

Before the Conditional Use Hearing Officer
Lower Merion Township, Montgomery County
Pennsylvania

Application CU #3921C

**RECOMMENDATIONS FOR FINDINGS
OF FACT, CONCLUSIONS OF LAW AND ORDER**

This conditional use application was filed by KGSB, LLC seeking conditional use approval for reserve parking, pursuant to Code §155-8.3, to hold up to 107 parking spaces (15.7%) in reserve while redeveloping a parcel located in the City Avenue District-Regional Center Area with three new commercial buildings and retaining the existing office building. 585 parking spaces will be provided, and a reserve parking structure with an additional 293 parking spaces, including 107 reserve spaces will be built if ever needed. Conditional use hearings were conducted on November 11, 2024, and August 7, 2025, before the Conditional Use Hearing Officer.¹

I. FINDINGS OF FACT

A. The Parties and Property

1. The Applicant is KGSB, LLC (“KGSB” or “Applicant”), c/o Mr. Richard Gottlieb, Keystone Property Group, 1001 Conshohocken State Road, Suite 2-201, West Conshohocken, PA 19428.

2. KGSB is represented by George W. Broseman, Esq., a principal of the law firm Kaplin Stewart.

3. KGSB is the owner of 1 Belmont Avenue, Lower Merion Township, further identified as Parcel I.D. No. 40-00-10980-005, the property for which conditional use and land development approvals are sought (“Property”).

¹ The Conditional Use Hearing Officer is authorized to conduct the hearing pursuant to Code §155-11.1.F(9)(c).

4. The Property is located on the corners of City Avenue, Belmont Avenue and St. Asaph's Road with frontage on three sides. It contains 6.76 acres of land and is wider than the maximum lot width of 600-ft, see Code 155-6.6, Table 6.6.6, City Avenue District Regional Center Area.

5. The Property is located within the City Avenue Special Services District, a business improvement district formed by Lower Merion Township and the City of Philadelphia. It is also located within the City Avenue District-Regional Center Area ("CAD-RCA") pursuant to Lower Merion Township Zoning Code ("Code").

6. Adjacent property zoning includes CAD-RCA, CAD-BCR, and MDR3 on the Lower Merion Township side of City Avenue and CMX-2 and CA-2 commercial/commercial mixed-use on the Philadelphia side. To the east, the Property abuts 225 E. City Avenue zoned CAD-RCA that fronts Kings Grant Drive, City Avenue, and St. Asaph's Road.

7. The Property is currently improved with a multistory building, formerly known as the GSB Building, that is primarily used as a multi-tenant office building ("Office Building"). The existing 12-story Office Building contains 219,390 sq. ft. and underground parking spaces. Large surface parking areas surround the Office Building, and multiple driveways connecting to surrounding streets service the Property.

B. Prior Conditional Use and Land Development Approval

8. In 2022, the Applicant received conditional use approval (CU #3889) and land development approval (LD #3889) for the construction of two (2) buildings on the existing surface parking area between the Office Building and Belmont Avenue, while retaining the existing Office Building (collectively "2022 LD/CU Plans"), however, the Applicant is not

moving ahead with the 2022 LD/CU Plans and is seeking conditional use and land development approval for a different, smaller scale redevelopment project. Ex. A-4, A-5.

C. Proposed Redevelopment Project

9. KGSB's redevelopment plans currently propose to retain the existing Office Building and construct three (3) new commercial buildings (17,700 sq. ft. total gross floor area) on existing surface parking areas, together with other site improvements, on the southern half of the Property between the Office Building and Belmont Avenue ("Proposed Project"). The Proposed Project includes two (2) public gathering spaces and two (2) new minor roads. If approved, 682 parking spaces are required and 585 parking spaces would be provided. (Ex. A-24, A-27 p. 5.)

10. KGSB seeks to hold up to 107 parking spaces in reserve, pursuant to Zoning Code §155-8.3. If ever needed, a parking structure with six levels containing 293 parking spaces total will be constructed. (See, Ex. A-24)

11. The Proposed Project is significantly smaller in scale than the 2022 LD/CU Plans. Three single-story buildings with commercial space are proposed:

- (a) Building 1, located at the corner of Belmont Ave. and the proposed West Drive, is a single-story building containing approximately 6,000 sq. ft. for a diner restaurant.
- (b) Building 2 located at the corner of City Ave. and Belmont Ave is a single-story building containing approximately 3,500 sq. ft. for a retail bank.

(c) Building 3 located on the City Avenue frontage of the site is a single-story building containing approximately 8,000 sq. ft. subdivided for three fast-casual restaurants.

Ex. T-8, Bohler Site Plan dated 9/26/24, sheet 3; Ex. A-6, Stuart Overall Illustrative Plan; Ex. A-12 revised Tentative Sketch Plan dated 10/18/24; and Ex. A-13 Preliminary Land Development set dated 11/01/24.

12. The public improvements, including the public gathering space, pedestrianways, new minor streets, street trees, and sidewalks, are the same as the 2022 plan. Ex. T-11, Staff Memo dated 11/4/24 at p. 2.

13. Two new minor streets will be provided as part of the plan. West Road will extend from Belmont Avenue towards the north end of the Office Building. North Road will extend from St Asaph's Road to connect with West Road. Both minor streets will have parking on both sides.

14. The existing surface parking areas on the Property in the area of the proposed redevelopment will be reconfigured as necessary to accommodate the proposed project.

15. A reserve parking area in the form of a future parking deck is proposed for the northern half of the existing surface parking area. It will be bounded by Belmont Avenue, St. Asaph's Road, West Road, and North Road. Conditional use approval is requested for the reserve parking area.

16. The Proposed Project leaves space for the proposed construction of a roundabout by PennDOT at the intersection of Belmont Avenue and St. Asaph's Road or, in the alternative, for widening of Belmont Avenue.

17. The Applicant filed a tentative sketch land development application concurrently with the conditional use application. (Ex. A-1 & T-3) The tentative sketch has been updated and resubmitted as Ex. A-12.

D. Current Application for Conditional Use Approval

18. KGSB filed a conditional use application dated September 27, 2024, seeking reserve parking pursuant to Code §155-8.3 in connection with the Proposed Project. Ex. A-1.

19. Materials submitted with the conditional use application were:

- (a) Addendum to Conditional Use Application;
- (b) Tentative Sketch and Conditional Use Plans dated 9/27/24 prepared by Bohler Engineering;
- (c) Reserve Parking Structure plans dated 8/1/24 and revised 10/18/24 prepared by RHJ Associates;
- (d) Parking Assessment Study dated 10/18/24 prepared by Traffic Planning & Design;
- (e) Transportation Demand Management Strategy dated 9/28/24 prepared by Traffic Planning & Design.

20. Traffic Planning and Design, Inc. (“TPD”) wrote a transportation demand management plan dated 9/26/24, that states the existing Office Building use requires less parking than is required by Table 8.1, Code §155-8.1 “Minimum Required Parking.”(Ex. A-1) The updated transportation demand management plan dated 11/11/24 made the same finding. (Ex. A-17,at 4.)

21. TPD conducted a parking assessment study dated 10/17/24 which was updated on 11/11/24. It found the peak parking demand for the existing office is 373 vehicles, which is 267 vehicles fewer than the required parking for 640 vehicles. (Ex. A-16, Table 3, at 4) Peak parking demand required for the proposed development and existing office building is 441 parking

spaces. The redevelopment plan proposes 625 parking spaces, resulting in an excess of 184 parking spaces and 71% parking occupancy. (Ex. A-16, at 5) Reserve parking would be constructed, if needed in the future, as “structured parking providing 260 spaces, which exceeds the required parking by 22 spaces.” (Ex. A-16 at 6)

22. The Lower Merion Township Engineer, Joseph A. Mastronardo, P.E., (“Mastronardo”) in a letter dated 10/30/24 reviewed the Applicant’s parking assessment study dated 10/17/24 and the tentative sketch plan prepared by Bohler Engineering. Regarding the parking assessment, Mastronardo wrote:

Traffic--The proposed development is one of several pending major developments surrounding the intersection of Belmont Avenue and St. Asaph’s Road which will collectively have a large impact on the existing roadway network. The site driveways to Belmont Avenue should be coordinated with the implementation of the proposed land development plans for the 121 City Avenue site. PennDOT is currently studying the implementation of a multilane roundabout at this intersection. The Applicant must continue to work with the Township, the City Avenue Special Services District, PennDOT, and the adjacent developers to formulate an overall mitigation plan for the roads and intersections impacted by the developments.

(Ex. T-15 at p. 1) The Township Engineer’s letter continues “with the resolution of the preceding major engineering issues and the remaining comments in this letter incorporated, we recommend that the tentative sketch plan be approved.” (Ex. T-15 at p. 1)

23. Engineering comments about parking and reserve parking in Mastronardo’s letter:

1. The Traffic Impact Study for the proposed development should be updated to reflect the current proposal.²
2. Regarding the parking evaluation conducted by the applicant, we would note that the existing traffic demand for the office use was documented during one weekday in July. We recommend that an updated parking occupancy count be completed during the Fall. Additionally, the report should identify the extent to which the office parking may utilize the surface parking intended for the retail uses.

(...)

² A Traffic Impact Study was submitted in connection with the 2022 LD/CU Plan.

13. The Zoning Officer must agree with the number and tabulation of the final parking demand schedule.

(Ex. T-15 at pp. 4-5)

24. Sarah Carley, a Planner in the Department of Building and Planning, reviewed the conditional use application and wrote a memo to the Planning Commission dated 11/4/24, (“Staff Report”) (Ex. T-11) It discusses the Proposed Project, parking requirements in the CAD-RCA, reserve parking requirements, and the Applicant’s original parking demand management plan and original parking assessment study (before they were updated on 11/11/24.) (Ex. T-11)

25. The Staff Report quotes the finding in TPD’s Parking Assessment Study that the proposed 625 parking spaces would provide an excess of spaces to meet demand. (*See*, Ex. A-16, Table 4, at p. 5.) In addition, TPD’s Transportation Demand Management Strategy demonstrates the reserve parking request will comply with the Township’s Transportation Demand Management Policy found in Code §155-8.3. Proposed multimodal transportation infrastructure improvements will reduce vehicular trips to and from the Property. Uses, including retail, public gathering space, and restaurants, will be added to the existing site which currently contains only office and parking uses. (Ex. T-11 at 7)

26. Marley Bice, AICP, Principal Community Planner II at the Montgomery County Planning Commission (“MCPC”) reviewed the Applicant’s tentative sketch plan and conditional use application in a letter dated 11/1/24. (Ex. T-16) It states, “the proposed development is generally consistent with the Montgomery County Comprehensive Plan’s goal to “encourage development and transformative investment where infrastructure already exists.” However,

The proposed development of single-story commercial buildings amongst surface parking does not appear to significantly advance the goal of the Regional Center to ‘transform the predominant auto-oriented, office-based environment into a more functionally diverse live/work/shop environment and pedestrian-friendly district.’

(Ex. T-16 at 2) The MCPC states additional information in future preliminary plan submissions may help further demonstrate the potential benefits of the proposed development. (Ex. T-16 at 2)

27. The following “Review Comments” by the MCPC are relevant to parking:

Zoning Ordinance Comments

(...)

Parking Space Dimensions – Table 8.5.1 of the township’s zoning ordinance establishes minimum dimensions for off-street parking. It does not appear that some of the parking spaces within the northern parking lot meet these minimum dimensions, including the parallel spaces along the Belmont Avenue frontage and the perpendicular spaces along the St. Asaph’s Road frontage.

(Ex. T-16 at p. 4)

28. The MCPC offered an advisory opinion that “generally supports the proposed development; however, we believe that our suggested revisions will better achieve the township’s planning objectives for commercial development.” (Ex. T-16 at 7)

29. The Lower Merion Township Planning Commission reviewed KGSB’s conditional use application for reserve parking on 11/4/24 and recommended “the Applicant be granted approval to proceed” contingent on compliance with the following conditions:

- a. The Applicant shall consider making arrangements to allow a Farmer’s Market to return to the site.
- b. If the developer is allowed to reserve parking, the developer shall be expressly required to go through the land development process again if the reserve parking is to be built.

(Ex. T-12)

30. The Planning Commission also reviewed the tentative sketch application on November 4, 2024, and recommended conditions of approval for tentative sketch were submitted into the record as Ex. T-14.

31. TPD provided an updated Transportation Impact Study dated October 31, 2024, at the conditional use hearing. The executive summary states:

Upon full build-out of the site, the proposed development including the existing office use is expected to generate 276 new vehicle trips during the weekday A.M. peak hour, 315 new vehicle trips during the weekday P.M. peak hour, and 319 new vehicle trips during the Saturday midday peak hour.

