke Eater" type of ventilation and filtration system to minimize the effects of smoke on the surrounding property.*

We recommend the applicant address this condition as a narrative response, to be included on the plan and recorded with the final plan. Nothing appears to have been provided to address this condition.

17. *The Applicant shall screen the new smoking pavilion from the neighboring properties to the west and north with the 8-foot fence described above.*

The required fence is indicated.

18. *The Applicant shall demonstrate during the land development application review that the "Smoke Eater" can effectively ventilate and filter cigarette smoke in the proposed smoking pavilion.*

We recommend the applicant address this condition as a narrative response, to be included on the plan and recorded with the final plan. Nothing appears to have been provided to address this condition.

19. *The Applicant shall install sound attenuation blankets or similar sound dampening material inside the existing emergency generator fencing to mitigate noise from the generator.*

We recommend the applicant address this condition as a narrative response, to be included on the plan and recorded with the final plan. Nothing appears to have been provided to address this condition.

20. *The following site improvements shall be completed prior to issuance of a building permit for the vertical building addition or barn renovations:*

- a. Parking lot renovations;*
- b. Installation of estate fence and the 8-foot fence;*
- c. Installation of the smoking pavilion, including the installation of screening and smoke mitigation measures;*
- d. Installation of sound blankets inside the generator fencing;*
- e. Installation of plantings as required on the landscape plan that is approved as part of the land development plans.*

We recommend the applicant address these conditions as a narrative response, to be included on the plan and recorded with the final plan.

21. *The Applicant shall construct and maintain all walking paths with pervious wood chips.*

No modifications to the trail are proposed. However, we recommend the applicant address this condition as a narrative response, to be included on the plan and recorded with the final plan.

22. *The Applicant shall comply with the parking allocation presented on the Plan.*

The parking appears to meet Code requirements (see Sheet 4)

23. *The Applicant shall agree to permit the outdoor patient activities on the property only between the hours of 7 a.m. and 10 p.m., with the follow exceptions. A maximum of 8 patients at any one time, with active staff supervision shall be permitted to use the smoking pavilion between 10 p.m. and 11:30 p.m. A maximum of 4 patients at any one time, with active supervision from the staff shall be permitted to use the smoking pavilion between 11:30 p.m. and 7 a.m.*

We recommend the applicant address this condition as a narrative response, to be included on the plan and recorded with the final plan.

24. *The Applicant shall record a deed restriction with the Chester County Recorder of Deeds that prohibits any further expansion of the treatment center for a period of 30 years. The deed restriction shall be enforceable by the Township. This condition does not imply that any further expansion will be permitted at any time.*

Nothing appears to have been provided to address this condition. We recommend that a draft document be submitted to the Township for the Township Solicitor's review prior to recording.

25. *The applicant shall establish and adhere to a written protocol acceptable to the Township following review and comment by the neighbors who contact the Facility to complain about adverse impacts from the operation of the Facility. This protocol shall require that a properly trained employee respond appropriately to neighbors' calls.*

We recommend the applicant address this condition as a narrative response, to be included on the plan and recorded with the final plan. Nothing appears to have been provided to address this condition.

26. *The Applicant shall annually make a presentation to the Board of Supervisors at a public meeting to provide an update on the state of affairs at the Facility. This report shall advise the Board of the status of the expansion project, identify any issues that the Facility has encountered in the last year with neighboring property owners and identify any new programs or policies that the Facility has implemented to improve the relationship with the neighbors. Neighbors within 1000 feet of the facility in the Township shall be notified by mail of the scheduling of this annual presentation.*

We recommend the applicant address this condition as a narrative response, to be included on the plan and recorded with the final plan.

27. *When the Applicant becomes aware that a patient has left the Facility AWOL, it shall notify the Westtown East Goshen Regional Police Department of this fact provided that such notification does not violate any patient privacy laws. The intent of this notification is not to reveal the patient's identity or to require the police to respond but simply to advise the police that someone has left the Facility.*

We recommend the applicant address this condition as a narrative response, to be included on the plan and recorded with the final plan.

28. *Applicant shall obtain a building permit for the vertical building addition within three years from the date of an unappealed and unappealable zoning decision and shall obtain a building permit for the barn renovations within four years from the date of an unappealed and unappealable zoning decision.*

The Township confirmed that the applicant shall secure a building permit for the vertical building addition no later than December 31, 2023 and the barn renovations no later than December 31, 2024. We recommend the applicant address this condition as a narrative response, to be included on the plan and recorded with the final plan.

### ZONING

1. The applicant is reminded of the general performance standards of §240-24.
2. A permit is required from the Township for any construction within the identified floodplain. (§240-26.B((2)(b)) There are multiple improvements indicated within the floodplain that are labeled as 'future'.
3. Please clarify specific ADA ramp details to be utilized in accordance with PENNDOT standard details. (§240-33.B(7)(b))
4. Per §240-33.C(10), 22 feet is required for one-way traffic. The circle does not maintain that width for its entirety; it may be feasible to modify island to meet this dimension.
5. The applicant shall indicate the largest loading vehicle that accesses the site and confirm there is a loading and unloading space for the vehicle. (§240-33.D(2))

### SUBDIVISION AND LAND DEVELOPMENT

6. Please provide a location and elevation of the benchmark utilized. (§205-30.B(8))
7. Sidewalks and/or paths may be required to be installed at the discretion of the Board of Supervisors upon the recommendation of the Planning Commission and Conservancy Board. (§205-56.A) No sidewalks are proposed nor were sidewalks a condition of the Zoning Hearing Board.

### STORMWATER MANAGEMENT

8. Please indicate the Line of Interest/Point on Analysis on the drainage area plan.
9. The volume calculations appear to meet water quality and infiltration requirements; however, the applicant should provide soils testing to verify. (§195-19, §195-20)
10. The report (page 2) indicates 3,010 CF infiltrated, but the calculations on Page A3 indicate 3,326 CF; please clarify.
11. A detailed soils evaluation of the site shall be conducted by a qualified professional and at a minimum shall address soil permeability, depth to bedrock, and subgrade stability. The applicant should provide soils tests for the infiltration BMP. (§195-20.I)



12. Where sediment transport in the stormwater runoff is anticipated to reach the infiltration system, appropriate permanent measures to prevent or collect sediment shall be installed prior to discharge to the infiltration system. (§195-20.N)
13. The runoff elevation within the infiltration BMP is 527.48. The top of the BMP is 527.00. The BMP appears to operate above the volume capacity during the 2-year storm.
14. The Peak Rate calculations appear to consider only SWM #1 outflow. The applicant should provide calculations for the site at a common Point of Analysis. (§195-22)
15. The applicant should provide a statement, signed by the applicant, acknowledging that any revision to the approved SWM site plan shall be submitted to and approved by the municipality and that a revised erosion and sediment control plan shall be submitted to, and approved by, the Conservation District or municipality (as applicable) for a determination of adequacy prior to construction of the revised features. (§195-27.A(3))
16. The applicant should provide the required signature block signed and sealed by the qualified licensed professional responsible for the preparation of the SWM site plan. (§195-27.A(4))
17. The applicant should provide an easement around the stormwater management BMP's; alternately a blanket easement can be provided. (§195-27.B(18)(c))
18. The applicant should provide the documents required per §195-27.F and §195-37 regarding a Stormwater Operations & Management Plan and Agreement, to be recorded.
19. The applicant should provide an Operations and Maintenance Plan for the proposed stormwater management BMP's. (§195-37)
20. Please provide a sediment barrier downslope of SW108.
21. The limit of disturbance does not include any fencing, landscaping improvements nor 'future' improvements.

#### GENERAL

22. Multiple improvements are indicated as 'future'. It is unclear if they are intended to be included as part of the overall approval.
23. We recommend adding an additional arrow at the circle in addition to ONE WAY signage.
24. The applicant shall confirm the height of the proposed walls, if more than four (4) feet, retaining wall plans and calculations, designed by a Pennsylvania registered engineer shall be submitted for Township review prior to construction.
25. Any non-regulatory signs will be reviewed and permitted separately by Township staff.
26. We recommend a detail for the dumpster enclosure be provided.
27. An additional 'decorative fence' is indicated within the interior of the site; please provide a detail for this fence.

