

**BEFORE THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF WEST DEER,
ALLEGHENY COUNTY, COMMONWEALTH OF PENNSYLVANIA**

IN THE MATTER OF:)	942 & 982 Little Deer Creek Valley Road
)	Russellton, PA 15076
Brickyard Park Holdings, LLC)	
Application for Conditional Use Approval)	
of Concert Stage / Event Venue and)	April 11, 2023
Associated Parking)	6:00 PM

FINDINGS, CONCLUSIONS AND DECISION

I. Background

1. The Township of West Deer, Allegheny County, Commonwealth of Pennsylvania (the "Township") is a home rule municipality with its offices located at 109 East Union Road, Cheswick, Pennsylvania 15024.

2. The Applicant, Brickyard Park Holdings, LLC (the "Applicant"), a Pennsylvania Limited Liability Company, is the owner/developer of two parcels of property in the Township identified as 942 and 982 Little Deer Creek Valley Road, Township of West Deer, County of Allegheny, Commonwealth of Pennsylvania, comprised of parcels designated by the Allegheny County Office of Property Assessments as Block and Lot Nos. 1219-A-25 and 1219-J-75 (collectively, the "Property") which are located in the I-Industrial Zoning District of the Township.

3. All references to Township ordinances are made in accordance with the Code of the Township of West Deer ("Code") adopted on April 20, 2016, as amended, including the Township Zoning Ordinance, Chapter 210 of the Code ("Zoning").

4. On or about August 24, 2022, the Applicant filed an Application for Conditional Use and associated plans and documents (collectively, the "Application") with the Township seeking to construct a Concert and Performance Venue and related Parking Facilities ("Event Venue Project") to be located on the Property.

5. During the February 23, 2023, meeting of the Township Planning Commission, the Planning Commission voted to recommended approval of the Application subject to certain conditions. (See Planning Commission Meeting Report, Township Ex. 3).

6. The Applicant requested/granted multiple extensions for the Township Board of Supervisors to hold a public hearing on the Application. On April 11, 2023, pursuant to public notice, the Township held a public hearing on the Application, and the Township Board of Supervisors took testimony and evidence from the Applicant and Township residents regarding the proposed Event Venue Project.

7. Jerry Nist of Hampton Technical Associates, Inc., appeared on behalf of the Applicant and presented a summary of the proposed plans for the Event Venue Project. In addition, the owner of the Property, Charles Vrabel of Brickyard Park Holdings, LLC, and Joseph

Voloch, the facilities manager at No Offseason Sports, which is the existing youth sports facility currently operating on a portion of the Property, provided testimony in support of the Event Venue Project.

8. Edward J. Simon of Edward Simon & Company testified on behalf of the Applicant and reviewed the acoustic design of the Event Venue Project and provided a report and testimony regarding the projected sound impacts on the surrounding neighborhood.

9. Joshua A. Haydo, P.E., PTOE, of David E. Wooster and Associates, LLC, was engaged by the Applicant to prepare a Transportation Management Plan and provided testimony regarding the traffic impacts and plans to mitigate any negative impacts from traffic generated by the Event Venue Project.

10. Township resident Don Colton testified in favor of the Event Venue Project based on its potential positive economic impacts on the West Deer community.

11. Township residents Clyde Vitale, Ron Osinski, Mary Jane Stirparo, Lee Gornick, Guy Gornick and Paul Kneib live in close proximity to the Property and testified in opposition to the Application, raising concerns regarding lighting, noise, traffic, dust and public safety issues associated with the proposed Event Venue Project.

12. Township Engineer Scott Shoup, P.E., of Shoup Engineering, Township Traffic Engineer Robert Goetz, P.E., of Trans Associates and Township Chief of Police Robert Loper also reviewed the Application and provided testimony at the public hearing.

II. Findings of Fact

1. The Property is located in the I-Industrial Zoning District in the Township and consists of two (2) parcels containing approximately 40.1 acres upon which an existing youth sports facility called No Offseason Sports currently operates. (Transcript (“Tr.”), 9-13).

2. The Applicant seeks to construct and operate a concert/performance venue and related parking facilities, the Event Venue Project, as more fully described in the Narrative and Site Plans submitted at the hearing. (See Applicant’s Exhibit A (Site Plans) and Exhibit C (Narrative)).