Under 2026 and 2031 projected conditions, the study area intersections will operate similar to 2026 and 2031 base conditions during the weekday A.M., weekday P.M. and Saturday midday peaks. All overall intersection delays fall within PennDOT's allowable 10-second variance between no-build and build condition scenarios

All approaches and turning movements at the site driveway intersections will operate at LOS C or better under 2026 and 2031 projected conditions during the weekday A.M., weekday P.M. and Saturday midday peak hours.

Proposed driveway location sight distances will exceed PennDOT's Desirable and Safe Stopping Site Distance (SSSD) criteria.

Levels of service (LOS) for the study area intersections have been summarized in matrix form. Table I details the overall intersection ILOS for each study area intersection.

(Ex. A-18, Executive Summary)

32. At the first conditional use hearing, the Applicant also provided an Updated Parking Calculations Chart dated 11/11/24; Updated Parking Assessment dated 11/11/24; Updated Transportation Demand Management Strategies Plan dated 11/11/24; and Revised Reserve Parking Structure Plan dated 8/01/24 rev. 11/08/24.

E. First Conditional Use Hearing

33. On November 11, 2024, a conditional use hearing was conducted.

34. No one petitioned for party-status or offered public comment.

35. Christopher Leswing, the Director of the Building and Planning Department of Lower Merion Township was present and entered exhibits marked T-1 to T-16 into the record:

T-1 Affidavit of Publication;

T-2 Conditional Use Hearing Agenda 1 Belmont Avenue;

T-3 TSLD-CU Application Submission Letter dated 9/27/24;

T-4 Parking Assessment 1 Belmont dated 10/17/24;

T-5 TDM Strategies I Belmont dated 9/26/24;

T-6 Addendum to Conditional Use Application dated 9/26/24;

T-7 Conditional Use Application dated 9/26/24;

T-8 Civil Plans, CU 3a-Rev-0-Bei dated 10/16-24

T-9 Reserve Parking Structure Plans dated 10/18/24

T-10 LDC Applicant Response Letter dated 10/18/24;

T-11 Staff Report on Conditional Use dated 11/4/24;

T-12 Planning Commission Summary dated 11/4/24;

T-13 Staff Report on Tentative Sketch dated 11/4/24;

T-14 Recommended Conditions of Approval for Tentative Sketch Plan;

T-15 Township Engineer Review dated 10/30/24;

T-16 MCPC Review dated 11/1/24.

36. Leswing stated that the Staff recommendations for the tentative sketch plans are not recommendations for the conditional use application. (N.T. 11/11/24 at 9-10)

37. The Applicant entered the following exhibits into the record:

A-1 Selected Materials from 9/27/24 Tentative Sketch Land Development (“TSLD”) + Conditional Use (“CU”) Applications (LD #3921TS & CU #3921):
Conditional Use Application

Sheets 1-7 TSLD/CU Plans (Bohler)
Original TPD Parking Assessment
Original TPD TDM strategies

A-2 Richard Gottlieb C.V./Bio

A-3 Deed

A-4 Prior Approvals for Property
LD #3889 (2021)
Preliminary Land Development Approval & Conditional Use Approval

A-5 Approved Preliminary Land Development Plan
LD #3889 (2022)(sheets 1,3,5)

A-6 Illustrative Proposed Site Plan (Stuart Associates dated 11/11/24)

A-7 C.V. of Lindsey Breylinger, Bohler Engineering

A-8 Township's Official Map with property highlighted

A-9 Illustrative Aerial of Property & Surrounding Area

A-10 Land Development Committee Comments dated 10/3/24
LD #3921TS & 3921CU

A-11 Applicant's Resubmission/Response dated 10/18/24 to LDC Comments

A-12 Selected Materials from 10/18/24 revised TSLD/CU Plan submission

A-13 Preliminary Plan Development Set dated 11/01/24 by Bohler Engineering
Sheets C-101, C-103, C-104, C-301, C-302, C-303, C-304

A-14 Updated Parking Calculations Chart dated 11/11/24

A-15 CV of Peter Spisszak, AICP, Traffic Planning & Design Inc.

A-16 Updated Parking Assessment dated 11/11/24

A-17 Updated Transportation Demand Management Strategies Plan dated
11/11/24

A-18 Transportation Impact Study dated 10/31/24
(text only, appendixes on file with Township)

A-19 C.V. of Michael Pilko, RHJ Associated, PC

38. Richard Gottlieb, the president and COO of Keystone Investments (“Keystone”) testified Keystone is a vertically integrated commercial development company with a large office portfolio and growing multifamily and retail portfolios. (N.T. 11/11/24 at 13) The Applicant, KGSB, is a special purpose entity related to Keystone. (N.T. 11/11/24 at 16) Gottlieb has worked in commercial real estate for over 35 years as a broker and developer and holds an M.B.A. (Ex. A-2) Broseman offered Gottlieb as a fact witness and an expert witness in office and commercial leasing, management, and development so that Gottlieb could offer an opinion about how much parking is needed. (N.T. 11/11/24 at 15)

39. Gottlieb testified the Property and Office Building had a lot of deferred maintenance and, after acquiring it, KGSB spent four million dollars rehabilitating the crumbling parking garage, electrical switch gear system, renovating the entrance, hallways, and bathrooms, as well as upgrading the curtain wall facing City Avenue and roof deck. (N.T. 11/11/24 at 17)

40. In 2022, KGSB obtained approvals for a much larger project in the same areas of the Property (2022 LD/CU Plans) that included two large mixed-use buildings with a total of 278 apartment units and 27,500 sq ft of ground floor commercial space, a wrapped parking structure with over 600 parking spaces, new internal roads, public gathering space, and a walking/bike trail. Anticipated commercial tenants were a grocery store, restaurants, and retail shops. (N.T. 11/11/24 at 18-20] Ex. A-4 lists approvals issued by the Township. Ex. A-5 contains selected plan sheets for the approved project.

41. KGSB has not moved forward with the development project approved in 2022, Gottlieb testified, because “the market has changed from when we designed (the 2022 project)” and “[i]t just financially just does not work for the equity and the debt.” (N.T. 11/11/24 at 20)

42. KGSB now proposes three commercial structures with five tenants (a bank, a diner restaurant, and three fast-casual restaurants) to improve the property and bring amenities to the Office Building and the neighborhood. Newly created public gathering spaces and accessory uses will be available to the community and will enhance the Office Building. Gottlieb hopes the walkability of the neighborhood will increase too. (N.T. 11/11/24 at 21-22) The current proposal is shown in a rendering by Stuart & Associates Landscaping, (N.T. 11/11/24 at 20; Ex. A-6)

43. The Office Building's current leasing occupancy is 84.4%, which is considered at or near full occupancy. (N.T. at 23) The need for parking at the Office Building has decreased since the COVID-19 pandemic because hybrid work and flexible schedules have become more common. The quality of tenants in the Office Building has gotten better since it [the Office Building] has been improved by KGSB. Current tenants have lower-density uses than previous tenants which had included call centers. There is good public transportation at this building which reduces parking demand. (N.T. 11/11/24 at 25)

44. The Office Building has seen a "drastic reduction" in parking demand since COVID-19. (N.T. 11/11/24 at 26) The Applicant's whole portfolio has had a reduction in parking needs and Gottlieb doesn't think it will come back. (N.T. 11/11/24 at 26) The three proposed buildings would need less parking than comparable stand-alone buildings because they would be located in a highly walkable mixed-use district with nearby residences, in Gottlieb's opinion. (N.T. 11/11/24 at 26-27) "During the day we would expect plenty of people walking from the Office Building as well as other buildings in the immediate vicinity, as well as apartments that are going up across the street and down the street, and the Sutton Terrace. So, this would be highly walkable or bikeable[location]" (N.T. 11/11/24 at 27)

45. The Applicant agrees to provide the required parking and transportation demand management covenant required by the Township and recording with the land development plan. (N.T. 11/11/24 at 28)

46. The Applicant would agree to allow a farmer's market to return to the Property again. (N.T. 11/11/24 at 85)

47. Lindsay Breylinger, PE, ("Breylinger") a licensed engineer employed by Boehler Engineering ("Boehler") was accepted as expert in engineering for the Applicant. (Ex. A-7, C.V.) Boehler is a civil engineer for this project, and her firm was the civil engineer for the project approved in 2022. Breylinger is the senior project manager for this project. (N.T. 11/11/24 at 30)

48. Breylinger testified the property contains 6.8 acres and is located in the CAD-RCA. There is an existing 12-story office building with surface parking and underground parking. The property has access points on St. Asaph's, Belmont, and City Avenue. (N.T. 11/11/24 at 31; Ex. A-9) The surrounding property to the north has been improved with an office building in the CAD-RCA district. The Bala Cynwyd Shopping Center located to the west across Belmont Avenue has a mixed-use building with residential and retail under construction. A reservoir in the City of Philadelphia is located to the south across City Avenue. To the east, there is an existing office building with surface parking. Public multipurpose paths and sidewalks from the Bala Cywnyd Shopping Center connect to the Property. (N.T. 11/11/24 at 32-34)

49. The proposed site plan has been revised several times in response to feedback, as is typical in the land development process. The Land Development Committee's review is found in Ex. A-10. Bohlinger's responses are found in Ex. A-11 The current pending tentative sketch plan is marked Ex. A-12. The preliminary land development plan is marked A-13. (N.T.

11/11/24 at 34-37) Revisions slightly increased the size of the project to 17,700, from 17,500, to allow a mechanical and equipment room however the proposed reserve parking stays the same.

(N.T. 11/11/24 at 38-39)

50. PennDOT is contemplating a roundabout at the intersection of Belmont Avenue and St. Asaph's Road. The plans for this project include scenarios for the parking garage with and without the roundabout as requested by Township staff. (*See*, Ex. A-13)

51. The site plan shows the existing Office Building and three new buildings:

- a. Building 1 located at the intersection of Belmont Ave and West Road containing approximately 6,000 sq. ft.;
- b. Building 2 located at the intersection of Belmont Ave and City Avenue containing approximately 3,500 sq. ft.;
- c. Building 3 located along City Avenue containing approximately 8,200 sq. ft. and three tenant spaces.

(Ex. A-13, sheet 301;N.T. 11/11/24 at 41) The surface parking lot is located between Buildings 1, 2 & 3. An existing parking lot is located north of Building 1. There are two new roads, public gathering space, sidewalks, a multipurpose path in line with the official map, multipurpose paths along St. Asaph's Road and City Avenue, and streetscape improvements. (N.T. 11/11/24 at 41-42; Ex. A-13)

52. Recent information about likely tenant uses changed parking calculations, as shown in Revised Parking Calculations. (N.T. 11/11/24 at 43-44; Ex. A-14) The existing Office Building requires 640 parking spaces. New retail use in proposed Building 1 requires eleven (11) parking spaces. New food and beverage uses in proposed Buildings 2 & 3 require an additional 57 parking spaces. With credits for shared parking, the total number is 690 parking spaces Monday to Friday 8:00 am to 6:00 pm. (N.T. 11/11/24 at 45) The Applicant is providing 625

parking spaces on the proposed plans and requesting approval to hold 65 parking spaces in reserve. (N.T. 11/11/24 at 45-46; Ex. A-14)

53. The construction of the reserve parking structure will create the need for additional parking spaces beyond what the project requires. 123 existing surface parking spaces would be removed to construct the parking structure shown on Ex. A-13, sheet c-302. The commercial liner with 16,500 sq ft. of space would require an additional 50 parking spaces. A total of 238 parking spaces would be required in the reserve parking structure. This number has been increased to 260 parking spaces to provide 22 additional parking spaces in the reserve parking structure. (N.T. 11/11/24 at 48-50)

54. Less than 50% of the required 690 parking spaces would be held in reserve if conditional use approval for 65 reserve parking spaces with 625 available on-site is granted, in compliance with Code §155-8.3.B. (N.T. 11/11/24 at 51)

55. The proposed plans show reserve parking can be provided without violating the applicable provisions of Code §155-8.3.D. (N.T. 11/11/24 at 52)

56. Reserve parking, as shown on the proposed plans, complies with the applicable impervious surface ratios in compliance with Code §155-8.3.E. A stormwater management report was provided with the preliminary plan submission. (N.T. 11/11/24 at 52-53)

57. In Breylinger's opinion, the conditional use plan for reserve parking does not conflict with Township and County Comprehensive Plans, in compliance with Code §155-11.1.F(9)(f), because the Applicant is creating additional uses on the property, providing multipurpose paths, public gathering spaces, and two new roads will break up the length of the block. (N.T. 11/11/24 at 53-55)

58. The proposed project will be serviced with public utilities, water and sewer. The much larger 2022 LD/CU plan had received acknowledgments for sewer and water service. Granting the conditional use for reserve parking will not have any detrimental effect on the public health, safety, or welfare. (N.T. 11/11/24 at 55-56)

59. Peter Spisszak (“Spisszak”), AICP, a senior project manager employed by Traffic Planning and Design (“TPD”) was accepted as an expert in transportation planning for the Applicant. He has a bachelor’s degree in geography and environmental planning from Bloomsburg University and “roughly 25 years of experience completing traffic and parking studies all throughout Pennsylvania, Virginia, Maryland and New Jersey.” (Ex. A-15, C.V.)