28. The specific limits of each type of fence should be more clearly indicated on the plan, including those areas of fencing to be provide with sound attenuation.
29. Fencing sound attenuation details should be provided.
30. Please additionally note the status of the following reviews/permits:
  - a. NPDES Permit (PADEP/CCCD) (§195-15.C(2), -16.A, -17.A) – Not applicable (limit of disturbance is indicated as 0.88 acres)
  - b. Planning Module (PADEP) (§240-24.F, §205-33.B(22)(a)) – Correspondence has not yet been received
  - c. Sanitary Sewer (Municipal Authority) – Correspondence has not yet been received
  - d. On-lot Wells (CCHD) – Not applicable
  - e. Highway Occupancy Permit (PennDOT) – Not applicable
  - f. Fire/Emergency – Correspondence has not yet been received
  - g. Historic Resource (Historical Comm.) – Correspondence has not yet been received
  - h. Landscaping (Conservancy Board) – Correspondence has not yet been received
  - i. County Planning – See July 28, 2021 correspondence
  - j. Willistown Township - Correspondence has not yet been received

Should you have any further questions or comments, please contact the undersigned.

Sincerely,

**PENNONI**



Nathan M. Cline, PE  
Township Engineer

cc: Derek Davis, Township Manager (via e-mail)  
Mark Miller, Director of Public Works (via e-mail)  
Brian Nagle, Esq., MacElree Harvey (via e-mail)  
Malvern Institute for Psychiatric & Alcoholic Studies (via e-mail)  
Brett MacKay, PE, Chester Valley Engineers, Inc. (via e-mail)  
Richard Stratton, PE, Chester Valley Engineers, Inc. (via e-mail)  
Kristin Camp, Esq., Buckley Brion (via e-mail)





EAST GOSHEN TOWNSHIP  
CHESTER COUNTY, PA

**PHOTOCOPY**

SUBDIVISION AND / OR LAND DEVELOPMENT APPLICATION

Date Filed: June 28, 2021

Application for (Circle one):

☐ Subdivision ☒ Land Development ☐ Subdivision & Land Development

A. Application is hereby made by the undersigned for approval of a Subdivision and or Land Development Plan, more particularly described below.

1. Applicant's name: Malvern Institute For Psychiatric & Alcoholics Studies

Address: 940 King Road, Malvern, PA 19355 Phone: (610) 941-3390

Fax: \_\_\_\_\_ Email: KWilliams@malvernhealthinc.com

2. Name and address of present owner (if other than 1. above)

Name: Malvern Institute For Psychiatric & Alcoholics Studies

Address: 940 King Road, Malvern, PA 19355 Phone: (610) 941-3390

Fax: \_\_\_\_\_ Email: KWilliams@malvernhealthinc.com

3. Location of plan: 940 King Road, Malvern, PA 19355

4. Proposed name of plan: Malvern Institute

5. County Tax Parcel No.: 53-2-18, 53-2B-13 Zoning District: R-2

6. Area of proposed plan (ac.): 10.6 Number of lots: 2

7. Area of open space (ac.): \_\_\_\_\_

8. Type of structures to be constructed: Second Story addition, greenhouse and smoking pavillion

9. What provisions are to be made for water supply and sanitary sewer? The site is currently serviced by public water & sewer. There is no change proposed to the service.

10. Linear feet of road to be constructed: 0

11. Name of Engineer: Chester Valley Engineers, Inc. (Rick Stratton, P.E.)

Phone Number: (603) 644-4623 Ext 103 Fax: (603) 889-3143

Email address: rstratton@chesterv.com

EAST GOSHEN TOWNSHIP, CHESTER COUNTY PA  
SUBDIVISION AND/OR LAND DEVELOPMENT APPLICATION

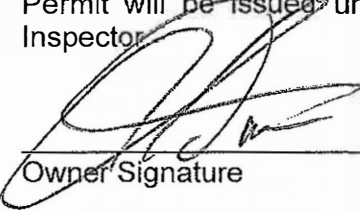
12. Name of Land Planner: Kevin Williams  
Phone Number: (610) 941-3390 Fax: (484) 681-4954  
Email address: KWilliams@malvernhealthinc.com

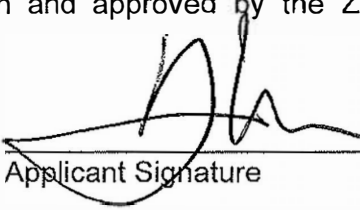
- B. I/We agree to reimburse the Township of East Goshen for such fees and expenses the Township may incur for the services of an Engineer(s) in investigations, tests, and review in relation to the Subdivision Plan.
- C. I/We agree to post financial security for the improvements depicted on the Subdivision and or land Development Plan pursuant to the Subdivision and Land Development Ordinance.
- D. I/We agree to reimburse the Township of East Goshen for all inspection fees at the actual cost to Township.

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**NOTICE**

The Township requires an Occupancy Permit before any building can be occupied; no Occupancy Permit will be issued until final inspection and approved by the Zoning Officer and Building Inspector.

  
Owner Signature

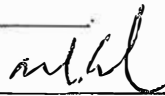
  
Applicant Signature

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**Administrative Use**

Fees received from applicant \$ 450<sup>00</sup> basic fee, plus \$ — per lot

For — lots = \$ 450<sup>00</sup>

Application and plan received by:  Date: 6/28/2021  
(Signature)

Application accepted as complete on: 6/28/2021  
(Date)

EAST GOSHEN TOWNSHIP, CHESTER COUNTY PA  
SUBDIVISION AND/OR LAND DEVELOPMENT APPLICATION

**SUBDIVISION AND/OR LAND DEVELOPMENT CHECKLIST**

This checklist outlines the steps and items needed to insure completeness of the application and to insure the application follows the process and conforms to the timeframe outlined by the State of Pennsylvania and East Goshen Township. This checklist is broken into two parts, the Application Process and the Review Process. The application process must be completed in its entirety prior to the advancement into the Review Process.

**\* Review the formal Planning Commission review procedure on page five.**

**Application for (Circle all appropriate):**    ☐ Subdivision ☒ Land Development

**Applicant Information:**

Name of Applicant: Malvern Institute for Psychiatric & Alcoholics Studies

Address: 940 King Road, Malvern, PA 19355

Telephone Number: (484) 681-4954      Fax: (484) 681-4954

Email Address: KWilliams@malvernhealthinc.com

Property Address: 940 King Road, Malvern, PA 19355

**Property Information:**

Owner's Name: Malvern Institute for Psychiatric & Alcoholics Studies

Address: 940 King Road, Malvern, PA 19355

Tax Parcel Number: 53-2-18, 53-2B-13    Zoning District: R-2    Acreage: 10.6

Description of proposed subdivision and or land Development:

The Malvern Institute is proposing to construct a second story building addition on to the existing facility as well as a greenhouse, smoking pavilion, expansion of the existing parking to add 33 new parking spaces, a fence, landscaping, lighting, and related stormwater management facilities, and consistent with the relief granted and conditions created by the decision of the Zoning Hearing Board order dated November 25, 2020 and issued December 1, 2020.

**EAST GOSHEN TOWNSHIP, CHESTER COUNTY PA  
SUBDIVISION AND/OR LAND DEVELOPMENT APPLICATION**

**Application Process Checklist (Administrative use only):**

<u>Item</u>	<u>Date Complete</u>
1. Completed Township Application Form: .....	6-28-2021
2. Township application and review fees paid:.....	11
3. County Act 247 Form complete: .....	11
4. Appropriate County Fees included: .....	11
5. 11 Copies of sealed Sub / LD plans: .....	11
6. 11 copies of other required plans:	
a. Landscape: (sealed).....	11
b. Conservancy: (sealed).....	NA
c. Stormwater Management: (sealed).....	6-28-2021
7. Three copies of the stormwater report and calculations: .....	6-28-2021
8. Copies of supplementary studies, if required:	
a. Traffic Impact Study:.....	NA
b. Water Study: .....	NA

Application accepted on 6/28/2021 by Mark Gordon

Official Signature [Signature] Title Zoning Official

**Review Process Checklist (Administrative use only)**

<u>Item</u>	<u>Date Complete</u>
1. Date of first formal Planning Commission Meeting following complete submission of application, (Day 1):.....	7-7-2021
Date Abutting property letter sent: .....	7-1-2021 - 8/13/2021
2. Date presented to Planning Commission: .....	7-7-2021 - 9/1/2021
3. Date submitted to CCPC: .....	6-29-2021
4. Date submitted to Township Engineer: .....	6-30-2021
5. Date by which the PC must act, (Day 70): .....	9-15-2021 - 12/1/2021
6. Date by which Board of Supervisors must act, (Day 90): .....	10-5-2021 - 12/21/2021
7. Date sent to CB: .....	7-1-2021
8. Date sent To MA: .....	11
9. Date sent to HC: .....	11
10. Date sent to PRB: .....	11
11. Date sent to TAB: .....	NA