3. The Event Venue Project is intended to improve the economic viability of the Property during the “dead time in the facility” after the youth sports programs end. (Tr. 11).

4. The Event Venue Project is primarily intended to host concerts but the Applicant would like to expand the events in the future to include, among other things, arts festivals and wine festivals. (Tr. 25).

5. During events at the Event Venue Project, all other activities at the Property (sports fields/facilities) except for the restaurant will be closed. (Tr. 10, 22).

6. According to the Narrative and the testimony provided by the Applicant, the ticketing system will be handled by issuing tickets on a per-vehicle basis so that attendance will

be limited to a maximum of 5,300 attendees based on the amount of parking available at the Event Venue Project. (Narrative; Tr. 15, 22, 35).

7. The Narrative provides a summary of the proposed operations of the Event Venue Project, including ticketing, parking, security and traffic control and emergency management. (See Narrative, generally).

8. Mr. Vrabel and Mr. Voloch provided testimony to supplement the details/summary contained in the Narrative with respect to the operations of the Event Venue Project. (Tr. 11, 14-16). The Board finds the testimony provided by Mr. Vrabel and Mr. Voloch to be credible.

9. Mr. Haydo testified that the Transportation Management Plan includes projections as to the sources of event traffic and recommendations for ensuring safe and efficient ingress and egress from the Event Venue Project, to include flaggers or other similar traffic control measures at (1) the intersection at Little Deer Creek Road and Starr Road and (2) the narrow railroad overpass located approximately $\frac{3}{4}$ of a mile south of the Property on Little Deer Creek Road. (Tr. 17-19, 58; Applicant's Exhibit B (Transportation Management Plan). The Board finds the testimony of Mr. Haydo to be credible.

10. Mr. Simon testified that the although neighbors will be able to hear the concert music/event noise, the noise levels emanating from the Event Venue Project will be "much below 70 dB at the borders of the property" and will be in compliance with Township noise regulations. (Tr. 26). Mr. Simon further recommended that the Applicant plant vegetation to dampen the low frequency noise. (Tr. 27). The Board finds the testimony of Mr. Simon to be credible.

11. Township Engineer Scott Shoup, P.E., of Shoup Engineering, testified the Application and provided a summary of his review letter dated February 22, 2023. (See Township Exhibit 4 ("Shoup Review Letter"); Tr. 41-44).

12. Mr. Shoup provided comments regarding parking lot design and layout, pedestrian access, a Hemlock wall intended for noise mitigation purposes and other noise issues. (Tr. 41-44). The Board finds the testimony of Mr. Shoup to be credible.

13. Township Traffic Engineer, Robert Goetz, PE., of Trans Associates, reviewed the Applicant's Transportation Management Plan and provided testimony summarizing his review letter dated April 11, 2023. (See Township Exhibit 5 ("Trans Review Letter"); Tr. 46-52).

14. Mr. Goetz provided testimony regarding the Transportation Management Plan and raised concerns about the ride share drop-off lane proposed by the Applicant, especially at the conclusion of an event. (Tr. 48-51). The Board finds the testimony of Mr. Goetz to be credible.

15. Township Police Chief Robert Loper reviewed the Application, including the Transportation Management Plan, to identify potential public safety issues related to the proposed Event Venue Project.

16. Chief Loper raised concerns with the number of Township police that would need to be available for detail work for events, particularly for directing traffic upon the conclusion of events. Chief Loper also recommended that Township police should be stationed within the Event Venue Project and that there should be coordination between the police and any private

security personnel and emergency medical providers/paramedics. (Tr. 54-62). The Board finds the testimony of Chief Loper to be credible.

17. Township residents Clyde Vitale, Ron Osinski, Mary Jane Stirparo, Lee Gornick, Guy Gornick and Paul Kneib testified credibly regarding general concerns including lighting, noise, traffic, dust and public safety issues associated with the proposed Event Venue Project.

III. Ordinance and Legal Standards

1. Lawful uses which are not defined or otherwise identified in the Table of Authorized Land Uses in the Township Zoning Ordinance are considered to be “All other uses.” (See Table of Authorized Uses, Chapter 210, Attachment I of the Zoning Ordinance).