60. TPD is the transportation planning and design firm for this project, and for the previously approved project LD #3889 (2022 LD/CU).

61. Spisszak is familiar with the property and general area. The Illustrative Aerial Photo of Property & Surrounding Area, Ex. A-9, shows public transportation and multimodal travel options, other than single occupancy vehicles, are available in the area and vicinity of the property. There are multiple bus stops along City Avenue. There is the Bala train station about half a mile from the site. There are a significant number of pedestrian pathways that have been constructed or will be constructed in the future to connect this site to adjacent properties, transportation facilities or the train station. (N.T. 11/11/24 at 59-60)

62. TPD updated the Parking Assessment Report on 11/11/24, Ex. A-16, to match the proposed uses, specifically food and beverage where retail was previously indicated. The Township had requested an update to the Parking Assessment Report too. (N.T. 11/11/24 p. 61-62)

63. In July 2024, TPD counted 373 spaces that were parked or utilized. In November 2024, TPD counted 362 spaces that were parked or occupied, (Ex. A-16) Spisszak explained the ordinance requires 640 spaces for the office building itself, where “almost 300 less parking spaces would be needed.” (N.T. 11/11/24 at 63)

64. Spisszak believes that changes in the workplace such as working from home and hybrid working arrangements following COVID-19 have changed the number of employees going to the office every day and reduced the amount of parking needed. (N.T. 11/11/24 at 64)

65. TPD prepared an updated Transportation Demand Management Strategies Plan dated 11/11/24 to reduce single occupancy vehicle trips to the property. (Ex. A-17) The Applicant is providing connected public multipurpose paths, wayfaring signage such as designated preferential parking spaces for carpool and vanpool vehicles, and an on-site or electronic transportation display. (N.T. 11/11/24 at 65-67)

66. The Traffic Demand Management Strategies Plan will be approved at the time of land development, according to Code §155-8.3.C. The Applicant will continue to work with the Township during the land development process to finalize the TDM plan. (N.T. 11/11/24 a 67)

67. Spisszak opined the existence of various transit options and multimodal travel options in the vicinity of the property also contributes to the reserve parking spaces not being currently needed on the Property. The transportation demand management measures also contribute to the reserve parking spaces not being currently needed. (N.T. 11/11/24 at 67-68)

68. The proposal for reserve parking is suitable for the property because the office use does not require the amount of parking listed in the ordinance as shown in the study in Spisszak’s opinion, referring to Code 155-11.1.F(9)(f)(5). Office uses “basically everywhere” do

not utilize parking as highly as they were prior to COVID-19 and Spisszak doesn't "foresee that coming back at any time in the near future for sure." (N.T. 11/11/24 at 68-69)

69. TPD prepared a Traffic Impact Study in connection with the preliminary land development filing for the property as requested by the Township Engineer. (Ex. A-18) The Traffic Impact Study will be reviewed by the Township as part of the land development review process, as well as PennDOT for the highway occupancy permit. (N.T. 11/11/24 at 69)

70. Spisszak described this site is a "little less intense than the previous proposed site." (N.T. 11/11/24 at 70) The previous development approved in 2022 would generate 109 trips in the am peak hour and 156 trips in the pm peak hour. This proposed site would generate 57 am peak hour trips and 93 pm peak hour trips, which is "almost 50% less in the am peak and roughly 40 % less, 36% less in the pm." (N.T. 11/11/24 at 70-71; Ex. A-18)

71. The Traffic Impact Study complies with the Township's level of service requirements. There are no sight obstructions at the point of ingress and egress that would create an unsafe traffic condition. (N.T. 11/11/24 at 71; Ex. A-18)

72. The bank use and food and beverage uses would not have drive through service windows. (N.T. 11/11/24 at 73)

73. Michael Pilko ("Pilko"), a licensed architect and president of RHJ Associates ("RHJ"), testified as an expert in architecture for the Applicant.

74. RHJ prepared the plans for the reserve parking structure and later updated them based on comments from Township staff and new information in the revised parking chart. (N.T. 11/11/24 at 75; Ex. A-14) The most recent architectural renderings of the reserve parking garage have been submitted as Ex. A-20.

75. Pilko described the reserve parking garage as a five-story structure. The ground floor is predominantly dedicated to the liner of retail uses as well as an interior courtyard that services the retail uses and access to the parking structure. The remaining floors would be parking with architectural screening around the four frontages. Vehicular access would be internal to the side facing West Road. An entrance facing North Road would provide access to the courtyard for the retail tenants. The garage is designed as a trapezoid to accommodate the future roundabout project. (N.T. 11/11/24 at 76-77; *See* Ex. A-13, sheet 304 & A-20)

76. The reserve parking structure is not wrapped at all levels with active uses to comply with Code §155-6.6.I(5)(d) and is designed to reflect Figure 8.5.2 in the zoning ordinance. (N.T. 11/11/24 p. 77-78)

77. The ground floor liner provides for greater than 80% retail occupancy of the entire ground floor façade. Each of the four facades has greater than 80% retail occupancy too. (N.T. 11/11/24 at 78) The Applicant added a ground floor liner along the North Road side of the structure in response to comments by Township staff. The active uses conform to the storefront façade requirement. The reserve parking structure has three entrances. (N.T. 11/11/24 at 79)

78. The reserve parking structure was designed with internal ramping and parking on flat floors to minimize the visual impact of sloped floors. The façade conceals the internal elements of the parking structure. (Ex. A-20) The exterior wall materials will comply with the ordinance. (N.T. 11/11/24 at 79-80)

79. In response to Staff's recommendation for a 10-ft landscaped buffer along North Road, the Applicant revised its drawings to provide a ground floor liner along North Road as well the other sides of the building. (N.T. 11/11/24 at 82-83; Ex. A-20)

80. Pilko concluded his testimony by opining that the reserve parking structure is suitable for the Property in consideration of the issues mentioned in code. (N.T. 11/11/24 at 84)

81. The Director of Building & Planning requested a condition of approval that at the time the building permits are requested, the materials must be provided to comply with the code. (N.T. 11/11/24 at 84-85)

F. Second Conditional Use Hearing

82. On July 9, 2025, the Applicant's attorney wrote a letter requesting that the Board of Commissioners authorize reopening of the conditional use record and scheduling of a second conditional use hearing to provide additional evidence regarding review comments and plan revisions, and to allow the Applicant an opportunity to further address certain issues raised in the Conditional Use Recommendations dated 12/26/24. (Ex. A-21)

83. The Board of Commissioners voted to grant the request.

84. Subsequently, a second conditional use hearing was held on August 7, 2025.

85. No one petitioned for party-status or offered public comment.

86. Colleen Hall, Senior Planner, offered the following documents into the record³ for

Lower Merion Township:

T-17 Affidavit of Publication

T-18 Conditional Use Hearing Agenda

T-19 Applicant's Request to Reopen CU Record letter dated 7-9-25

T-20 Staff Issues Memo dated 6-30-25

T-21 Recommended Conditions of Approval-Preliminary Plan dated 6-30-25

T-22 Township Engineer's Review dated 6-27-25

³ The Township's documents have been renumbered T-17 to T-24 to be consecutive with exhibits accepted into the record at the first conditional use hearing (T-1 to T-16).

T-23 Montgomery Planning Commission Review dated 6-27-25

T-24 Penn DOT Letter dated 1-10-25 regarding highway occupancy permit app.

All of its exhibits were accepted into the record.

87. The Township did not call any witnesses to testify.

88. The Applicant offered the following documents into the record:

A-21 Broseman letter dated 7-9-25 regarding reopening the record

A-22 Penn DOT letter dated 1-10-25 regarding highway occupancy permit app.

A-23 Bohler Preliminary Land Development Plans

A-24 Parking Calculations

A-25 Proposed Initial Development (Phase 1) Use Percentage Chart

A-26 C.V. of Jason Shetler

A-27 Revised Parking Assessment

A-28 Updated Transportation Demand Management Plan

A-29 Revised Plan Set for Reserve Parking Structure

A-30 Existing Conditions Aerial View dated 05.2023

A-31 Proposed Improvements Aerial Views dated 08.07.2025

A-32 Montgomery County Comprehensive Plan excerpt

89. Engineer Lindsay Brelinger was recalled by the Applicant to testify about the preliminary land development plans and parking. She explained that the plans were revised in response to Penn DOT's letter dated 1-10-25 regarding the highway occupancy permit application. Ex. A-22. The letter contains a comment asking for realignment of West Road to line up with the property access across Belmont Avenue. Several meetings were held, and a consensus was reached about aligning West Road with the driveway across Belmont Avenue.

Brehlinger revised the plans so that West Road aligns across Belmont Ave with the shopping center driveway. (Ex. A-23, sheet 301 “Site Plan”) In addition, PennDOT is rethinking plans for a roundabout which led to discussion about the potential for future widening of St. Asaph’s Road and Belmont Avenue under Act 209. Brehlinger revised the plans to shift curb lines of the parking areas south and east to account for additional buffering and sidewalks, allowing space for future road widening improvements. (Ex. A-23, sheet 301; N.T. 8/7/25 at 18-21)

90. Breylinger worked with the Township staff to add landscaping islands and more greening, to widen the pedestrian way down the entire length of Belmont Ave, to enhance the public gathering spaces, and to center the access to the northern parking area from West Road. (N.T. 8/7/25 at 22-23)

91. Breylinger testified that revisions to the plans decreased the number of parking spaces being proposed and increased the amount of reserve parking being requested. The minimum number of required parking spaces for the project is 682. The revised plans show 585 parking spaces, a deficiency of 97 parking spaces to be held in reserve. Installing the future parking structure would result in a loss of 99 parking spaces, and the first-floor retail will require an additional 66 parking spaces. The total number of required parking spaces in the future parking structure is 262. The Applicant proposes a total number of 293 spaces in the future parking structure. Shared parking analysis was not provided for in that number, and it would decrease the number of required parking spaces. Thirty-one (31) extra spaces would be provided in the future parking structure with 293 parking spaces. In order to allow for future flexibility for needs or concerns that arise, the Applicant is requesting an additional ten percent held in reserve or 107 parking spaces (15.7%). Revised parking calculations are shown on Ex. A-24. (N.T. 8/7/25 at 26-28)

92. Breylinger opined that the proposed parking plans comply with specific conditional use requirements for reserve parking found at Code §155-8.3.A which allows up to 50% of required parking spaces to be held in reserve. Here, the Applicant is requesting 107 spaces to be held in reserve or 15.7%. (N.T. 8/7/25 at 28-29)

93. The Applicant has documented the full number of parking spaces that could be provided without violating applicable provisions of the zoning ordinance, pursuant to §155-8.3.D, in Breylinger's opinion. (N.T. 8/7/25 at 29; Ex. A-24)

94. Information about the proposed parking structure, required by Code §155-8.3.G, has been provided by the Applicant. The proposed plans comply with the applicable impervious surface ratio, pursuant to §155-8.3.G, in Breylinger's opinion. (N.T. 8/7/25 at 30; Ex. A-24)

95. Breylinger testified the proposed development is a multiple use development under the definition of Code §155-6.6G(1). There will be four buildings adjacent to each other and integrated into the property sharing vehicular parking, public gathering space, and pedestrian walkways. Retail uses will complement the large office space. (N.T. 8/7/25 at 32)

96. Stormwater management facilities for the total number of parking spaces have been provided in the proposed plans, pursuant to Code §155-8.3.E. (N.T. 8/7/25 at 30-31)

97. No single use exceeds more than 80 percent of the total gross floor area on the lot, pursuant to Code §155-8.3.E. Breylinger testified the entire KGSB building is not devoted to office space and prior plans were incorrect in this regard. Rather, office space accounts for 74.4% of the total gross floor area on the lot as documented in Ex. A-25. When additional retail space is built in the parking structure, the percentage of office space drops to 68%. (N.T. 8/7/25 at 33-36)

98. In Breylinger’s expert engineering opinion, the revised plans satisfy the general conditional use standards and are in greater compliance than the original plans with improved greening standards, pedestrian connections, stormwater management. (N.T. 8/7/25 at 36)

99. Jason Shetler (“Shetler,”) a transportation planning specialist employed by Traffic Planning and Design (“TPD”) was accepted as an expert in transportation planning for the Applicant. He has a master’s degree in engineering from Penn State University. (Ex. A-26) Shetler worked on parking and transportation studies and reports related to this project with Peter Spisszak, who testified at the first conditional use hearing for TPD but was away on the day of the second conditional use hearing. (N.T. 8/7/25 at 38)

100. TPD revised its Parking Assessment (Ex. A-16) and updated its Transportation Demand Management plan memo (Ex. A-17) for the proposed redevelopment of One Belmont Avenue. The Revised Parking Assessment is marked Ex. A-27.