EXTENSION FROM APPLICANT RECEIVED ON 7/1/2021  
FOR PLANNING REVIEWS THRU 12/30/2021

**EAST GOSHEN TOWNSHIP, CHESTER COUNTY PA  
SUBDIVISION AND/OR LAND DEVELOPMENT APPLICATION**

**East Goshen Township Planning Commission  
Procedure for processing Subdivision, Land Development, Conditional Use,  
Variance, and Special Exception Applications**

**August 19, 2002**

**1<sup>st</sup> Revision: September 22, 2003**

**2<sup>nd</sup> Revision: March 2, 2006**

1. In order for any application to be considered by the Planning Commission it must be submitted to the Township with all required documentation as per the Township Code and with all applicable fees paid. The Township will use a checklist to verify all required documentation has been submitted. Until the application is complete the application will not be considered "filed" by the Township staff. The Planning Commission will acknowledge receipt of the application at their next regularly scheduled meeting.
2. All materials to be considered at the next regular meeting of the Planning Commission must be submitted with at least eleven (11) copies to the Township Staff by not later than close of business the previous Tuesday. Any materials submitted after that time will be held for the following meeting and not provided to the Commission at the upcoming meeting.
3. The application review cycle for Subdivision and Land Development Applications shall begin with the next regular meeting of the Commission after the complete application is filed. The application review cycle for Conditional Use, Variance, and Special Exception Applications shall begin the day a complete application is filed with the Township.
4. Applicants should not distribute material to the Commission during a meeting unless it is directly related to the initial presentation of the application. All materials for the Planning Commission, including any material to be used at a meeting, must be delivered to the Township Staff not later than close of business the previous Tuesday.
5. The burden of supplying necessary materials to the Planning Commission in a timely manner is on the applicant. Late delivery of material may require an extension on the part of the applicant or a recommendation for denial of the application by the Planning Commission.
6. Formal application presentations to the Planning Commission will only be made at the regular meeting after the complete application is submitted and accepted by the Township staff.
7. The application will remain on the Planning Commission's agenda until such time as the Commission has made its recommendation to the Board of Supervisors and or Zoning Hearing Board.
8. Applicants are encouraged to attend each Planning Commission meeting in order to answer questions or address issues concerning their application.
9. Applications will be voted on only during the regular Planning Commission meetings.
10. The Chairman, in his sole discretion, may waive or modify any of this procedure.



# THE COUNTY OF CHESTER



## COMMISSIONERS

Marian D. Moskowitz  
Josh Maxwell  
Michelle Kichline

Brian N. O'Leary, AICP  
Executive Director

## PLANNING COMMISSION

Government Services Center, Suite 270  
601 Westtown Road  
P. O. Box 2747  
West Chester, PA 19380-0990  
(610) 344-6285 Fax (610) 344-6515

July 28, 2021

Derek Davis, Manager  
East Goshen Township  
1580 Paoli Pike  
West Chester, PA 19380

Re: Preliminary Land Development - Malvern Institute 2nd Story Building Addition (Revised)  
# East Goshen Township – LD-07-21-16804

Dear Mr. Davis:

A Preliminary Land Development Plan entitled "Malvern Institute 2nd Story Building Addition", prepared by Chester Valley Engineers Inc., and dated June 28, 2021, was received by this office on June 29, 2021. This plan is reviewed by the Chester County Planning Commission in accord with the provisions of Section 502 of the Pennsylvania Municipalities Planning Code. We offer the following comments on the proposed land development for your consideration.

### **PROJECT SUMMARY:**

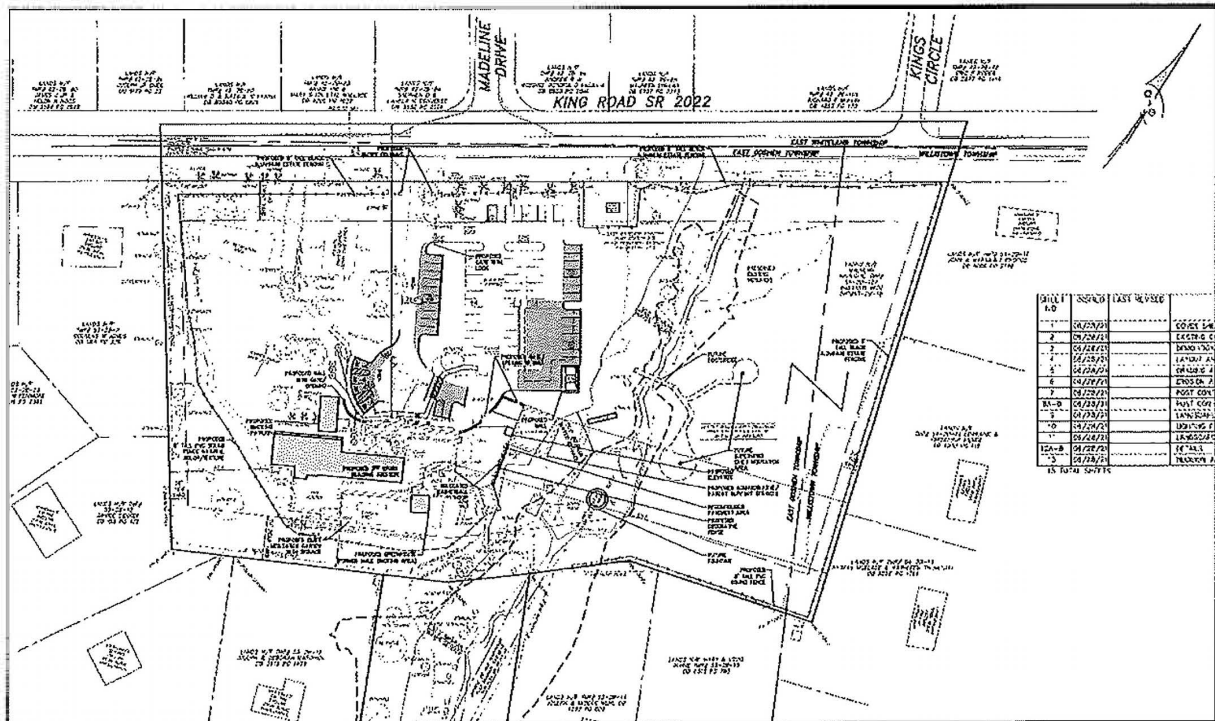
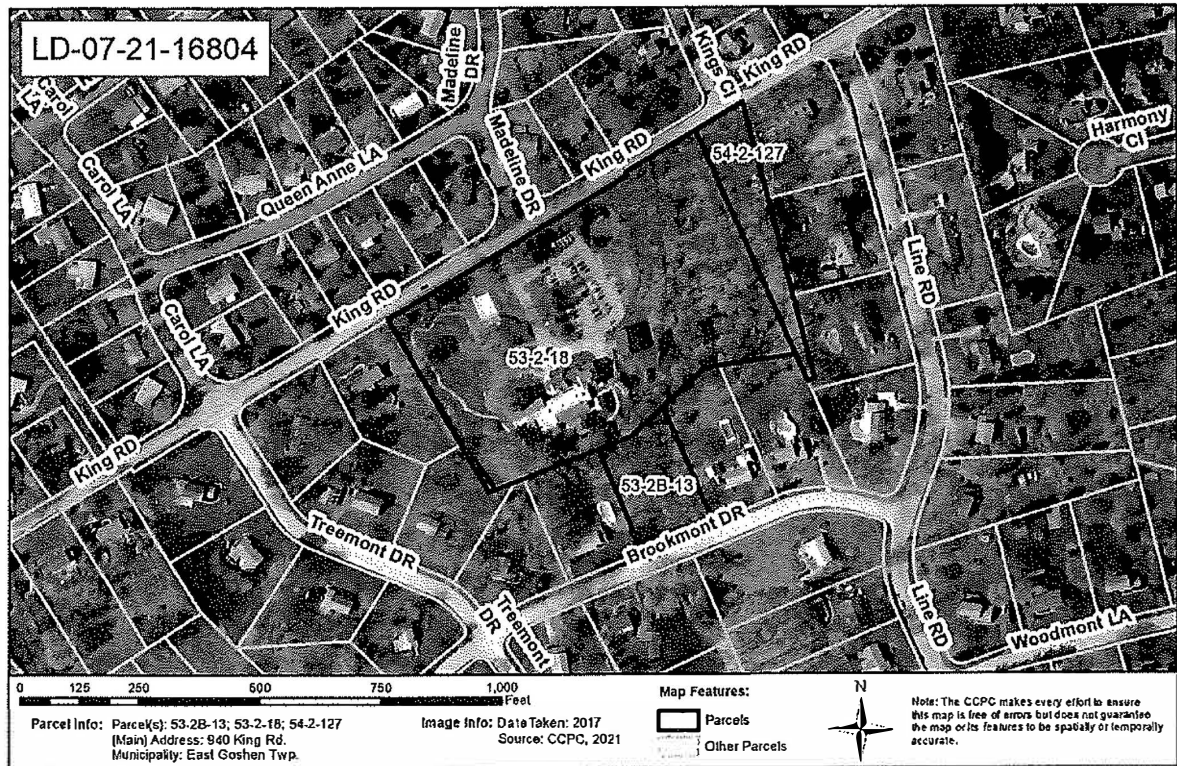
Location:	south side of King Road, west of Line Road
Site Acreage:	10.50
Lots/Units:	1 Lot
Non-Res. Square Footage:	5,400
Proposed Land Use:	Expansion of existing medical facility
New Parking Spaces:	33
Municipal Land Use Plan Designation:	Low Density Residential
UPI#:	53-2B-13, 53-2-18, 54-2-127

### **PROPOSAL:**

The applicant proposes the construction of a 5,400 square foot second floor addition to the existing facility, along with the construction of 33 additional parking spaces (81 parking spaces, including 4 handicapped-accessible spaces, will be provided). No new sewage disposal or water supply is proposed as part of this project. The project site is located in the R-2 Low Density Suburban Residential zoning district. The easternmost portion of the site is situated in Willistown Township, which is zoned R-1 Residence.