2. Uses determined to be “All other uses” are permitted as conditional uses only in the I-Industrial Zoning District of the Township. (Table of Authorized Uses).

3. Section 210-117 of the Zoning Ordinance provides, in pertinent part, that...[a] conditional use shall be granted approval, predicated upon the submission of a written application demonstrating that the development:

(1) Will not endanger the public health, safety, morals and general welfare if located where proposed, and that the use will not deteriorate the environment and will meet all performance standards of § 210-110.

(2) Meets all other requirements of this Chapter in the zoning district where the use is proposed.

(3) Is in general conformity with the Township's Comprehensive Plan.

(4) Is an appropriate use on the proposed site.

(Section 210-117 of the Zoning Ordinance).

4. Section 210-110 of the Zoning Ordinance (“Development standards”) requires an Applicant to comply with general development standards in the Township, including but not limited to screening, lighting and traffic / circulation. (Section 210-110 of the Zoning Ordinance.)

5. The I-Industrial District standards are contained in Article XIV of the Zoning Ordinance, Sections 210-50 through 210-54.

III. Conclusions of Law

1. The proposed use of the Property as a large-scale (>5,000 person capacity) concert and performance/event venue and related parking facilities is considered a use of property under the “All other uses” category according to the Table of Authorized Land Uses in the Township Zoning Ordinance. (See Table of Authorized Uses, Chapter 210, Attachment I of the Zoning Ordinance).

2. The Event Venue Project use may therefore be authorized as a conditional use at the Property subject to the Applicant's compliance with the applicable conditional use zoning regulations along with any reasonable conditions that may be imposed by the Board of Supervisors. (See Section 210-117 of the Zoning Ordinance).

3. Upon careful review of the testimony and evidence of record, the Board of Supervisors of the Township of West Deer has determined that the Applicant has established compliance with the applicable conditional use criteria in the Zoning Ordinance, subject to the conditions of approval which are contained in the Decision (Part IV).

4. Specifically, the Board finds that the Event Venue Project:

(1) Will not endanger the public health, safety, morals and general welfare if located where proposed, and that the use will not deteriorate the environment and will meet all performance standards of § 210-110.

(2) Meets all other requirements of this Chapter in the zoning district where the use is proposed.

(3) Is in general conformity with the Township's Comprehensive Plan.

(4) Is an appropriate use on the proposed site.

5. The Board acknowledges the legitimate concerns of those resident-objectors who live near the proposed Event Venue Project regarding potential impacts such as lighting, noise, traffic, dust and public safety issues. However, based on the testimony and evidence submitted at the public hearing, the Board finds that the Applicant has established that the Event Venue Project will adequately mitigate such impacts, including:

a. Limiting the number of tickets based on a per-vehicle ticketing system and committing to a maximum capacity of 5,300 attendees;

b. Compliance with a Transportation Management Plan to address traffic and parking issues;

c. Limitations on the number, hours of operation and timing of events to mitigate noise and lighting impacts;

d. Cooperating with the Township's Chief of Police to adopt a Safety/Security Plan to ensure adequate security and traffic/parking flow at the venue;

e. Configuring the stage / performance area, including speakers and lighting, in such a way as to minimize off-site impacts of noise and lighting.

6. The Applicant has also established compliance with Section 210-110 and Article XIV of the Zoning Ordinance to the extent that those provisions are applicable to the Property and the Event Venue Project.

IV. Decision

The Board of Supervisors of the Township of West Deer, following its consideration of the facts, circumstances, and the entire record concerning the Application, hereby grants conditional use approval of the Application filed by Brickyard Park Holdings, LLC, in the following particulars and subject to the below-specified additional conditions:

1. The provisions of these Findings, Conclusions and Decision are incorporated by reference as if fully set forth at length herein.