101. Shetler testified that the 682 parking spaces required for the revised plans are not needed in his opinion. Parking counts were conducted at the property on Tuesday, July 16, 2024; Wednesday, November 6, 2024; and Thursday, November 7, 2024. The peak demand was at 11 a.m. on July 16, 2024, for 373 spaces, which is 303 spaces fewer than the required demand of 682 spaces. In addition, the 540 spaces that would be required for the proposed development would be less than the proposed 585 spaces, resulting in an excess of 45 spaces. (N.T. 8/7/25 at 39-41)

102. The Updated Transportation Demand Management Plan (“TDM”) is marked Ex. A-28. Shetler testified that the same three TDM measures prescribed by Spissak are still being proposed: a connective public multi use path or trail; wayfinding signage to public transit facilities and/or public trails; and onsite and/or electronic transportation information displays will

be provided on site in locations where they will be seen by the greatest number of tenants or employees. (N.T. 8/7/25 at 42-43) The Applicant will continue to work with the Township during the land development process to finalize the TDM plan for approval, Shetler testified. The existence of various transit options and multimodal travel options in the vicinity also contribute to reserve parking spaces not being needed currently on the property. (N.T. 8/7/25 at 44)

103. Shetler testified that the traffic impact study that was submitted as A-17 at the first conditional use hearing is still valid as to the revised plan, even though slightly less square feet of proposed buildings are currently proposed. Originally 17,700 square feet was proposed, but the revised plan proposes 17,315 square feet. (N.T. 8/7/25 at 45) He reviewed the PennDOT letter marked Ex. A-22 and said the comments are fairly typical for an HOP application, except for the comment which Engineer Breylinger addressed [about aligning West Road with the driveway across Belmont Avenue.] (N.T. 8/7/25 at 46)

104. Architect Michael Pilko (“Pilko”) was recalled to testify for the Applicant. His firm has revised architectural elements of the proposed buildings and the parking structure plans in response to review comments and feedback. The future road widening was taken into account in the layout and sizing of the design of the reserve parking structure. The Revised Plan Set for Reserve Parking is marked Ex. A-29. The revised parking structure has six levels and a capacity for 293 parking spaces with an excess reserve of 31 spaces. The entire ground floor is retail with storefront windows wrapping around the structure, excepting vehicular entrances and interior access ramps, of which the latter will be screened. (N.T. 8/7/25 at 51-52)

105. Pilko testified that the revised reserve parking structure complies with the design elements of Code §155-6.6.I(5)(d)(1-8) and the general architecture standards of Code §155-3.9. (N.T. 8/7/25 at 53) He explained that the revised plans not only satisfy the general standards, but

“we’re taking it a further step by dedicating the entire ground floor space to retail in lieu of just the wrapper.” (N.T. 8/7/25 at 57)

106. The proposed one-story buildings are 28-ft high. They are designed with spandrel panels to have the appearance of two stories, consistent with architectural standards for a façade set forth in Code, in Pilko’s opinion. (N.T. 8/7/25 at 57-58)

107. Scott Houchins (“Houchins”), Zoning Officer employed by Lower Merion Township, was called as a witness by the Applicant. His job duties include interpreting and applying provisions of the Township’s zoning ordinances, reviewing pending land development plans for zoning and parking compliance, working with the Township’s planning staff and engineer, and seeking advice from the Township Solicitor’s office in making zoning determinations. He is familiar with One Belmont Avenue and the conditional use application for reserve parking.

108. Houchins testified that the Applicant’s current iteration of the plan complies with the applicable provision of the zoning ordinance. Houchins agrees with the Applicant’s engineer that the proposed plans meet the definition of multi-use development found in Code §155-6.6.G.(1). He testified that residential use is permitted but not required in multiple-use development in the CAD-RDA. The proposed plans comply with the ordinance’s requirement that no single use may occupy 80% or more of the total gross square floor area of the buildings on the lot. (Ex. A-25) The minimum height of buildings in the CAD is two stories or 28-ft. A 28-ft, single-story building would be in compliance with code. (N.T. 8/7/25 at 63-66)

109. Christopher Leswing (“Leswing,”) Director of the Building and Planning Department, was called as a witness by the Applicant. His job duties include reviewing land development and conditional use plans for compliance with the Township subdivision and land

development ordinances, the zoning ordinance, and other application ordinance provisions.

Leswing was one of the primary authors of the Township Comprehensive Plan and serves on an advisory body updating the Montgomery County Comprehensive Plan. (N.T. 8/7/25 at 67-68)

110. Leswing is familiar with the pending conditional use application and land development plans for One Belmont Avenue. In his opinion, based on the information he has received, the reserve parking application and associated plans comply with the applicable Township provisions. Moreover, Township planning staff are supportive of the Applicant's request for additional reserve parking, specifically for ten (10) additional spaces over the minimum requirement of 97. Leswing testified that additional reserve parking makes sense because an extra floor in the parking garage is proposed. (N.T. 8/7/25 at 69-70)

111. Leswing believes the proposed development is specifically consistent with the Montgomery County Comprehensive Plan's goal to encourage development and transformative investment where infrastructure already exists. The proposed plan has changed to meet the goal of transforming the predominant auto-oriented office space environment into a more functionally diverse live/work/shop environment and pedestrian friendly environment. "The plan as a whole, as it evolved, is consistent with the goal of making a diverse, pedestrian friendly, inter-connected, economically viable land use plan," Leswing testified. (N.T. 8/7/25 at 72-73)

112. Leswing disagrees with the MCPC's opinion that the "proposed development of single story commercial buildings amongst surface parking does not appear to advance the goal of the Regional Center 'to transform the predominant auto-oriented. Office based environment into a more functionally diverse live/work/shop environment and pedestrian friendly district.'" (N.T. 8/7/25 at 74) He testified that the MCPC doesn't explain why the proposed plan isn't consistent and doesn't further the stated goals. (N.T. 8/7/25 at 74) To the contrary, Leswing

explained that the proposed plan furthers three large goals of the County Comprehensive Plan: connecting communities, creating a sustainable place and building a vibrant economy.

Redevelopment of a surface parking lot and adding new active uses “completely furthers that goal” of transforming investment where infrastructure already exists. The proposed plan will also build trails and improve transportation access to businesses. It will attract and retain businesses and vital community assets and provide flexibility to adapt to changing market conditions. (N.T. 8/7/25 at 74-75)

113. Leswing also testified that, pursuant to the Township’s 2016 Comprehensive Plan, the CAD’s Regional Center has a regional service area for office uses and a wider orientation for commercial uses. The proposed development will help integrate surrounding residential uses into this district and provide connectivity through other businesses to this space with sidewalks, a pedestrian network, and pathways. (N.T. 8/7/25 at 76)

Legal Authority for Use

114. The Lower Merion Township Board of Commissioners enacted Ordinance No. 3971 on April 25, 2012, which established the City Avenue District (“CAD”) and the Regional Center District (“CAD-RCA”).

115. The CAD is codified through §155-6.5 of the Zoning Ordinance.

116. The CAD-RCA is codified through §155-6.6 of the Zoning Ordinance.

117. The goals and objectives of the CAD-RCA district are set forth in Code §155-6.6.A(1)(a-j):

- A. Goals and objectives. The City Avenue District - Regional Center Area (CAD-RCA) is intended to encourage higher-density, mixed- and multiple-use, pedestrian-oriented development, and more economically productive use of land parcels in the vicinity of City Avenue (U.S. Route 1). It recognizes the importance of City Avenue as both a gateway and as an economic generator

for Lower Merion Township by permitting higher densities with a mix of land uses while providing sufficient off-street, on-street and shared parking.

- (1) These general goals and objectives include the following specific purposes:
 - (a) Enable the development of a mix of commercial, institutional and residential uses.
 - (b) Minimize pedestrian and vehicular conflicts and encourage the renovation and erection of buildings that provide direct connections from buildings to the street and sidewalk.
 - (c) Discourage the dependence on automobile use by promoting multimodal transportation, improving connections and links to public transit and creating safe and inviting pedestrian accessways, thereby reducing traffic congestion.
 - (d) Create transition in bulk and scale between higher-density development and existing residential neighborhoods.
 - (e) Enhance the visual character and identity of the district through building mass, scale and design, landscaping and signage, all appropriate to the goals and objectives of the CAD-RCA zoning.
 - (f) Ensure that the architectural proportions and design of new buildings create a pedestrian-friendly environment, especially at the street level.
 - (g) Promote the smooth and safe flow of vehicular traffic through the corridor while reducing cut-through traffic in the neighboring residential districts by creating pedestrian-scaled blocks, separated by public access streets with sidewalks.
 - (h) Encourage the development of shared parking, liner parking, underground parking, and attractive and convenient off-street parking facilities to reduce on-street congestion and facilitate vehicular and pedestrian circulation.
 - (i) Promote the creation and maintenance of landscaped open areas among buildings for public gathering space.
 - (j) Protect the character and quality of existing residential neighborhoods proximate to the CAD-RCA.

118. The CAD-RCA district permits commercial food, and beverage uses and retail uses, pursuant to Article V, Uses. Table 5.3 Regulations.

119. Additional use regulations and standards specific to the CAD-RCA are found in Code § 155-6.6.G:

Uses. Use regulations and standards shall be according to Article V, Uses, Table 5.3 Regulations, and the following:

1. Multiple-use development. A multiple-use development for purposes of this district shall be defined as an integrated, complementary development consisting of two or more buildings on one or more lots that are adjacent to and abut one another.
 - (a) Includes nonresidential uses on any story and residential uses on upper stories only, as listed under Table 5.3, Use Regulations
 - (b) No single use may occupy more than 80% of the total gross floor area of the buildings on the subject lot(s).
 - (c) Multiple-use development may be phased.

(...)

120. The Municipalities Planning Code confers authority to municipalities to grant conditional use relief pursuant to the express standards and criteria of their applicable code:

Zoning ordinances may contain provisions for conditional uses to be allowed or denied by the governing body after recommendations by the planning agency and hearing, pursuant to express standards and criteria set forth in the zoning ordinance. (...) In allowing a conditional use, the governing body may attach such reasonable conditions and safeguards, other than those related to off-site transportation or road improvements, in addition to those expressed in the ordinance, as it may deem necessary to implement the purposes of this act and the zoning ordinance.

Pennsylvania Municipalities Planning Code (Act 247 of 1968) §603(C)(2).

121. The Board of Commissioners may, by conditional use, approve a request to hold parking in reserve pursuant to Code § 155-8.3, Reserve Parking.

The minimum required parking of Table 8.1, Minimum Parking Requirements (...) may be held as reserve parking without actually paving the spaces, when authorized as a special exception. If land development approval is required for the proposed improvements, including additional parking spaces, authorization shall be by conditional use approval from the Board of Commissioners rather than by special exception. The grant of authorization by either board shall be subject to the following:

(...)

- B. New or changed use. Where a use regulated by Table 8.1, Minimum Parking Requirements is created or there is a change of use on the property, and the Board determines that the number of parking spaces required is not currently needed, it may authorize the applicant to hold in reserve up to 50% of the total number of spaces required.
- C. All uses utilizing parking held in reserve, as part of a land development approval, shall comply with the following transportation demand management policies and plan:
 - i. The parking spaces required in §155-8.1 may be held as reserve parking as outlined above, subject to the submittal and approval of a transportation demand management plan in compliance with §135-8.5 when approved through land development by the Board of Commissioners. The grant of authorization for the reserve parking shall be subject to the following:
 - (a). The Board of Commissioners may reserve the required parking spaces if the applicant can demonstrate in the transportation demand management plan that such spaces are not necessary for the proposed use as a result of the availability and use of transportation modes other than the single-occupant vehicle.
 - (b) In order to qualify for the parking reduction, the applicant must demonstrate to the Board of Commissioners' satisfaction that at least three of the following transportation demand management measures improve availability use of transportation modes other than the single-occupant vehicle (one from column A and two from column B).

Column A

- a. Transit facility amenities in compliance with Subdivision and Land Development Code 135-4.9K
- b. Private shuttle service
- c. A connected public, multipurpose path or trail

Column B

- i. Trailhead parking and trailhead signage
- ii. Designated preferential parking spaces for carpool/vanpool

- iii. Wayfinding signage to public transit facilities and/or public trails
 - iv. On-site and/or electronic transportation information displays
On-site transportation information displays shall be located so as to be seen by the greatest number of tenants/employees.¹
- (...)
- i. A listing of facilities available for bicyclists, carpoolers, pedestrians, transit riders, and van poolers at the development.
 - ii. The applicant must agree in a recorded covenant, approved by the Township Solicitor, to install the reserve parking spaces at any future time and setting forth the transportation demand measures that will be implemented and maintained if the Board of Commissioners determines:
 - a. The reserve parking spaces are needed to accommodate the use of the property; or
 - b. The approved transportation demand management plan is no longer being implemented.
- D. The applicant must document that the full number of required parking spaces can be paved without violating any applicable provisions of this chapter as of the date the construction permit is sought.
- E. The applicant shall install stormwater management facilities, as required by the Township, for the total number of parking spaces, including those held in reserve, unless the applicant demonstrates to the Board's satisfaction that the economic and practical benefit of currently installing such facilities for the reserve parking spaces is not significant when compared to the destruction that would be caused to the natural features of the site.
- F. The applicant must agree in a recorded covenant, approved by the Township Solicitor, to install the reserve parking spaces at any future time if and when the Zoning Officer determines that the reserve parking spaces are needed to accommodate the use of the property. That applicant may appeal such order to the Zoning Hearing Board.
- G. Regardless of the number of spaces actually developed, a parking area to accommodate the aggregate number of parking spaces required shall be fully designed, and the area held as reserve parking shall be clearly designated on the plan. The reserve parking area shall be considered in calculating the impervious surface ratio. The parking reserve area shall be planted with vegetative cover and integrated into the site's land development plan.