**RECOMMENDATION:** The County Planning Commission recommends that the issues raised in this letter should be addressed, and all Township issues should be resolved before action is taken on this land development plan.





Site Plan Detail, Sheet 1: Preliminary Land Development- Malvern Institute 2<sup>nd</sup> Story Building Addition

**COUNTY POLICY:**

**LANDSCAPES:**

1. The project site is located within the **Suburban Landscape** and **Natural Landscape** designations of *Landscapes3*, the 2018 County Comprehensive Plan. The vision for the **Suburban Landscape** is predominantly residential communities with locally-oriented commercial uses and facilities, accommodating growth at a medium density that retains a focus on residential neighborhoods, with enhancements in housing diversity and affordability. As an overlay of all other landscapes, the county's **Natural Landscapes** consist of a network of streams, wetlands, floodplains, and forests that are protected by regulations or should be subject to limited disturbance. Conservation practices should protect and restore these natural resources. The proposed land development is consistent with the objectives of the **Suburban Landscape**.

**WATERSHEDS:**

2. *Watersheds*, the water resources component of *Landscapes3*, indicates the proposed development is located within the Ridley Creek watershed. *Watersheds*' highest priority land use objectives within this watershed are: reduce stormwater runoff, protect vegetated riparian corridors, and protect/enhance water-based recreation, cultural, historic resources and public access. *Watersheds* can be accessed at [www.chesco.org/water](http://www.chesco.org/water).

**PRIMARY ISSUES:**

3. The Township should verify that the design of the proposed outdoor lighting plan (Sheet 10) conforms to Township ordinance requirements. The illumination should be directed inward from the periphery of the site and be oriented to reduce glare and visual impact on the adjoining roadways and land uses.
4. While we acknowledge that Sheet 9-Landscape Plan depicts that extensive landscaping will be provided along the northern, western, and southern parcel boundaries (west of the existing floodplain area), we recommend that the applicant and Township consider planting additional trees, shrubs, and ground cover in areas currently covered by lawn within and adjacent to the parking areas. *Landscapes3* recommends that developments in the **Suburban Landscape** include extensive landscaping in parking areas (page 39).
5. The site contains land within the 100 year flood plain. Although it does not appear that any development activity will encroach into the floodplain, we note that the County Planning Commission does not support development in the floodplain, and the Federal Emergency Management Agency and Pennsylvania Department of Environmental Protection regulate filling or development in the floodplain. Development within a floodplain can increase the magnitude and frequency of normally minor floods, and present health and safety problems.
6. The site contains delineated wetlands. Although it does not appear that any development activity will encroach into the delineated wetland area, the applicant should be aware that placement of fill in wetlands is regulated by the Corps of Engineers in accordance with Section 404 of the Clean Water Act (1977) and the Department of Environmental Protection under Chapter 105 Rules and Regulations for the Bureau of Dams and Waterway Management.

Page: 4

Re: Preliminary Land Development - Malvern Institute 2nd Story Building Addition  
# East Goshen Township — LD-07-21-16804

ADMINISTRATIVE ISSUES:

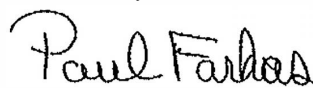
7. Land disturbance and land development activities that occur within Chester County must comply with the *County-wide Act 167 Stormwater Management Plan for Chester County, PA* (July 2013) and the associated Act 167 stormwater management ordinance standards adopted by each municipality.
8. Sheet 13-Decision and Order Letter indicates that the Township Zoning Hearing Board granted approval for this project with 28 conditions of approval. We note that the conditions of approval include the following:
  - The applicant shall install and maintain an 8-foot high fence along the entire western and southern property boundaries except for any areas within the floodplain (condition #5);
  - The applicant shall install a 6-foot high estate fence and deer resistant landscaping to buffer the fencing along the eastern property boundary in accordance with Willistown Township regulations (condition #9);
  - The applicant shall install 6-foot high estate fencing along the right of way line for King Road (condition #10); and
  - The applicant shall record a deed restriction that prohibits any further expansion of the treatment center for a period of 30 years, which shall be enforceable by the Township (condition #24).

The Township should verify that all applicable conditions of approval have been incorporated into the final plan. The date of the Zoning Hearing Board's decision should be identified on the approved plan. We note that the Township application form indicates that the Zoning Hearing Board order is dated November 25, 2020 and issued on December 1, 2020.

9. A site plan note incorrectly identifies the UPI-Uniform Parcel Identifier number of the portion of the project site in Willistown Township as 54-2B-127, rather than 54-2-127. This should be corrected by the applicant. The Chester County Recorder of Deeds Office requires that the correct UPI numbers be identified on all subdivision and land development plans submitted for recording.
10. A minimum of four (4) copies of the plan should be presented at the Chester County Planning Commission for endorsement to permit recording of the final plan in accord with the procedures of Act 247, the Pennsylvania Municipalities Planning Code, and to meet the requirements of the Recorder of Deeds and the Assessment Office.

This report does not review the plan for compliance to all aspects of your ordinance, as this is more appropriately done by agents of East Goshen Township. However, we appreciate the opportunity to review and comment on this plan. The staff of the Chester County Planning Commission is available to you to discuss this and other matters in more detail.

Sincerely,



Paul Farkas  
Senior Review Planner

cc: Malvern Institute For Psychiatric & Alcoholics Studies  
Chester Valley Engineers Inc.  
Sally A. Slook, Manager, Willistown Township

**COPY**

IN RE: APPLICATION OF  
THE MALVERN INSTITUTE

: BEFORE THE ZONING HEARING BOARD  
: OF EAST GOSHEN TOWNSHIP  
: CHESTER COUNTY, PENNSYLVANIA

DECISION

The Zoning Hearing Board (the "Board") of East Goshen Township, Chester County, Pennsylvania ("Township"), after proper advertisement, met at 7:00 P.M. on Wednesday, September 30, 2020; to receive evidence and argument from the parties on the December 10, 2019 remand from the Court of Common Pleas of Chester County of the Application of the Malvern Institute ("Malvern Institute" or "Applicant") for special exception and variance relief pursuant to the Zoning Chapter of the Township Code ("Zoning Ordinance" or "ZO") in connection with the expansion of the lawful nonconforming medical treatment center use of its property known as 940 West King Road, Malvern, East Goshen Township, Chester County, Pennsylvania (UPI No. 53-2-18), located within the Township's R-2 Low Density Residential Zoning District (the "Property"). The specific nature of the relief initially requested by the Applicant is described in the advertised Public Notice of the hearing marked and admitted into the record of the remand proceedings as Exhibit B-20 including the following:

1. A special exception pursuant to ZO § 240-40.C(2)(e) in order to expand the floor area of the main building on the Property serving the Applicant's legal nonconforming use;

2. A variance from the maximum 25% increase in total floor area of structures devoted to a nonconforming use in ZO § 240-40.C(2)(c) in order to permit a 34.04% floor area expansion pursuant to the initial (original) proposal as shown on Exhibit A-

7, or a 52.92% floor area expansion pursuant to the alternate (revised) proposal as shown on Exhibit A-16;

3. A variance from the four foot (4') maximum height limitation of ZO § 240-32.E(2) in order to construct a six foot (6') tall estate fence in the front yard of the Property;

4. A variance from the 24-foot driveway minimum width regulation of ZO § 240-33.C(10) in order to permit a 22-foot wide driveway for two-way traffic at night;

5. A variance from the 250-foot minimum setback requirement of ZO § 240-31.C(3)(mm) in order to permit the first floor of the new building made the subject of the revised proposal to be setback 45.1-feet from the neighboring residential properties;

6. A variance from the 18-month time limit in ZO § 240-58.D so that any relief here granted will not lapse or become null and void so long as zoning permits are obtained and actual construction is commenced not later than 15 years from the date of this Decision; and

7. Such other relief necessary and appropriate to permit the Applicant's proposed expansion of its nonconforming use.

As we will indicate, not all of the relief initially requested by the Applicant remains pertinent to the proposal made the subject of the proceedings on remand.