2. The Board grants conditional use approval in accordance with the Application submitted by the Applicant, subject to the following conditions:

a. Operations of the Event Venue Project shall be in accordance with the Application, Narrative and plans submitted by the Applicant except to the extent of a conflict with the conditions below in which case the conditions below shall govern.

b. Events shall be limited to one event per week, and only between May 1 and September 30, except that no events shall be scheduled on the date of a Deer Lakes High School home football game. The Township Chief of Police shall be notified of all events at least sixty (60) days in advance.

c. Events occurring on Sundays through Thursdays must be completed by 9:00 PM; events on Fridays and Saturdays must be completed by 11:00 PM. Parking lots shall not open more than three (3) hours before the event begins and must be cleared within ninety (90) minutes after the close of the event. All attendees shall be notified of these requirements as part of the ticketing process.

d. All noise must be compliant with the regulations contained in Township Ordinance 434, as it may be amended, concerning noise limitations.

e. Sales of alcohol shall terminate no later than one (1) hour prior to the end of an event.

f. The Township Chief of Police must approve a Traffic Management Plan and a Safety/Security Plan for each event and the Applicant shall be responsible for all costs related to police details as deemed necessary by the Chief.

g. The Applicant must meet with the Township Chief of Police and Township Manager at least twice a year to review the ongoing operations of the Event Venue Project, including a meeting immediately after the first two (2) events.

h. The use of the Event Venue Project shall be limited to food/beverage, arts and music events.

- i. Stage Lighting must be focused onto the stage and audience areas only and shall not be directed toward streets or property lines.
- j. No pyrotechnics, lasers or fireworks of any type may be used.
- k. All parking must occur on the site Property.
- l. Pedestrian (walk-in) entry to the site is prohibited.
- m. Applicant shall arrange for trash removal within twenty-four (24) hours of each event and shall maintain the premises clean and free of litter.
- n. Applicant shall designate a contact person who shall be responsible for addressing complaints/issues within a reasonable time.
- o. No tailgating shall be permitted in the parking lot either before or after an event.

3. The Applicant shall comply with the engineering review letter dated February 22, 2023, issued by Township Engineer Shoup Engineering which is attached hereto as **Exhibit 1** and incorporated herein by reference, except to the extent inconsistent with the conditions of approval contained herein. It is acknowledged that certain of such items contained in such review have been addressed to the Township's satisfaction in the Application; other such outstanding items may be resolved in a manner subject to the express satisfaction of the Township's Engineer and Township staff.

4. The Applicant shall comply with the review letter dated April 11, 2023, issued by Township Traffic Engineer Trans Associates which is attached hereto as **Exhibit 2** and incorporated herein by reference, except to the extent inconsistent with the conditions of approval contained herein. It is acknowledged that certain of such items contained in such review have been addressed to the Township's satisfaction in the Application; other such outstanding items may be resolved in a manner subject to the express satisfaction of the Township's Traffic Engineer and Township staff.

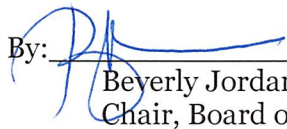
5. Required permits and/or approvals from all other applicable federal, state, and local agencies shall be required as conditions of any permits by the Township. Such permits and approvals may include, but not be limited to: Pennsylvania Department of Transportation (PennDOT), Pennsylvania Department of Environmental Protection (Pa DEP) and Allegheny County Conservation District (ACCD) permits (e.g., NPDES and/or final erosion/sedimentation control plan).

6. The Applicant shall execute a Developer's Agreement in a form to be approved by the Township Solicitor and shall post any required bonding in accordance with the Pennsylvania Municipalities Planning Code.

7. The Applicant shall be required to comply with all Township ordinances, except as otherwise provided herein, including but not limited to the Township's stormwater management ordinance and any other applicable Federal, state and local regulations governing the control of stormwater on the Property.

The foregoing Findings, Conclusions, and Decision were approved by majority vote of the Board of Supervisors of the Township of West Deer at the public meeting of June 7, 2023.

TOWNSHIP OF WEST DEER

By:  _____
Beverly Jordan
Chair, Board of Supervisors

I, as Secretary and Manager of the Township of West Deer, County of Allegheny, Commonwealth of Pennsylvania, certify that this document constitutes an official communication by the Township's Supervisors and accurately reflects their decision on the above-captioned matter which was voted on at a properly advertised public meeting held on June 7, 2023.

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Daniel Mator
Township Manager/Secretary