122. Design of the reserve parking required by § 155-8.3.G must comply with Development Design Standards found in §155-6.6.I.5(d)[1-8]. The Development Design Standards specify a reserve parking structure not wrapped at all levels with active uses is subject to the following architectural design standards:

5. Architectural Design Standards

(...)

(d) Parking structures, not wrapped at all levels with active uses.

1. Pedestrian-oriented active uses, such as retail or commercial, shall occupy 80% of the ground floor of the primary front façade, as shown on Figure 8.5.2, Ground Floor Liner.
2. The required active uses may be either directly attached to the garage structure or separated by an interior court or service lane.
3. The required active uses shall conform to the storefront facade requirements as outlined in § 155-3.9D, Storefronts.
4. Shall have a separate pedestrian entrance.
5. The visual impact of sloping floors from any public accessway shall be minimized through design treatment of the parking structure's facade.
6. That part of a parking garage that is not concealed behind a liner shall have a façade that conceals all internal elements, such as plumbing pipes, fans, ducts.
7. Exposed concrete spandrel panels shall be prohibited when visible from a public way.
8. A ten-foot minimum landscaped buffer consistent with § 155-3.10, Landscape standards, shall be installed where the parking structure is visible from the public way.

Code § 155-6.6.I.5(d).

G. Compliance with Use Regulations

123. The Applicant proposes to infill existing surface parking areas with three single-story commercial buildings and retain an existing office building, together with the installation of two new public gathering spaces, two minor streets, sidewalks, multipurpose paths, and other amenities. The new buildings would contain retail and food and beverage uses. Reserve parking for up to 107 spaces is requested and a reserve parking structure with 293 parking spaces would be built in the future if required.

124. The CAD-RCA permits retail uses and food and beverage uses pursuant to Article V, Uses, Table 5.3.

125. The CAD-RCA permits reserve parking pursuant to § 155-8.3, subject to conditional use approval.

126. Multiple-use development includes nonresidential uses on any story and residential uses on upper stories only, pursuant to Code § 155-6.6.G.1(a).

127. The proposed single-story buildings comply with Code § 155-6.6.G.1(a), according to Zoning Officer Houchins, who testified residential uses are “permitted but not required.” (N.T. 8/7/25 at 64)

128. Multiple-use development in the CAD-RCA specifies no single use may occupy more than 80% of the total gross floor area of the buildings on the subject lot(s), pursuant to Code § 155-6.6.G.1(b).

129. The proposed single-story buildings have five (5) proposed uses: one (1) retail bank use and four (4) food and beverage uses. The proposed buildings contain 17,700 sq. ft. The existing 219,390 sq. ft. Office Building is primarily, but not exclusively, used for office

purposes. As documented in Ex. A-25, no use is greater than 80% of the total gross square footage of the buildings on the lot, which complies with § 155-6.6.G.1(b). (N.T. 8/7/25 at 33-34)

H. Compliance with Code §155-8.3 for Reserve Parking

130. Code 155-8.3.B provides “[w]here a use regulated by Table 8.1, Minimum Parking Requirements is created or there is a change of use on the property, and the Board determines that the number of parking spaces required is not currently needed, it may authorize the applicant to hold in reserve up to 50% of the total number of spaces required.”

131. The proposed redevelopment plan creates new uses on the property.

132. The required parking for the proposed project and the existing Office Building is 682 parking spaces, pursuant to Table 8.1, Minimum Parking Requirements. Ex. A-24. (N.T. 8/7/25 at 25, 29)

133. The Applicant proposes to provide 585 parking spaces, which creates a deficiency of 97 parking spaces.. (N.T. 8/7/25 at 29; Ex. A-24)

134. The Applicant proposed to hold up to 107 parking spaces in reserve by conditional use approval, providing a cushion in the reserve parking of 10 spaces or 10%. 107 parking spaces is 15.7% of the required 682 parking spaces. (N.T. 8/7/25 at 27-29)

135. The Revised Parking Calculations in Ex. A-24 do not account for shared parking, which would potentially slightly decrease the amount of required parking. (N.T. 8/7/25 at 27; *See*, Code §155-8.2(B) and Table 8.2.1, Mixed and Shared Use Parking)

136. Peak parking demand for the existing office is 373 spaces according to the Revised Parking Assessment Study, Ex. A-27, p. 4. (N.T. 8/7/25 at 40-41)

137. . Traffic Planner Shetler testified that the required 682 parking spaces are not currently needed. *See*, Ex. A-28, Table 2. (N.T. 8/7/25 at 40-41)

138. 15.7% of the required 682 parking spaces would be held in reserve if conditional use approval for 107 reserve parking spaces with 585 available on-site is authorized by the Board of Commissioners, complying with Code 155-8.3.B. (N.T. 8/7/25 at 29)

139. Traffic Planner Spisszak testified earlier that changes in the workplace since COVID 19, such as working from home and hybrid working arrangements, have changed the number of employees going to the office every day and reduced the amount of parking needed. (N.T. 11/11/24 p. 64). Gottlieb testified that the Office Building's current leasing occupancy is 84.4% which is considered at or near full occupancy. (N.T. 11/11/24 at 23) The Office Building's current tenants have lower-density uses than previous tenants, which included call centers, and create less parking demand. There is good public transportation at this building too. (N.T. 11/11/24 at 25) This property and the Applicant's whole portfolio have had a reduction in parking needs since COVID-19. (N.T. 11/11/24 at 26)

140. KGSB has provided an updated Transportation Demand Management Plan dated 8/6/25 as required by Code 155-8.3.C(1)(a). (*See*, Ex. A-28)

141. The updated Transportation Demand Management Plan states that all required parking spaces are not necessary for the proposed use as a result of the availability and use of transportation modes other than single-occupant vehicle, in compliance with Code §155-8.3.C(1)(a).

A parking study was conducted to determine existing parking demand for the office use. The parking study concluded that the existing office use requires less parking than is required per Table 8.1 (Chapter 155-8.1, Minimum Required Parking). Supporting Documentation has been provided in the parking study dated August 6, 2025. The office is currently occupied (84.23% leased). Therefore, existing parking counts include reductions from the transportation demand management measures (that) are currently being utilized, which include immediate proximity to SEPTA bus lines, good pedestrian connectivity, and short distance to the Bala SEPTA train station. The proposed TDM measures may also decrease the demand for office parking beyond the existing counts. Land use in the region is trending away from office park and towards mixed us, which

promotes pedestrian and bicycle traveling and a reduction in vehicle trips to nearby businesses. Furthermore, the current office environment continues to allow for hybrid work, which typically results in a reduction in office parking below requirements set prior to these conditions.

(Ex. A-28, p. 4)

142. Traffic Planner Shetler testified that he agrees with Traffic Planner Spisszak's earlier testimony that the existence of the various transit options and multimodal travel options in the vicinity also contribute to reserve parking spaces not being currently needed on the property. (N.T. 11/11/24 at 44) Spisszak had testified that here are various transit options and multimodal travel options in the vicinity of the property: multiple bus stops located along City Avenue; the Bala train station about a half mile away from the property; a significant amount of pedestrian paths that are constructed or will be constructed to connect this site to adjacent properties, transportation facilities whether bus stop or train station; contributing to the reserve parking spaces not being currently needed on the property. (N.T. 11/11/24 at 59-60)

143. The Transportation Demand Management Plan proposes at least three transportation demand management measures improve the availability and use of transportation modes other than single occupant vehicle, in compliance with Code §155-8.3.C(1)(b). The Applicant will provide a connected, public multipurpose path, wayfinding signage such as designated preferential parking spaces for carpool and van pool vehicles, and an on-site or electronic transportation display. (N.T. 8/7/25 at 43; Ex. A-28)

144. The Staff Report agrees that proposed multimodal transportation infrastructure improvements will reduce vehicular trips to and from the Property. (Ex. T-11 at p. 7; Ex T-20)

145. The Staff Report agrees that the Applicant's reserve parking request will comply with the Township's Transportation Demand Management Policy required by Code §155-8.3. (Ex. T-11 at p. 7)

146. KGSB has agreed to provide, in a recorded covenant approved by the Township Solicitor, to install the reserve parking spaces at any future time and setting forth the transportation demand measures that will be implemented and maintained if the Board of Commissioners determines the reserve parking spaces are needed to accommodate the use of the property, or the approved transportation demand management plan is no longer being implemented, in compliance with Code 155-8.3.C(2) (a)&(b). (N.T. 11/11/24 at 28)

147. KGSB has documented that the full number of required parking spaces can be paved without violating any applicable provisions of this chapter as of the date a construction permit is sought, pursuant to Code 155-8.3.D, through Ex. A-23 and A-24, and testimony of Engineer Breylinger. (N.T. 11/11/24 at 52; N.T. 8/7/25 at 29)

148. KGSB has provided stormwater management plans with its preliminary plan submission, Ex. A-13, in compliance with Code 155-8.3.E. as explained by the testimony of Engineer Breylinger. [N.T. 11/11/24 at 53] Reserve parking, as shown on the proposed plans, complies with the applicable impervious surface ratios required by Code §155-8.3.E. (N.T. 11/11/24 at 52-53; N.T. 8/7/25 at 30; Ex. A-13; A-23)

149. The Applicant has agreed to provide a recorded covenant approved by the Township Solicitor to install the reserve parking spaces at any future time if the Zoning Officer determines that the reserve parking spaces are needed to accommodate the use of the property, in compliance with Code §155-8.3.F. (N.T. 11/11/24 at 28)

150. The parking area to accommodate the aggregate number of parking spaces required has been fully designed, and the area held as reserve parking is clearly designated on the revised plan, Ex. A-23, in compliance with Code 155-8.3.G. (N.T. 11/11/24 at 52; N.T. 8/7/25 at 22-30) Architect Pilko testified the reserve parking structure plan provides a fully designed

parking structure to accommodate the aggregate number of parking spaces, and the area held as reserve parking is clearly designated on the plan, in compliance with Code §155-8.3.G. (N.T. 11/11/24 at 75-84) The parking reserve area will be planted with vegetative cover and integrated into the site's land development plan. (See, Ex. A-23) Engineer Breylinger testified the reserve parking area was considered in calculating the impervious surface area. (N.T. 11/11/24 at 52-53)

I. Compliance with Code §155-6.6.I.5(d) Architectural Design Standards

151. Architectural design standards for reserve parking structures not wrapped at all levels are found in Code 155-6.6.I.5(d)[1-8].

152. The Applicant proposes a reserve parking structure with retail uses on the entire ground floor, not just the wrapper, as depicted in architectural renderings marked Ex. A-29, and in Architect Pilko's testimony (N.T. 8/7/25 at 57) It is a six-level structure with retail space on the ground floor and access to the parking structure. The remaining floors would be parking with architectural screening around the four frontages. (N.T. 8/7/25 at 49, 51-52; Ex. A-29)

153. Pedestrian-oriented active uses shall predominately occupy the entire ground floor of the parking structure, in compliance with Code §155-6.6.I.5(d)[1]. Architect Pilko testified the ground floor will be "predominantly retail, some building service components, vertical circulation for both pedestrians and vertical circulation for vehicles." (N.T. 8/7/25 at 49) The building will have storefront windows wrapping around the ground floor retail space, except for vehicular entrances and access ramp openings which will be screened. (N.T. 8/7/25 at 51-52)

154. Retail uses on the ground floor are directly attached to the garage and will have access from the street, in compliance with Code §155-6.6.I.5(d)[2]. (N.T. 8/7/25 at 51-52; Ex. A-29;)

155. The required active uses will conform to the storefront façade requirements as outlined in 155-3.9D, Storefronts, in compliance with Code §155-6.6.I.5(d)[3] (N.T. 11/11/24 at 79)

156. The parking structure will have separate pedestrian entrances as shown on Ex. A-29, in compliance with Code §155-6.6.I.5(d)[4]. (N.T. 11/11/24 at 79)

157. The reserve parking structure was designed with internal ramping and parking on flat floors to minimize the visual impact of sloped floors, depicted in Ex. A-29, in compliance with Code §155-6.6.I.5(d)[5]. The façade conceals the internal elements of the parking structure. (N.T. 11/11/24 at 80-81)

158. The concrete spandrel panels will not be visible from the public way because there is architectural screening, in compliance with Code 155-6.6.I.5(d)[7]. (Ex. A-20) The Applicant will provide exterior wall materials that comply with the ordinance's requirements for stone, brick, stucco, masonry wood, cement wood, metal, or glass. (N.T. 11/11/24 at 81-82)

159. The Applicant's architect testified and submitted architectural plans for the proposed reserve parking structure that demonstrate compliance with the applicable architectural design standards, pursuant to Code 155-6.6.I.5(d)[1-8]. (N.T.11/11/24 at 82; N.T. 8/7/25 at 52)

J. Compliance with Code §155-11.1.G(4) Traffic Impact Study

160. The Applicant may be required to provide a Traffic Impact Study to assure compliance with conditions regarding level of service, sight obstructions and unsafe traffic conditions, pursuant to §155-11.1.G(4).