Present at the hearing were Board Chairman, John D. Snyder, Esquire; Vice Chairman Douglas Roberts, Esquire; and alternate member James Ruggiero, Esquire, in lieu of member Sigmund J. Fleck, Esquire, who recused himself as the owner of property proximate to that of the Applicant. The Township Manager, Rick Smith, and the Township Zoning and Code Enforcement Officer, Mark Gordon, were also present.

The Board was represented by its Solicitor, Ross A. Unruh, Esquire. Cara Fitzpatrick, Official Court Reporter, took the notes of testimony.

The Applicant was represented by Brian L. Nagle, Esquire. The Township as a party was represented by its Solicitor, Kristen S. Camp, Esquire. Greg and Lisa O'Neill and Scott and Terri Relick, as neighboring property owners in opposition to the Application, were represented by William R. Christman, III, Esquire and were recognized as parties.

As indicated, by this application, the Applicant requests special exception and variance relief to permit the expansion and modernization of its facilities located on the south side of King Road, just west of Willistown Township and just east of the intersection of King Road with Sproul Road (also known as PA Route 352). These facilities have been used at this location since 1948 - five years before the Township's enactment of its first zoning ordinance in 1953 - for the housing and treatment of patients suffering from substance abuse disorders. These lands of the Applicant are now zoned for low density residential use and the medical facility is a lawful nonconforming use. Nonconforming uses are permitted by the Zoning Ordinance<sup>1</sup> and controlling case law<sup>2</sup> to expand as necessary to maintain the economic viability of the nonconforming enterprise. The lands surrounding those of the Applicant have been developed during the period since the facility began operations in 1948 for substantial residences on large lots.

The application for expansion was previously heard by this Board in six extended sessions of a public hearing conducted between January and September 2018. At that

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<sup>1</sup> ZO 240-40.C

<sup>2</sup> We described the controlling statutory and case law in considerable detail in our February 28, 2019 Decision. That discussion is here incorporated and will not be repeated.



time, the Applicant submitted two expansion and modernization proposals. The original proposal involved a vertical expansion of the main building by addition of a story and internal renovations to an existing barn. No increase in the number of buildings or their building footprint<sup>3</sup> was included in the original proposal. Neither did the original expansion proposal require any further encroachment within the required yard, open space, or set-back areas of the property.

A revised expansion proposal was later included as an alternative in the application considered by this Board in 2018-2019. The revised proposal included an additional building some 15,000 square feet in floor area and 160 feet in length to be located within the required side-yard open space along the Applicant's western property boundary separating the facility from adjoining residential neighbors.

Neighboring property owners Greg and Lisa O'Neill and Scott and Terri Relick were admitted as parties. Other neighboring residents attended the hearing sessions and described the history of incidents with patients at the facility and the neighbors' concerns with and objections to both the original and revised proposals.

On the basis of a view of the property by the Board and counsel for the parties, the evidence received at the hearing and the oral and written presentations of the parties, the Board entered a decision and order dated February 28, 2019 ("2019 Decision") rejecting both proposals as submitted. The factual findings, legal conclusions, and discussion in the 2019 Decision are here, except as expressly modified, incorporated. Among the many conclusions reached by the Board in its 42-page decision were the following:

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<sup>3</sup> Apart from a *de minimis* expansion of the barn for required access purposes.

From the extensive evidence submitted and by a physical inspection of the Applicant's facilities by the Board before the hearing opened, it was clear to each of the Board members then sitting that some expansion and modernization was necessary. As we wrote in 2019:

During the tour of the Property, no participant could discount the evident need for additional space. While Applicant has devoted both imagination and effort to the use of available space for multiple uses, many programs cannot be effectively accommodated by these means. Particularly significant is the need for private space in which to counsel patients, clients, and their families. At present, counselors must share with each other and with multiple persons being counseled, undersized and undivided basement counseling spaces that render compliance with Federal HIPAA privacy regulations virtually impossible. Applicant's unmet needs are the natural consequences of various factors including demographic changes in the patient population, the ready access to addictive drugs such as opiates and heightened regulatory oversight by agencies charged with supervision and accreditation of treatment centers. (D&O pgs. 16-17 [footnote omitted]).

We then concluded:

The Board is impressed by the difficulties resulting from the Applicant's obsolete facility. The Board has no doubt that modernization including some expansion is critically needed.

Id. at 17.

However, the second conclusion that was reached by the Board in 2019 was that the Board had been confronted, however inadvertently, with a conceptual conundrum<sup>4</sup> created by the two very different expansion proposals submitted without any clear indication which one the Applicant wanted to pursue. As the Board then saw it, the original proposal that the Applicant's witnesses testified was sufficient (albeit "barely") made it impossible for the Board to find as a fact that the much larger (and more violative of the

---

<sup>4</sup> We have borrowed this term from the Applicant's counsel. N.T. 9/30/2020 at page 9.

zoning regulations) revised proposal was the minimum relief needed. Such a finding of "minimum variance relief" was required by the statutory and regulatory provisions that control this Board (MPC 910.2(a)(4); ZO § 240-58(B)(5)). We may only grant a variance in any case if it is shown to be the minimum possible regulatory deviation that will address the proven hardship. At the same time, as noted, it was unclear on the record made in 2018 that any party desired the implementation of the original proposal.<sup>5</sup>

Moreover, the Zoning Ordinance directly forbids the expansion of a nonconforming use beyond that shown by the applicant to be the minimum necessary to address the proven hardship. Specifically, ZO § 240-44.C provides:

No provision of this article which establishes a specific percentage limitation upon the expansion of a nonconforming use shall be construed to automatically authorize an expansion to the maximum permitted, ***nor shall a variance related to any nonconformity be granted from the applicable zoning district regulations in excess of the minimum variance necessary to afford relief. It shall be incumbent upon the applicant to prove the need for such expansion consistent with established principles of law.***

*Id.* Emphasis supplied.

For these reasons (and others described below), the Board in 2019 denied the applications as presented and asked the Applicant to return to the Board for two limited purposes:

First: to identify which one of the proposals it wanted to pursue; and

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<sup>5</sup> The Court's description of this conundrum on appeal as a "Catch-22" (repeated by Applicant's counsel at the remand hearing [N.T. 9/30/2020 at page 9]) provides neither solace nor solution either to this Board or to the Applicant. Indeed, as the Applicant conceded to the Board during the hearing conducted on September 30, 2020, the "minimum variance problem" as explicated in the 2019 Decision could be overcome only by a change in existing law that the Applicant did not wish to pursue. *Id.* Of course, this Board is bound by existing law. Applicant's argument that benefits to the public or to the neighbors could substitute for the required finding of "minimum variance" (*Id.* at page 9) is entirely unsupported and appears to confuse the Board's proper function with that of the Township governing body acting in its legislative capacity.

Second: if the Applicant chose the larger "revised proposal," with its new 15,000 square foot building, then we asked the Applicant to explain to the Board how that proposal represents the minimum variance both in terms of its greater violation of the maximum expansion permitted during the lifetime of a nonconforming use and in its 82%, 205' violation of the most critical dimensional requirement: the mandatory side-yard separation between structures on the Applicant's lands and adjoining residential properties.

The Applicant chose not to return to the Board and filed instead an appeal to the Court of Common Pleas as was its right. The appeal was heard by Judge Tunnell for that Court which entered an Order, dated December 10, 2019, remanding the case back to this Board for a hearing, findings and issuance of a decision consistent with the Court's decision.

Much can be said about the Court's lengthy decision but this much is clear: the Court disagreed with this Board's findings and conclusions concerning the effect on this application of MPC 910.2(a)(4) which prohibits the grant of any variance which will:

alter the essential character of the neighborhood or district in which the property is located [or] substantially or permanently impair the appropriate use or development of adjacent property, [or] be detrimental to the public welfare.

The 2019 Decision included the following with respect to this issue:

The evidence of the Neighbors was largely devoted to MPC § 910.2(a)(4) above consisting of anecdotal descriptions of Applicant's patients: (a) leaving the facility grounds, often at night, to retrieve packages (presumably illicit substances) placed by others along the Property boundary; (b) trespassing on nearby residential properties including for the purpose of requesting various forms of assistance; (c) frightening residents and their young children by their uninvited and unannounced presence on neighboring properties; (d) loudly engaging in

various sports and other activities on the Property including the use of profanity clearly audible to adults and children on adjoining properties; (e) smoking tobacco in areas of the Property where adjoining neighbors are adversely affected; and (f) leaving bottles and other litter along the Property boundary regularly that neighbors must gather and remove.

The witnesses for the Applicant did not deny the burdens created by patients but, to the contrary, conceded that such events occurred with some frequency while emphasizing a belief that aspects of the Alternative Proposal including an eight (8') solid sound wall along the western boundary adjoining the residences<sup>14</sup> most often affected together with an aluminum slat fence, six feet (6') in height, along the King Road frontage and additional outdoor surveillance cameras would ameliorate these problems.

\* \* \*

Neighbors expressed frustration that Applicant waited until it needed support for its Proposals before taking steps and developing policies and protocols to address the very real and longstanding neighbor concerns. Should Malvern Institute accept this Board's suggestion to prepare and present another expansion proposal, the time period beginning with this decision will be an important indicia of the ability of Applicant to develop and maintain such policies and protocols and the Board is confident that neighbors will report on the degree of success.

D&O pgs. 23-25

We have set forth our prior discussion at some length, in part, to explain the Board's evidentiary ruling during the hearing on remand conducted on September 30, 2020. At that time, the neighbor-protestants introduced into the record, over the objection of the Applicant, a 19-page Exhibit marked as Relick-1 and identified by witness Terry Relick as a compilation of police incident reports involving the Applicant.

We have examined Exhibit Relick-1 with some care. The Exhibit includes many references to police incidents that do not appear to have involved either the Applicant's patients or property and includes other incidents that took place before the record in this matter was closed in 2018 and are, therefore, duplicative of evidence then received. However, the Exhibit is also, in a number of its entries, directly responsive to this Board's

request<sup>6</sup> that the neighbors keep careful track of incidents involving the Applicant during the period following the 2019 Decision and report back to the Board the degree to which the Applicant has been able, through newly promulgated policies or otherwise, to control the kinds of adverse incidents described to the Board in 2018. We are grateful to the neighbors for their diligence and we admitted Exhibit Relick-1 on this basis.

At the same time, however, we are not persuaded that Exhibit Relick-1 speaks significantly beyond the evidence on this subject that we received in 2018 and expressly credited in our 2019 Decision. The Exhibit contains about a dozen references to incidents involving the Applicant during the period after the record was closed in 2018. Many of these involve disputes and altercations either between patients at the facility or between patients and staff.<sup>7</sup> One involved the family member of a patient who initially refused to leave the facility but left before officers arrived.<sup>8</sup> Two involved heroin overdoses at the facility.<sup>9</sup> Three involved disturbances by patients leaving the facility.<sup>10</sup> One involved a report of drug sales apparently at the facility.<sup>11</sup>

None of the incident reports contained in Exhibit Relick-1 directly involved by their terms (which is all we have since the compilation was not the subject of explanatory testimony) neighbors or their properties. We recognize that many of the reported incidents occurred late at night or in the early morning hours.<sup>12</sup> It may well be that the incidents themselves or the sirens of responding officers and ambulances were disturbing to neighbors at these hours but we cannot speculate on such matters *dehors* the record.

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<sup>6</sup> 2019 Decision at page 25.

<sup>7</sup> See, for example, the incidents reported on September 12; May 17; April 18; and January 18, 2020;

<sup>8</sup> Incident reported on June 2, 2018.

<sup>9</sup> Incidents reported on August 28 and June 23, 2020.

<sup>10</sup> Incidents reported on August 3, and March 28, 2020 and April 21, 2018.

<sup>11</sup> Incident reported on April 21, 2018.

<sup>12</sup> See, for example, the incidents reported on September 12, August 28, August 3, May 17, and January 18, 2020.



We remain convinced that the record evidence admitted in 2018 amply supports the findings and conclusions contained in our 2019 Decision- including those involving the potential effect of the facility expansion on the neighbors, neighboring properties, and the public interest. However, as we have indicated, the Court of Common Pleas on direct appeal rejected our findings and conclusions on these issues. Specifically, the Court concluded at page 21 of its December 10, 2019 Decision Sur Appeal that the evidence this Board found to be compelling of neighbor and neighborhood harm was "simply inadequate to support the Board's findings." Moreover, the Court wrote that it "finds no little irony in the thought that this dedicated treatment facility is detrimental to the public welfare". On this remand, the Court's decision is binding.

We are constrained on this remand to act in a manner consistent with the rulings of the Appellate Court, and we will do so. However, we will attempt to the extent that we are able to impose conditions to the relief we grant that were carefully prepared by the Township and its Solicitor and are intended to ameliorate the adverse effects of the facility on the neighbors. We recognize that any of the parties to this proceeding may decide to seek further appellate review of the decision we here reach. We have attempted to structure this decision so that it addresses the various concerns presented to us while complying with the mandate of the Appellate Court. More than that we cannot do.

Apart from the issue of the effect of MPC 910.2(a)(4) just described, the objections to the proposed expansion identified in the 2019 Decision concerned various aspects of the revised proposal. On September 30, 2020, the Applicant's counsel represented to the Board that it was no longer requesting that the Board grant relief related to the revised proposal and was, instead, requesting only such relief as is needed to construct the

vertical expansion originally proposed.<sup>13</sup> Since the only grounds on which the original proposal was rejected by this Board in 2019<sup>14</sup> have been set aside by the Court on appeal, we will here make the following additional findings.<sup>15</sup>

### **Additional Findings of Fact**

1. The documentary Exhibits marked for identification and admitted into the record of these proceedings on remand were:

- a. Exhibit B-18: The Proof of Publication
- b. Exhibit B-19: The affidavit of posting
- c. Exhibit B-20: The text of the Public Advertised Notice
- d. Exhibit T-2: The letter of the Township Governing Body dated September 22, 2020 and the attachment thereto
- e. Exhibit Relick-1: A compilation of police incident reports

2. The parties to the hearing on remand were the Applicant, represented by its counsel Brian L. Nagle, Esquire and MacElree Harvey, LLP; the Township, represented by its solicitor, Kristin S. Camp, Esquire and Buckley Brion McGuire & Morris, LLP, and neighboring property owners Greg and Lisa O'Neill and Scott and Terri Relick, represented by their counsel William R. Christman III, Esquire and Lamb McErlane, PC.

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<sup>13</sup> See N.T. 9/30/2020 at pages 8-10. Although not specifically identified during the remand hearing, we understand that relief to be described at pages 1-2 above in para. 1, the 34% expansion of para. 2, paras. 3 and 4, and para. 6; all as further limited and modified by the conditions imposed hereinbelow.

<sup>14</sup> There is also a complex issue the Court did not address. It is described in detail in this Board's February 28, 2019 Decision at Notes 15-19 and the text at pages 26-29 and has to do with the calculation of the maximum floor area expansion over the life of a nonconforming use which, under the ZO, is 25%. We concluded in 2019 that the Applicant's calculations were in error and that neither proposal complied with the ordinance. Arguments were made on appeal concerning this issue but were left unresolved. However, since no party raised this issue on remand, we will not raise the issue again *sua sponte*.

<sup>15</sup> It is not lost on this Board that the Applicant could have arrived at this precise juncture and would have received relief identical to that described below if it had returned to the Board in the Spring of 2019 as the Board requested. We fully recognize the broader community need for facilities of this type as well as the difficulties the Applicant has endured by the delay in its ability to modernize the facility as it originally proposed. That is precisely why we requested that the Applicant return to the Board.

3. The parties, by their counsel, agreed on the record to the composition of the Board, which includes two members appointed since the February 28, 2019 Decision.

4. The only testimony received on remand was that of neighbor-objector Terri Relick, which we found to be both creditable and persuasive in all respects.

5. Due to the dangers of Covid-19, the September 30, 2020 hearing on remand was held in the Township maintenance garage, a large interior space with appropriate ventilation. The socially distanced chairs for attendees were occupied by concerned neighbors who, according to counsel for the O'Neills and Relicks, desired to make statements in opposition to the Application. The Board, recognizing that the Court on appeal had rejected the findings and conclusions of adverse impact, declined to hear these unsworn statements.

6. The Applicant has requested on remand only such relief as is necessary to implement the original expansion proposal as described above and made the subject of Exhibit A-7.

7. The Township will support this application only if the conditions to approval made the subject of the attachment to Exhibit T-2 and as agreed to be amended at the hearing are imposed by this Board.