161. The Applicant submitted a Traffic Impact Study in connection with the previous land development approval in 2022. The Director of Building and Planning and

the Township Engineer required an updated Traffic Impact Study. The Applicant has provided an updated Traffic Impact Study dated 10/31/24, Ex. A-18.

162. The Traffic Impact Study states:

Upon full build-out of the site, the proposed development including the existing office use is expected to generate 276 new vehicle trips during the weekday A.M. peak hour, 315 new vehicle trips during the weekday P.M. peak hour, and 319 new vehicle trips during the Saturday midday peak hour.

Under 2026 and 2031 projected conditions, the study area intersections will operate similar to 2026 and 2031 base conditions during the weekday A.M., weekday P.M. and Saturday midday peaks. All overall intersection delays fall within PennDOT's allowable 10-second variance between no-build and build condition scenarios

All approaches and turning movements at the site driveway intersections will operate at LOS C or better under 2026 and 2031 projected conditions during the weekday A.M., weekday P.M. and Saturday midday peak hours.

Proposed driveway location sight distances will exceed PennDOT's Desirable and Safe Stopping Site Distance (SSSD) criteria.

(Ex. A-18, Executive Summary)

163. Transportation Planner Spisszak testified at the first conditional use hearing that the Traffic Impact Study "shows compliance with the Township's level of service requirements" and "all the existing and proposed driveways meet the PennDOT site distance criteria" in compliance with Code §155-11.1.G(4). (N.T. 11/11/24 at 71)

164. At the second conditional use hearing, Transportation Planner Shetler testified that the traffic impact study previously submitted as Ex. A-18 is still valid as to the revised plan. The proposed square footage of the buildings has gone down from 17,700 sq. ft to 17,315 sq. ft, so the traffic impact study assumed traffic for a slightly larger amount of new space. (N.T. 8/7/25 at 45)

165. Shetler testified that the parking assessment, Ex. A-16, and the transportation demand management strategies plan memo, Ex. A-17, have been updated to reflect the revised parking calculations contained in Ex. A-27. TPD conducted parking counts at the property on Tuesday, July 16, 2024; Wednesday, November 6, 2024; and Thursday, November 7, 2024. The peak demand was for 373 spaces which is 303 vehicles fewer than the required demand of 676 (corrected to 682). There was a large surplus of parking spaces. (N.T. 8/7/25 at 40-41)

166. The Township Engineer reviewed the Traffic Impact Study dated 5/25/25⁴ as part of preliminary plan review, Ex. T-22. He wrote:

Traffic—The proposed development is one of several pending major developments surrounding the intersection of Belmont Avenue and St. Asaph’s Road which will collectively have a large impact on the existing roadway network. The revised site driveway location to Belmont Avenue has been coordinated with the proposed land development plans for the 121 City Avenue site. However, based upon recent meetings with PennDOT, the preferred improvement alternative at the intersection of Belmont Avenue and St. Asaph’s Road has not yet been determined, and may require turn restrictions at the site driveway. The applicant must continue to work with the Township, the City Avenue Special Services District, PennDOT, and the adjacent developers to formulate an overall mitigation plan for the roads and intersections impacted by the development(s). With the resolution of the preceding major engineering issues and the remaining comments in this letter incorporated, we recommend that the Preliminary Plan be approved.

(Ex. T-22)

167. The Applicant has demonstrated compliance with Code §155-11.1.G(4) through the Traffic Impact Study, the testimony of Transportation Planners Spisszak and Shetler, and the Township Engineer’s recommendation in Ex. T-22.

K. Compliance with Code §155-11.1.F, Process and Procedures for Conditional Uses

⁴ A Traffic Impact Study dated 5/25/25 was not submitted into the record. It is unclear if the reference is to Transportation Impact Study dated 10/31/24; Ex. A-18.

168. Code §155-11.1.F requires the proposed plan to “comply with the specific requirements for the proposed use set forth in Article V, Uses,” pursuant to Code §155-11.1.F(3).

169. Use requirements set forth in Article V, Uses, Table 5.3 include retail and food and beverage uses in the CAD-RCA.

170. The Zoning Officer testified that the proposed retail, bank, food and beverage uses are permitted uses at the property under Article 5 of Table 5.3. (N.T. 8/7/25 at 63)

171. The Applicant has demonstrated that the proposed retail use and food and beverage uses comply with use requirements in the CAD-RCA set forth in Article V, Uses, Table 5.3.

L. Compliance with Code §155-11.1.F.9(f) Criteria for Conditional Use Approval

172. Code §155-11.1F(9)(f)[1] requires substantial evidence that the development plan “meets all conditions of uses found in the use classification section of this chapter.”

173. Use regulations and standards in the CAD-RCA are contained in Code § 155-6.6.G.

174. The use regulations and standards in the CAD-RCA require multiple-use development defined as “an integrated, complementary development consisting of two or more buildings on one or more lots that are adjacent to and abut one another.” Code § 155-6.6.G.1.

175. Engineer Breylinger testified that the proposal meets the definition of a multiple use development in the RCA found in Code §155-6.6.G(1). (N.T. 8/7/25 at 31-32)

176. The Zoning Officer testified that he agrees with Breylinger's testimony that the proposal meets the definition of multiple use development. (N.T. 8/7/25 at 63-64)

177. Multiple-use development does not permit a single-use to occupy more than 80% of the total gross floor area of the buildings on the lot, pursuant to Code §155-6.6.G(1)(b).

178. Engineer Breylinger prepared a chart summarizing the existing and proposed uses, Ex. A-25, that demonstrates compliance with the 80% limit.

179. The Zoning Officer testified that he agrees with the chart, Ex. A-25. (N.T. 8/7/25 at 65)

180. The Applicant has persuasively demonstrated that the proposed development plan complies with use regulations and standards requiring multiple-use development in the CAD-RCA contained in Code §155-6.6.G.1(a) and (b) and, thereby, all conditions for uses pursuant to Code §155-11.1F(9)(f)[1].

181. Code §155-11.1F(9)(f)[2] requires substantial evidence that the development plan "does not conflict with the Township and County Comprehensive Plans and other plans adopted by the Township."

182. The MCPC's review letter dated 1-30-25, Ex. T-23, states:

the proposed development will activate portions of an existing surface parking lot with new uses and create public amenities such as a central gathering space and improved sidewalks, which is generally consistent with [the Montgomery County Comprehensive Plan's] goal to 'encourage development and transformative investment where infrastructure already exists.'

(Ex. T-23, p.2) It also states:

the proposed development of single-story commercial buildings amongst surface parking does not appear to significantly advance the goal of [Lower Merion Township's]

Regional Center to “transform the predominant auto-oriented, office-based environment into a more functionally diverse live/work/shop environment and pedestrian-friendly district.” However, the proposed development includes amenities that would improve this prominent property, including streetscape improvements, public gathering space, a bus shelter, and outdoor dining.

(Ex. T-23 at 2)

183. The Director of Building and Planning, Christopher Leswing, who serves on an advisory body with Montgomery County that is updating the county’s comprehensive plan, testified that the proposed plan is “specifically consistent” with the Montgomery County Comprehensive Plan. (N.T. 8/7/25 at 72) He described the three large goals of the county comprehensive plan: connecting communities, creating a sustainable place, and building a vibrant economy.

Each of those points in there is furthered by this plan, like building trails, improving transportation access to businesses, encouraging development that transforms investment where infrastructure already exists. This is a redevelopment of a surface parking lot and adding new active uses, so that completely furthers that goal. It’s attracting and retaining businesses and vital community assets, and it’s also providing flexibility to adapt to changing market conditions just from an economic standpoint.

(N.T. 8/7/25 at 74-75) He pointed out that the MCPC’s review letter dated June 27, 2025 does not state that there’s an inconsistency. (N.T. 8/7/25 at 73)

184. Leswing also testified that the proposed plan is “absolutely consistent” with the Regional Center of Lower Merion Township.

The goal of the Regional Center is to transform the predominantly auto oriented, office based environment into a more functionally diverse live/work/shop environment and a pedestrian friendly district. The improvements do exactly that. The Regional Center has a regional service area for office uses and a more Township-wide orientation for commercial uses. The development and inclusion of the sidewalk and pedestrian network and the pathways help to integrate surrounding residential uses into this district and also provide connectivity through other businesses in the district to this space.

(N.T. 8/7/25 at 76)

185. In light of Leswing’s testimony providing multiple examples of the proposed plan’s consistency with the Montgomery County Comprehensive Plan and the Lower Merion Comprehensive Plan, the Applicant has provided substantial evidence that the proposed development plan does not conflict with the Township and County Comprehensive Plans, in compliance with Code §155-11.1F(9)(f)[2].

186. Code §155-11.1F(9)(f)[3] requires substantial evidence that the proposed development plan “is consistent with the spirit, purposes and intent of the applicable zoning district.”

187. Engineer Breylinger testified that the proposed reserve parking is consistent with the spirit, purposes, and intent of the applicable zoning district because it provides additional uses on the property, as well as incorporates public gathering space and multipurpose trails. “Adding North Road and West Road will break up the length of the block” which is currently nonconforming. (N.T. 11/11/24 at 54)

188. The Staff Report regarding the tentative sketch land development plan, Ex. A-13, states the “proposed project will result in more productive land use than the Property’s existing use as surface parking. The addition of two minor streets will create smaller blocks, and the implementation of streetscape improvements will result in a pedestrian friendly environment in alignment with the intent of the CAD-RCA legislative code.” (Ex. T-13 at 3)

189. The Zoning Officer testified that the current iteration of the plans complies with the applicable provisions of the zoning ordinance. (N.T. 8/7/25 at 62)

190. The Applicant has provided substantial evidence that the proposed development plan is “consistent with the spirit, purposes and intent of the applicable zoning district” in compliance with Code §155-11.1F(9)(f)[3].

191. Code §155-11.1F(9)(f)[4] requires substantial evidence that the proposed development plan “is in conformance with all applicable requirements of this Chapter and all municipal, state and federal codes applicable to the use or process in question”

192. The Applicant has demonstrated that the proposed development plan is in conformance with all applicable requirements of this Chapter and all municipal, state and federal codes applicable to the use or process in question, in compliance with Code §155-11.1F(9)(f)[4], specifically conformance with use regulations and standards requiring multiple-use development in the CAD-RCA contained in Code §155-6.6.G.1(a) and (b).

193. Code §155-11.1F(9)(f)[5] requires the development plan is “suitable to the Property in question when considering traffic, vehicular and pedestrian circulation, location and design of parking areas, adjacent land uses and other impacts on the surrounding area. The scale of the proposed uses relates to and complements the surrounding area.”

194. Transportation Planner Spisszak testified the proposal for reserve parking is suitable for the property based on the parking study he conducted, Ex. A-1 and A-16. “The office use (...) does not require the amount of parking that is listed in the current ordinance. Office uses basically everywhere are not utilized as highly as they were prior to COVID.” (N.T. 11/11/23 at 68-69) Spisszak “doesn’t foresee that coming back anytime in the near future.” (N.T. 11/11/23 at 68-69) The Traffic Impact Study shows less traffic will be created than the plan approved in 2022. In Spisszak’s opinion, the proposed project complies with the Township’s level of service and other related traffic requirements. (N.T. 11/11/23 at 71) Vehicular circulation is provided by two new interior minor roads for vehicles entering and exiting the Property, in addition to the existing driveway accessing City Avenue. Pedestrian circulation will be accommodated by pedestrian ways within the site, as well as multipurpose paths along City Avenue and St. Asaph’s

Road. *See*, Ex. A-12 and A-13. (N.T. 11/11/24 at 42) The location and design of parking areas have been reviewed by Staff to assure compliance with Code. (*See*, Ex. T-11 and T-13) The proposed public gathering spaces will complement commercial uses on the Property and be available to the general public. The proposed development plan is suitable for the surrounding area because neighboring residents will be able to walk and bike to the new public amenities on the Property. (N.T. 11/11/24 at 21-22, 27)

195. The Township Engineer reviewed the Traffic Impact Study dated 5/25/25⁵ as part of preliminary plan review. His review letter is marked Ex. T-22. He wrote:

Traffic—The proposed development is one of several pending major developments surrounding the intersection of Belmont Avenue and St. Asaph’s Road which will collectively have a large impact on the existing roadway network. The revised site driveway location to Belmont Avenue has been coordinated with the proposed land development plans for the 121 City Avenue site. However, based upon recent meetings with PennDOT, the preferred improvement alternative at the intersection of Belmont Avenue and St. Asaph’s Road has not yet been determined, and may require turn restrictions at the site driveway. The applicant must continue to work with the Township, the City Avenue Special Services District, PennDOT, and the adjacent developers to formulate an overall mitigation plan for the roads and intersections impacted by the development(s). With the resolution of the preceding major engineering issues and the remaining comments in this letter incorporated, we recommend that the Preliminary Plan be approved.