8. The Applicant has agreed to the imposition of the conditions made the subject of our Order.

9. Expansion of the Applicant's facility in accordance with the original proposal and as further conditioned below is necessary to maintain the economic viability of this medical enterprise.

10. The Board here expressly finds and concludes that the expansion of the Applicant's facility in accordance with the original proposal and as further conditioned below will not alter the essential character of the neighborhood in which the property is located or substantially or permanently impair the appropriate use or development of adjacent property, or be detrimental to the public welfare in a manner or to a degree substantially different from or greater than the existing nonconforming facility.

11. To the contrary, the Board here finds and concludes that the expansion of the Applicant's facility in accordance with the original proposal and as further conditioned below will, so long as the Applicant observes the conditions in good faith, ameliorate some of the adverse effects that the facility has had over many years on the neighboring property owners.

We will on these bases enter the following:

**ORDER**

**AND NOW**, this 25<sup>TH</sup> day of NOVEMBER, 2020, the Zoning Hearing Board of East Goshen Township hereby approves the original expansion proposal of the Malvern Institute including the vertical enlargement of the main building by addition of a story and the interior alteration of the existing barn, all as described in the evidence of record including Exhibit A-7 admitted into the record of these proceedings on February 13, 2018 and as further conditioned by the following to which the Applicant and the Township indicated their general assent to this Board on September 30, 2020. Each of the conditions that follow shall be enforced by the Township in the manner and by the means applicable to the enforcement of zoning regulations generally:

1. The Applicant shall restrict and limit the treatment program at the King Road facility (the "Facility") to in-patient treatment only.

2. The Applicant shall limit the number of patients receiving treatment at the Facility to a maximum of 80 patients on-site at any one time. The Applicant shall, by formal and binding submission to the appropriate licensing agency, restrict and limit the licensing of the Facility to 80-patients. A true and correct copy of the submission shall be provided to the parties hereto.

3. The Applicant shall install additional video cameras at the front entrance and at locations along the main driveway entrance to supplement its existing video security system. The video cameras shall be continuously monitored so as to alert staff and security personnel of incoming and outgoing persons and vehicles. The location of all video cameras shall be depicted on the preliminary and final land development plans. The eastern parking lot gate shall be locked by 11 p.m. each day to ensure that any vehicle entering the site must approach the main building. The Applicant shall have no less than one security guard on site at all times. In addition, the Applicant shall implement and maintain the use of the security cameras which shall be continuously monitored by properly trained staff.

4. The Applicant shall submit a land development application depicting the improvements to the Property hereby approved and consistent with the testimony and exhibits admitted into the record of these proceedings. The said land development plan shall be submitted to the Township by the Applicant not more than 180 days from final, unappealable and unappealed zoning approval.

5. King Road is assumed to run in an east-west direction for the purpose of the following conditions. The Applicant shall install and maintain an 8-foot high fence, approved by the Board of Supervisors during land development plan review, along the entire western and southern

boundaries of the Property except for any areas within the floodplain. The nature of this fence including its dimensions, style, structure, materials, and color(s) shall be fully revealed during the land development plan review.

6. Neighboring property owners within 1,000 feet of the Facility in the Township shall be notified by mail of the scheduling of any and all land development plan review proceedings conducted by the Township Planning Commission and Board of Supervisors pursuant to this Order.

7. The Applicant shall submit and implement a landscape plan in accordance with SLDO §240-27.C(2) for the western and southern portions of the property except for any areas within the floodplain.

8. The Applicant and its successors in interest shall plant and maintain the aforesaid buffer yard landscaping in accordance with ZO §240-27.C.(3), for so long as the Property is devoted to nonresidential use, subject to accommodation of the fence and wood chip walking path within said buffer yard landscaping. The required high-level screen shall consist of a combination of evergreen and deciduous trees planted with specimens no less than ten feet in height. These plantings are intended to mitigate the view of the 8-foot fence from the neighboring properties. As part of the land development plan approval process, the Applicant shall meet with the Conservancy Board to present its proposed landscape plan. The Conservancy Board shall provide recommendations to the Board of Supervisors as to whether the Applicant's landscape plan provides a completely planted visual barrier or landscape screen to mitigate the view of the fence.

9. The Applicant shall install a 6-foot high estate fence and deer resistant landscaping to buffer the fencing along the eastern property boundary in accordance with Willistown

Township regulations. The Applicant shall install deer resistant understory landscape buffer plantings in the wooded area on the eastern side of the Property prior to the installation of any proposed walking paths and/or meditation areas on the east side of the Ridley Creek. The fencing and landscaping shall be shown on the landscape plans submitted with the land development application for review by the Board of Supervisors as part of land development approval.

10. The Applicant shall install 6-foot high estate fencing along the right of way line for King Road. The fencing shall go around the pump station. This fencing shall be connected to the 8-foot fence and the estate fencing referred to above. The purpose of the fencing referred to in this condition and condition 9 above are to limit ingress and egress to the main entrance of the Facility.

11. All proposed fencing shall be shown in detail in the land development plan and shall be continually maintained by the owner.

12. The Applicant shall identify in its preliminary land development plan submission all proposed fencing including location, height, and general type and style. The location of all proposed fencing shall be shown in plan view with the height, type, style, colors and materials shown in a detailed plan attachment which shall also identify the fence manufacturer and a location, if available, where a similar fence may be inspected. The estimated cost of all proposed fencing shall be included in the improvements for which financial security must be posted by the Applicant.

13. The Applicant shall actively prohibit all patient activity in the area between the existing building and the southern and western property lines other than the garden, the greenhouse, and the pedestrian walking paths.

14. The Applicant shall identify all existing and proposed active recreation areas on the land development plan which shall be reviewed by the Township Engineer who shall recommend the installation of appropriate sound attenuation measures as are necessary to mitigate potential noise from these facilities.

15. The Facility shall be restricted to one outdoor smoking area for patients (smoking pavilion). The Applicant shall agree to require all patients to smoke within the smoking pavilion. Staff and visitors shall be restricted to smoking in the front of the building.

16. The smoking pavilion shall be equipped with a "Smoke Eater" type of ventilation and filtration system to minimize the effects of smoke on the surrounding property owners.

17. The Applicant shall screen the new smoking pavilion from the neighboring properties to the west and north with the 8-foot fence described above.

18. The Applicant shall demonstrate during the land development application review that the "Smoke Eater" system can effectively ventilate and filter cigarette smoke in the proposed smoking pavilion.

19. The Applicant shall install sound attenuation blankets or similar sound dampening material inside the existing emergency generator fencing to mitigate noise from the generator.

20. The following site improvements shall be completed prior to issuance of a building permit for the vertical building addition or barn renovations:

- a. Parking lot renovations;
- b. Installation of estate fence and the 8-foot fence;
- c. Installation of the smoking pavilion, including the installation of screening and smoke mitigation measures;



- d. Installation of sound blankets inside the generator fencing;
- e. Installation of plantings as required on the landscape plan that is approved as part of the land development plans,

21. The Applicant shall construct and maintain all walking paths with pervious wood chips.

22. The Applicant shall comply with the parking allocation presented on the Plan.

23. The Applicant shall agree to permit outdoor patient activities on the property only between the hours of 7 a.m. and 10 p.m., with the following exceptions. A maximum of 8 patients at any one time, with active staff supervision shall be permitted to use the smoking pavilion between 10 p.m. and 11:30 p.m. A maximum of 4 patients at any one time, with active supervision from staff shall be permitted to use the smoking pavilion between 11:30 p.m. and 7 a.m.

24. The Applicant shall record a deed restriction with the Chester County Recorder of Deeds that prohibits any further expansion of the treatment center for a period of 30 years. The deed restriction shall be enforceable by the Township. This condition does not imply that any further expansion will be permitted at any time.

25. The Applicant shall establish and adhere to a written protocol acceptable to the Township following review and comment by the neighbor-objectors made parties hereto or their successors in interest, for responding to neighbors who contact the Facility to complain about adverse impacts from the operation of the Facility. This protocol shall require that a properly trained employee respond appropriately to neighbor's calls.

26. The Applicant shall annually make a presentation to the Board of Supervisors at a public meeting to provide an update on the state of affairs at the Facility. This report shall advise

the Board on the status of the expansion project, identify any issues that the Facility has encountered in the last year with neighboring property owners and identify any new programs or policies that the Facility has implemented to improve the relationship with neighbors. Neighbors within 1,000 feet of the Facility in the Township shall be notified by mail of the scheduling of this annual presentation.

27. When the Applicant becomes aware that a patient has left the Facility AWOL, it shall notify the Westtown East Goshen Regional Police Department of this fact provided that such notification does not violate any patient privacy laws. The intent of this notification is not to reveal the patient's identity or to require the police to respond but simply to advise the police that someone has left the Facility.