(Ex. T-22)

196. The Applicant has provided substantial evidence that the proposed development plan is suitable to the Property in question when considering traffic, vehicular and pedestrian circulation, location and design of parking areas, adjacent land uses and other impacts on the surrounding area. The scale of the proposed uses relates to and complements the surrounding area, in compliance with §155-11.1F(9)(f)[5].

⁵ A Traffic Impact Study dated 5/25/25 was not submitted into the record. It is unclear if the reference is to Transportation Impact Study dated 10/31/24; Ex. A-18.

197. Code §155-11.1F(9)(f)[6] requires “all uses shall be capable of being served by public sewer.”

198. The uses in the proposed development shall be capable of being served by public sewer in compliance with §155-11.1F(9)(f)[6].

II. CONCLUSIONS OF LAW

A. General Legal Standards for Granting a Conditional Use

199. Municipalities possess only those powers expressly granted to them by the General Assembly. In re Appeal of Maibach, LLC, 26 A.3d 1213 (Pa. Cmwlth. 2011).

200. Section 909.1(b)(3) of the MPC⁶ grants a municipality's governing body authority to render final adjudications on applications for conditional uses. A conditional use is one to which the applicant is entitled provided that the specific standards of the zoning ordinance are met. In re Thompson, 896 A.2d 659, 670 (Pa. Cmwlth. 2006), *appeal denied*, 591 Pa. 669, 916 A.2d 636 (2007).

201. An applicant seeking a conditional use must show compliance with the express standards of the zoning ordinance that relate to the specific conditional use. Id.

202. If the applicant demonstrates compliance with the zoning ordinance, the governing body must grant the application unless objectors introduce sufficient evidence that the proposed use will have a detrimental effect on the public health, safety, and welfare. Id.⁷

⁶ Added by the Act of December 21, 1988, P.L. 1329, 53 P.S. §10909.1.

⁷ "Because the law regarding conditional uses and special exceptions is virtually identical, the burden of proof standards are the same for both." In re Thompson, 896 A.2d at 670

203. A governing body may impose reasonable conditions on the grant of a conditional use. Section 913.2 of the MPC;⁸ Levin v. Board of Supervisors of Benner Township, Centre County, 669 A.2d 1063 (Pa. Cmwlth. 1995), *aff'd*, 547 Pa. 161, 689 A.2d 224 (1997).

204. A Board is permitted to impose reasonable conditions on the use of a property to mitigate any potential adverse impacts from the proposed use. Feldman v. Bd. of Supervisors of E. Caln Twp., 48 A.3d 543, 548 (Pa. Commw. Ct. 2012) *citing* Edgmont Township v. Springton Lake Montessori School, 154 Pa. Commw. 76, 622 A.2d 418 (Pa. Cmwlth. 1993).

205. The governing body is entitled to deference in the interpretation of its own zoning code. In Re Arnold, 984 A.2d 1 (Pa. Cmwlth. 2009).

B. Standards and Criteria for Conditional Uses in Lower Merion Township

206. Process and procedures for conditional uses are found in Code §155-11.1.F, including:

1. The Board of Commissioners shall have the power to approve or disapprove conditional uses when this chapter specifically requires the obtaining of such approval.
2. In granting a conditional use, the Board of Commissioners shall make findings of fact consistent with the provisions of this chapter. The Board shall not approve a conditional use except in conformance with the conditions and standards outlined in this chapter.
3. Subject to §155-155-11.1.F(4) below, the Applicant shall have the initial burden of persuasion that the application complies with the specific requirements for the proposed use set forth in Article V, Uses.
4. Opponents shall have the initial duty of presenting substantial evidence that the application does not comply with the general criteria of this chapter, but the Applicant shall retain the ultimate burden of persuasion concerning those criteria.

207. Criteria for conditional use approval are found in Code § 155-11.1.F.9(f):

⁸ Added by the Act of December 21, 1988, P.L. 1329, 53 P.S. §10913.2.

Criteria for conditional use approval. The Board of Commissioners shall grant a conditional use only if it finds substantial evidence that any proposed development plan submitted comply with the following:

- (1) Meets all conditions of uses expressed in the use classification section of this chapter;
- (2) Does not conflict with the Township and County Comprehensive Plans and other plans adopted by the township;
- (3) Is consistent with the spirit, purposes and intent of the applicable zoning district;
- (4) Is in conformance with all applicable requirements of this Chapter and all municipal, state and federal codes applicable to the use or process in question;
- (5) Is suitable to the property in question. This criterion shall consider issues such as traffic, vehicular and pedestrian circulation, location and design of parking areas, adjacent land use(s) and other impacts on the surrounding area. If the proposal is adjacent to a residential district, the scale of the use shall relate to and complement the surrounding area.
- (6) Public Utilities. All uses shall be capable of being served by public sewer. A use may be permitted to be served on an on-lot sanitary system, only if deemed acceptable by the Board of Commissioners and the adopted 537 Plan of the Township, upon recommendation of the Township Engineer. Sufficient water supply must be available to accommodate the needs of the proposed use.

208. Additional requirements for conditional uses are found in Code § 155-11.1.G:

- (4) Traffic impact study (TIS). The Director of Building and Planning shall require a traffic impact study if needed to assure compliance with the following requirements. If required, the Township Engineer shall determine the scope of the study and the assumptions utilized.
 - (a) The traffic generated by the proposed use, when combined with the current use, shall not result in a level of service lower than C, or, if the level of service is already C or below, shall not alter such level of service for adjacent streets and/or the nearest intersections thereof.
 - (b) The proposed use shall demonstrate that it does not create an unsafe traffic condition due to site obstructions at the points of ingress and egress.

- (c) The Board of Commissioners may impose additional conditions to mitigate the adverse impact of traffic generated by the proposed use, such as requiring staggered starting and ending times, site circulation, of enrollment/public access limits.

C. Conclusions of Law Regarding Code §155-11.1.F, Process and Procedures

209. Evidence presented at the conditional use hearing, through documents which were introduced into the record and the testimony of witnesses, demonstrates compliance with the conditional use process and procedures set forth in Code §155-11.1.F.

210. The proposed plan must “comply with the specific requirements for the proposed use set forth in Article V, Uses,” pursuant to Code §155-11.1.F(3)

211. Use requirements set forth in Article V, Uses, Table 5.3 include retail and food and beverage uses in the CAD-RCA.

212. The Applicant has demonstrated that the proposed retail use and food and beverage uses comply with use requirements in the CAD-RCA set forth in Article V, Uses, Table 5.3, and the additional use criteria set forth in Code § 155-6.6.G(1), and subject to conditions.

D. Conclusions of Law Regarding Code §155-11.1.F.9(f) Criteria

213. Evidence presented at the conditional use hearing, through documents that were introduced into the record and the testimony of witnesses, has demonstrated the Applicant has complied with all standards and criteria for conditional uses, pursuant to Code §155-11.1.F.9(f)(1-6)

214. Code §155-11.1F(9)(f)(1) requires the development plan to “meet all conditions of uses found in the use classification section of this chapter.”

215. Use regulations and standards in the CAD-RCA are contained in Code § 155-6.6.G.

216. The use regulations and standards in the CAD-RCA require multiple-use development defined as “an integrated, complementary development consisting of two or more buildings on one or more lots that are adjacent to and abut one another.” Code § 155-6.6.G.1.

217. The proposed single-story buildings comply with multiple-use development as defined by §155-6.6.G(1).

218. Multiple-use development does not permit a single-use to occupy more than 80% of the total gross floor area of the buildings on the lot, Code §155-6.6.G(1)(b).

219. No single use occupies more than 80% of the total gross floor area of the buildings on the lot, in compliance with Code §155-6.6.G(1)(b).

220. The Applicant has demonstrated that the proposed development plan meets the use regulations and standards requiring multiple-use development in the CAD-RCA contained in Code §155-6.6.G.1(a)&(b) and all conditions for uses pursuant to Code §155-11.1F(9)(f)(1).

221. Code §155-11.1F(9)(f)[2] requires the development plan “does not conflict with the Township and County Comprehensive Plans and other plans adopted by the Township.

222. The Applicant has demonstrated that the proposed plan would not conflict with the Township and County Comprehensive Plans and other plans adopted by the Township, as required by Code §155-11.1F(9)(f)[2].

223. Code §155-11.1F(9)(f)[3] requires the proposed development plan is “consistent with the spirit, purposes and intent of the applicable zoning district.”

224. The proposed development plan is consistent with the spirit, purposes and intent of the applicable zoning district, in compliance with Code §155-11.1F(9)(f)[3].

225. Code §155-11.1F(9)(f)[4] requires the proposed development plan “is in conformance with all applicable requirements of this Chapter and all municipal, state and federal codes applicable to the use or process in question.”

226. The proposed development is in conformance with all applicable requirements of this Chapter and all municipal, state and federal codes applicable to the use or process in question, in compliance with Code §155-11.1F(9)(f)[4], specifically conformance with use regulations and standards requiring multiple-use development in the CAD-RCA contained in Code §155-6.6.G.1(a)&(b).

227. Code §155-11.1F(9)(f)[5] requires the development plan is “suitable to the Property in question when considering traffic, vehicular and pedestrian circulation, location and design of parking areas, adjacent land uses and other impacts on the surrounding area. The scale of the proposed uses relates to and complements the surrounding area.”

228. The proposed development plan is suitable to the Property in question when considering traffic, vehicular and pedestrian circulation, location and design of parking areas, adjacent land uses and other impacts on the surrounding area, pursuant to §155-11.1F(9)(f)[5], subject to comments about the Traffic Impact Study in the Township Engineer’s review letter dated 6/27/25; Ex. T-22, and discussed *infra*.

229. Code §155-11.1F(9)(f)[6] requires “all uses shall be capable of being served by public sewer.”

230. The uses in the proposed development shall be capable of being served by public sewer in compliance with §155-11.1F(9)(f)[6].

E. Conclusions of Law Regarding Code §155-11.1.G(4) Traffic Impact Study

231. The Applicant may be required to provide a Traffic Impact Study to assure compliance with conditions regarding level of service, sight obstructions and unsafe traffic conditions, pursuant to §155-11.1.G(4).

232. The Applicant submitted a Traffic Impact Study in connection with the previous land development approval in 2022. The Director of Building and Planning and the Township Engineer required an updated Traffic Impact Study. The Applicant has provided an updated Traffic Impact Study dated 10/31/24 (Ex. A-18). The Township Engineer's review letter dated 5/27/25, Ex. A-22, states he reviewed a Traffic Impact Study dated 5/25/25 which was not offered into the record at the second conditional use hearing.

233. Transportation Planner Spisszak testified at the first conditional use hearing that the Traffic Impact Study dated 10/31/24, Ex. A-18, complies with the Township's level of service requirements and creates no sight obstructions that would create an unsafe traffic condition, in compliance with Code §155-11.1.G(4).