28. Applicant shall obtain a building permit for the vertical building addition within three years from the date of an unappealed and unappealable zoning decision and shall obtain a building permit for the barn renovations within four years from the date of an unappealed and unappealable zoning decision.

ATTEST:

MARK A. GORDON  
ZONING OFFICER

EAST GOSHEN TOWNSHIP  
ZONING HEARING BOARD

John D. Snyder, Esquire, Chairman

Douglas Roberts, Esquire, Vice Chairman

James Ruggiero, Esquire, Alternate Member

# Memorandum

**East Goshen Township**

**1580 Paoli Pike**

**West Chester, PA 19380**

Voice: 610-692-7171

Fax: 610-692-8950

E-mail: [mgordon@eastgoshen.org](mailto:mgordon@eastgoshen.org)

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Date: 8/27/2021

To: Planning Commission

From: Mark Gordon, Township Zoning Officer

Re: **DRAFT LED Sign Ordinance**

Planning Commission Members,

The Solicitor has organized the DRAFT LED Sign Ordinance into the appropriate format for final consideration by the PC and your recommendation to the Board of Supervisors.

Staff had a very good discussion with the team from Volta about the Media Stations; I've included a memo memorializing the questions I asked them and their answers.

Staff believes that the DRAFT ordinance addresses the issues brought up by the PC during your review and discussions. The PC has been discussing this topic for some time and Staff has no issue with the PC taking action on this ordinance amendment tonight.

**DRAFT MOTION:**

Mr. Chairman, I move that the Planning Commission recommend and support this amendment to the sign ordinance for LED Signs when LED signs are integrated with Electric Vehicle charging stations within approved shopping centers.

# Memorandum

East Goshen Township

1580 Paoli Pike

West Chester, PA 19380

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E-mail: [mgordon@eastgoshen.org](mailto:mgordon@eastgoshen.org)

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Date: 8/11/2021

To: Planning Commission

From: Mark Gordon, Township Zoning Officer

Re: **Volta Media Station Discussion on 8/6/2021**

Planning Commission Members,

To follow-up on our conversation from 8/4, I reached out to Volta and was able to coordinate a zoom call with Sam Applegate and Bryn Paslawski from the Volta Engineering and Legal departments (respectively).

Pursuant to your questions and a few more I thought of, I asked Ms. Applegate and Ms. Paslawski the following questions, and received the following responses:

- 1. Is there a technical specification or industry standard for these types of EV Charging / Media Stations?**
  - a. No. There are a few industry advocacy groups however there isn't one particular industry standard except for the J1772 plug, which fits all electrical cars in the US except for Tesla. Tesla requires a proprietary adaptor. The Media Station has a safety certification from Underwriters Laboratories: UL 2202
- 2. Do the media stations have audio?**
  - a. No
- 3. Are the media stations auto dimming?**
  - a. Yes, they have an ambient light intensity feature. Brightness of the display is a function of the level of surrounding ambient light and controlled automatically.
- 4. Can they shut off at a set time?**
  - a. Yes, the charger and the display can be set to turn off at a set time together or separately. Volta prefers to have the charger active at least one hour after closing time, in the event that a store employee is still charging their vehicle after the predetermined closing time. The charger can be active when the display is off.
- 5. Operation and Maintenance responsibility?**
  - a. Volta maintains ownership of the media stations as well as the O&M responsibility.

**6. How long is the typical lease and who are the typical lessees?**

- a. The typical lease term is 10 years, with two 5-year extension options. The lease is with the property owner and the retailer.

**7. If the lease is terminated for any reason and the unit is not functioning, who is responsible to remove the unit from the site?**

- a. Volta

**8. Our solicitor may want to review the O&M agreement and leases, will you share those with us.**

- a. We'll need to redact certain commercially sensitive terms and get our site partner's permission to share externally (the agreement is confidential under its terms).

**9. How many years has Volta been in business?**

- a. 10 years

**10. How many versions or models has there been of this Volta Level 2 Media station?**

- a. 4. The model proposed is the latest version, version 4.

**11. Who are your competitors in the EV Media Station market?**

- a. We do not currently have any competitors that combine EV charging with media screens. Volta believes its current competitors to its EV charging owner-operator business activities are EVgo, Electrify America, Tesla (currently only available to Tesla owners) and Rivian (not yet operational). There are also many other large and small EV charging companies that offer non-networked or "basic" chargers that could provide a low-cost solution for basic charger needs in commercial and retail locations, such as Pod Point Limited, EVConnect, Inc. and Engie SA, as well EV charging equipment manufacturers that also compete with Volta, like ChargePoint, EVBox and Blink. In the place-based digital media industry, Volta's national competitors include Outfront Media, Inc., Clear Channel Outdoor, Lamar, JCDcaux, Intersection and GSTV.

**12. What are the charger types?**

- i. Level 1 – home use (120 v)
- ii. Level 2 – Commercial (220 v with J1772 plug)
- iii. Level 3 – DC Fast – Supercharger

**13. What type of EV Charging station is proposed for the Giant supermarket location?**

- a. Level 2. Power (220 v) and communication lines will be run (via boring) from the Giant store to the charging stations.

**14. What vehicle range can a customer expect from a 60 min charge?**

- a. Approximately 30 vehicle drive miles.

**15. What edits would you recommend for our draft amendment to our Sign ordinance?**

- a. Due to the ever-changing electronics industry and our suppliers, the display panel may increase from a 55" display panel to a 65" display in the future. In the past we have recommended that municipalities consider a maximum display area of 12 square feet for these level 2 media stations.

**16. Other than busy retail areas, where else have you installed these display panels?**

- a. City Zoo, municipal buildings, parks, parking lots near mass transit stations

**EAST GOSHEN TOWNSHIP**  
**CHESTER COUNTY, PENNSYLVANIA**

**ORDINANCE NO. 2021-\_\_\_\_\_**

**AN ORDINANCE AMENDING CHAPTER 240 OF THE EAST  
GOSHEN TOWNSHIP CODE, TITLED "ZONING", SECTION 240-  
22.W TO AMEND THE SIGN REGULATIONS FOR AN LED SIGN.**

BE IT ENACTED AND ORDAINED by the Board of Supervisors of East Goshen Township pursuant to the Board's power to adopt ordinances necessary to secure the health, safety and welfare of the citizens of the Township pursuant to Section 1506 of the Second-Class Township Code, 53 P.S. §66506, and pursuant to the authority in the Pennsylvania Municipalities Planning Code, 53 P.S. § 10101 *et seq.*, the Board enacts and ordains as follows:

**SECTION 1.** The East Goshen Township Zoning Ordinance of 1997 that is codified in Chapter 240 of the East Goshen Township Code, Section 240-22.W shall be amended to state as follows:

**"§240-22 Signs.**

**W.** LED signs. LED signs may be used on the following types of signs subject to the regulations in this § 240-22W: (i) an off-premises sign along West Chester Pike between Westtown Way and the Township's border with West Goshen Township; (ii) an off-premises sign along Route 202; (iii) on a wall sign or freestanding sign in the C-1 District; and (iv) signs which are integrated with electric vehicle charging stations and located on a parcel with an approved Shopping Center use.

(1) The message displayed on the sign shall be static and nonanimated and shall remain fixed for a minimum of 10 seconds.

(2) The sign shall not display any message that moves, appears to move, scrolls, or changes in intensity during the fixed display period.

(3) The transition time between changes in the sign face or message shall be less than one second.

(4) The sign must be equipped with brightness controls which shall be used to reduce the intensity of the light based on outside light levels.

(5) The digital LED display shall not have lighting that would compete with or distract from traffic signal lighting.

(6) Signs associated with electric vehicle charging stations shall have a maximum sign area of 12 square feet and a maximum height of 8 feet tall.

**SECTION 2. Severability.** If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences,

clauses, sections, or parts hereof. It is hereby declared as the intent of the Board of Supervisors that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof not been included herein.

**SECTION 3. Repealer.** All ordinances or parts of ordinances conflicting with any provision of this Ordinance are hereby repealed insofar as the same affects this Ordinance.

**SECTION 4. Effective Date.** This Ordinance shall become effective five days from the date of adoption.

**ENACTED AND ORDAINED** this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

**ATTEST:**

**EAST GOSHEN TOWNSHIP  
BOARD OF SUPERVISORS**

\_\_\_\_\_  
Derek J. Davis, Secretary

\_\_\_\_\_  
David E. Shuey, Chair

\_\_\_\_\_  
Michael P. Lynch, Vice-Chair

\_\_\_\_\_  
John Hertzog, Member

\_\_\_\_\_  
E. Martin Shane, Member

\_\_\_\_\_  
Michele Truitt, Member