234. Traffic Planner Shetler testified at the second conditional use hearing that the traffic impact study submitted as Ex. A-17⁹ at the first hearing was still valid. (N.T. 8/7/25 at 45) He further agreed that PennDOT's comments are "fairly typical" for an HOP application and he "doesn't anticipate any pushback" addressing them through the HOP process. (N.T. 8/7/25 at 46)

235. The Township Engineer identified traffic as a major engineering issue in his preliminary plan review dated 6/27/25, Ex. T-23, which included reviewing the traffic

⁹ The Traffic Impact Study dated 10/31/24 was marked Ex. A-18 at the first conditional use hearing.

impact study dated 5/15/25. He notes that PennDOT is still in the process of determining the preferred alternative treatment of the intersection of Belmont Avenue and St. Asaph's Road. The Township Engineer recommended that the Applicant must continue to work with the Township, the City Avenue Special Services District, PennDOT, and the adjacent developers to formulate an overall mitigation plan for the roads and intersections impacted by the development(s). (Ex. T-23 at 1) Further, he states the traffic impact study must address the following issues:

a) Several intersections in the area experience a high number of crashes each year. The applicant shall identify and implement low-cost safety improvements at these locations, with particular emphasis on the intersection of St. Asaph's Road and Belmont Avenue. While PennDOT is advancing a safety improvement project that may include a roundabout at this intersection, the proposed development is expected to open before that project is completed. Therefore, the applicant must address current safety concerns through interim improvements until the PennDOT project is in place.

b) We concur with the recommendation in the study regarding the implementation of a center left-turn lane on Belmont Avenue along the site frontage. This improvement shall be shown on the revised land development and PennDOT Highway Occupancy Permit (HOP) plans.

c) The applicant shall provide further discussion and any supporting documentation for the Multimodal reductions applied to the trip generation estimates for the proposed retail land uses (High-Turnover Sit-Down Restaurant, Fast Casual Restaurant, and Bank). These projected reductions may not be considered when calculating the traffic impact fee for City Avenue District.

d) The study indicates that the queue of exiting traffic on West Road (site driveway) to Belmont Avenue will block the proposed parking lot access driveway on the north side of West Road. The parking lot access driveway to West Road must be relocated to the eastern side of the parking lot.

e) A flashing yellow arrow signal head on the proposed mast arm on the northeast corner of City Avenue and Belmont Avenue shall be installed. An additional three-section signal head for the through movement shall be included. The signal heads opposite the appropriate northbound Belmont Avenue travel lanes shall be aligned. These items are subject to review and approval from PennDOT and the City of Philadelphia. LOWM 260.44 Page 3 June 27, 2025

f) The applicant shall coordinate with the Philadelphia Streets Department Traffic Unit on any signal improvements on City Avenue. Provide coordination in future submissions.

(Ex. T-22 at 2)

236. The Applicant must satisfy the Township Engineer's recommendations for the Traffic Impact Study, in Ex. A-22, to comply with §155-11.1.G (4).

F. Conclusions of Law Regarding Code §155-8.3.B Reserve Parking

237. Code §155-8.3.B, *et seq.* contains specific standards for reserve parking.

238. The proposed uses are regulated by Table 8.1, Minimum Parking Standards and require 682 parking spaces on the Property.

239. The Applicant proposes to provide 585 parking spaces and hold 107 parking spaces in reserve by conditional use approval, pursuant to Code §155-8.3.B, *et seq.*

240. The Applicant has provided Selected Materials from 10/18/24 revised TSLD/CU plan Submission, Ex A-12; Preliminary Plan Development Set dated 11/01/24, Ex. A-13; Updated Parking Calculations Chart dated 11/11/24, Ex, A-14; Updated Parking Assessment dated 11/11/24, Ex. A-16; Updated Transportation Demand Management Strategies Plan dated 11/11/24, Ex. A-17; and Revised Reserve Parking Structure Plan dated 8/01/24 rev. 11/08/24, Ex. A-20, ("Parking Plans and Studies").

241. Engineer Breylinger and Transportation Planner Shetler testified credibly at the second conditional use hearing about how the Parking Plans and Studies comply with Code §155-8.3.B, *et seq.*

242. The Applicant has demonstrated that the required 682 parking spaces are not currently needed, in compliance with Code §155-8.3.B.

243. KGSB has shown the proposed plan qualifies for the parking reduction because it has demonstrated at least three transportation demand management measures improve the

availability use of transportation modes other than single occupant vehicle, pursuant to Code § 155-8.3.C(1)(a)(b).

244. KGSB has demonstrated it qualifies for the parking reduction because it agrees to provide a recorded covenant Township Solicitor, to install the reserve parking spaces at any future time and setting forth the transportation demand measures that will be implemented and maintained if the Board of Commissioners determines the reserve parking spaces are needed to accommodate the use of the property; or the approved transportation demand management plan is no longer being implemented, in compliance with Code § 155-8.3.C(2)(a)(b).

245. KGSB has documented that the full number of required parking spaces can be paved without violating any applicable provisions of this chapter as of the date a construction permit is sought, in compliance with Code §155-8.3.D.

246. KGSB has documented stormwater management plans with its preliminary plan in compliance with Code §155-8.3.E.

247. KGSB has agreed to provide a recorded covenant approved by the Township Solicitor, to install the reserve parking spaces at any future time if and when the Zoning Officer determines that the reserve parking spaces are needed to accommodate use of the property, in compliance with Code §155-8.3.F.

248. KGSB has documented the parking area to accommodate the aggregate number of parking spaces required has been fully designed, and the area held as reserve parking is clearly designated on the plan, in compliance with Code §155-8.3.G.

249. KGSB has documented the reserve parking area has been considered in calculating impervious surface coverage, in compliance with Code §155-8.3.G.

250. KGSB has shown the parking reserve area will be planted with vegetative cover and integrated into the site's land development plan, in compliance with Code §155-8.3.G.

251. KGSB has demonstrated that proposed reserve parking complies with Code §§155-8.3.B,C(i)(a)(b)(ii)(a)(b), D, E, F and G.

G. Conclusions of Law Regarding Code §155-6.6.I.5.(d) Design Standards

252. Code §155-6.6.I.5.(d) contains architectural design standards for parking structures not wrapped at all levels with active uses in the CAD-RCA.

253. KGSB has submitted a Revised Reserve Parking Structure Plan for a parking structure not wrapped at all levels with active uses designed by RHJ, Assoc., Ex A-29.

254. Architect Pilko testified credibly about how the Revised Reserve Parking Structure Plan complies with Code §155-6.6.I.5.(d) at the conditional use hearings. [N. T. 8/7/25 at 52; N.T. 11/11/24 at 73-85].

255. KGSB has demonstrated that the proposed parking structure not wrapped at all levels with active uses complies with the requirements of Code §§ 155-6.6.I.5.(d)(1)(2)(3)(4)(6)(7) and (8).

H. Conclusions of Law Regarding Expert Witness Testimony

256. A witness with reasonable pretension to specialized knowledge on subject [sic] under investigation may be permitted to give expert opinion testimony. Miller v. Brass Rail Tavern, 541 Pa. 474, 480 (1995). The expert witness's written report must contain the basis for opinions. *See, Olup v. Pennsylvania Am. Water Co.*, No. 838 WDA 2015, 2016 WL 5403568, at

*5 (Pa. Super. Ct. Sept. 26, 2016)(Appellate Court upheld Trial Court exclusion of plaintiff's testimony as an expert in engineering where he did not write report that gave bases for opinions.)

257. Richard Gottlieb, the president and COO of Keystone, an entity of the Applicant, was offered as a fact witness and an expert witness on how much parking is needed for the proposed plan by the Applicant. Gottlieb did not write a report with the basis for his opinions about future parking needs at the Property. Moreover, Gottlieb is not a disinterested and unbiased person with no stake in the outcome of the conditional use application, rather he is the president of Keystone, an entity of the Applicant. As a result, no weight was given to Gottlieb's opinion testimony about future parking needs. The Hearing Officer credited Gottlieb's factual testimony about parking conditions he had observed at the Property.

DISCUSSION

A previous set of recommendations for this conditional use application to the Board of Commissioners, dated 12/26/24, raised threshold issues about whether the proposed uses were allowed in the zoning district. The conditional use hearing was reopened, and the Applicant provided credible testimony that the proposed uses are permitted in the zoning district, and no one use will occupy more than 80% of the total gross square footage on the lot. As a result, there is substantial evidence that the proposed single-story buildings are permitted in the Regional Center district.

The 12/26/24 recommendations also questioned whether the proposed plan is consistent with the Montgomery County Comprehensive Plan and the Lower Merion Township Comprehensive Plan. Credible testimony was adduced from the Director of Building and Planning at the second conditional use hearing that the proposed plan is consistent with the

Montgomery County Comprehensive Plan and the Lower Merion Township Comprehensive Plan.

The conditional use application has been revised to request to hold 107 parking spaces in reserve if three (3) new commercial buildings with five (5) new uses are constructed at One Belmont Avenue. The proposed commercial buildings are single-story, similar to pad sites at shopping centers. New uses in these proposed commercial buildings would increase the amount of required parking the Applicant must provide. The Applicant proposes to provide 585 parking spaces and hold 107 spaces in reserve if authorized by conditional use approval.

The Applicant's request for conditional use approval to hold 107 parking spaces in reserve—merely 15.7% of the required 682 parking spaces—appears to be reasonable. Testimony and documents in the record demonstrate that not all of the required parking with the proposed project is needed. The Applicant's Parking Assessment Study found 267 more parking spaces on site than required at present. Currently, 640 parking spaces are provided to the existing Office Building and the existing parking demand is 373 spaces. The proposed redevelopment requires 682 parking spaces. The proposed project will provide 585 parking spaces. Less than 50% of the required 690 parking spaces would be held in reserve if conditional use for 107 reserve parking spaces is granted. If ever needed, a six-level parking structure with 293 parking spaces total will be constructed. Several designs have been submitted, both with and without PennDOT's proposed roundabout at the intersection of Belmont Avenue and St. Asaph's Road. The Applicant has also planned for the potential widening of Belmont Avenue pursuant to Act 206.

Granting conditional use approval for reserved parking and allowing the proposed project to go forward would cure the existing nonconformity to the CAD-RCA's 600-foot

maximum lot width requirement along Belmont Avenue by the installation of West Road and North Road. Installing three new buildings, two public gathering spaces, two multipurpose paths, sidewalks, and other amenities in the area of the existing surface parking lot meets the intent of the CAD-RCA for higher density and more economically productive land use. It also meets specific purposes of the CAD-RCA by creating open areas for green public gathering space; discouraging the dependence on automobile use by promoting multimodal transportation, creating safe and inviting pedestrian accessways, thereby reducing congestion; an enjoyable pedestrian experience at street level, and facilitating vehicular circulation through and around the Property.

Lastly, the proposed reserve parking structure poses no adverse impact on health, safety or welfare, and preserves the character of the neighborhood which is intended to “evolve with higher buildings, diverse uses and structured parking,” pursuant to the Future Land Use Plan of the Montgomery County Comprehensive Plan. *See also*, the Land Use Element of the 2016 Lower Merion Township Comprehensive Plan. The Traffic Impact Study dated 10/31/24, Ex. A-18, found the proposed development would generate 50% less traffic in the A.M. peak hour and 40% less traffic in the P.M. peak hour than the previously approved larger development, LD # 3889. It shows compliance with the Township’s level of service requirements and does not create unsafe traffic conditions according to the Applicant’s Traffic Planners. (N. T. 11/11/25 at 70-71; N.T. 8/7/25 at 45) A development plan that would generate far less traffic than the larger proposed development approved in 2022 would have a smaller impact on public health, safety, and welfare.

That said, the revised plan will change current traffic conditions, and the issue is the extent of these changes. Consequently, conditional use approval shall be conditioned upon the Applicant's compliance with recommendations for the traffic impact study, as *discussed supra*.

Likewise, the foregoing analysis and conclusion are also predicated on the assumption that the then-property owner being able to build the parking structure if, and when, it is ever needed. If the parking structure cannot be built at that time, then the findings and conclusions contained herein are undermined and the Applicant would not be entitled to the requested conditional use approval. Accordingly, conditional use approval shall be further conditioned upon the Applicant providing sufficient financial security to reasonably ensure that it can be built if needed.

For the reasons set forth herein, the following order is recommended to the Board of Commissioners.

ORDER

AND NOW, with respect to the property located at 1 Belmont Avenue, further identified as Parcel I.D. No. 40-00-10980-005, the Lower Merion Township Board of Commissioners hereby GRANTS, pursuant to Zoning Code §155-8.3, the requested conditional use approval to allow for up to 107 required off-street parking spaces to be held in reserve subject to the following conditions:

- (a) The Applicant shall construct the proposed parking structure if, and when, it is required, as determined by the Township's Zoning Officer.
- (b) The Applicant shall provide to the Township reasonable financial security in a form and amount approved by the Board of Commissioners, which may be adjusted from time to time based on market considerations, and which shall be held until the parking structure is completed and approved for usage or the property's usage decreases its overall parking demands such that reserve parking is no longer needed.
- (c) The Applicant shall receive preliminary land development approval of its land development application for within six (6) months of this approval.
- (d) Any modification of the proposed design of the parking structure shall require further land development approval.
- (e) The Applicant shall comply with the comments contained on page 2 of the Township Engineer's Review Letter dated 6/27/25, to the satisfaction of the Township Engineer.
- (f) The Applicant shall allow reasonable access to organizers and vendors seeking to use the property for a farmers market on terms similar to past practice.
- (g) The development and use of the property, including but not limited to the construction and use of the proposed parking structure, shall be consistent the testimony and evidence offered during the hearings.
- (h) The development and use of the property, including but not limited to the construction and use of the proposed parking structure, shall at all times be compliance with all applicable laws, ordinances, and regulations not modified by this grant of zoning relief.

BOARD OF COMMISSIONERS
TOWNSHIP OF LOWER MERION

BY: _____
Todd M. Sinai, President

ATTEST:

Jody L. Kelley, Secretary