

WEST HEMPFIELD TOWNSHIP SUPERVISORS SPECIAL MEETING

Minutes of June 30, 2015

The West Hempfield Township Board of Supervisors held a special meeting on Tuesday, June 30, 2015 at the Township Municipal Office, 3401 Marietta Avenue, Lancaster, Pennsylvania to conduct a Conditional Use hearing. Chairman David Dumeyer, Vice Chairman Edward Fisher and Board members Frank Burkhart and Naomi Martin were present. Kent Gardner arrived late. Also in attendance were Township Manager Ron Youtz, Township Solicitor Josele Cleary, Zoning Officer Jodi Heffner, court reporter Lisa Miller, and Maria McDonald, serving as recording secretary.

I. CALL TO ORDER

Chairman David Dumeyer called the meeting to order at 7:30 p.m. and led with the Pledge of Allegiance. He also announced that the Board will adjourn the meeting and then will go into Executive Session to discuss a legal matter.

II. CONDITIONAL USE HEARING – LANCASTER (SILVER SPRING) DDP, LLC FOR A PROPOSED DOLLAR GENERAL STORE LOCATED ON THE SOUTHWEST CORNER OF MARIETTA AVENUE AND IVY DRIVE

Applicant is Lancaster (Silver Spring) DDP, LLC, 9010 Overlook Boulevard, Brentwood, Tennessee. Property owner is the Warren W. Diffenderfer Trust, 750 Summit Drive, Lancaster, Pennsylvania.

Applicant requests Conditional Use approval pursuant to Zoning Ordinance Sections 403.2.C.1 and 403.3.B.3.1.d for a planned village development consisting of a retail store containing 9,100 square feet with a façade exceeding 60 feet in length, with access and storm water management facilities on a proposed lot containing 1.79 acres on the south side of Marietta Avenue (SR 0023) to the west of its intersection with Ivy Drive. The property is located within the Township's Traditional Village District.

Statement of Procedure: In conducting a Conditional Use hearing, the Board of Supervisors is a tribunal or quasi-judicial body. Under these circumstances, the Board of Supervisors must function as a Court. State law requires that the Board of Supervisors maintain a stenographic record of the proceedings, and a court reporter is present for that purpose. In order for the record to be complete and for the court reporter to perform her job, no person should speak until he or she is recognized. When you are recognized, please clearly state your name for the record. Only one person may speak at a time.

I am going to explain to you the procedure which the Board of Supervisors will follow to conduct this hearing. The first order of business will be to determine the parties to the hearing. The Applicant is automatically a party to the hearing. The Township staff is also automatically a party to the hearing.

Other persons may seek to be recognized as parties to the hearing. You do not have to be recognized as a party if all you wish to do is ask a question or make a statement. If you wish to have the right to appeal whatever the eventual decision of the Board of Supervisors is to the Lancaster County Court of Common Pleas, you should seek to be recognized as a party.

Standing: Only persons who have standing can be recognized as parties. In order to be recognized as a party, you must demonstrate that the use of the property affects you in a way that is different from all or most other persons in the Township. The fact that you believe that a person should comply with the Zoning Ordinance or that a proposed use is good or bad is not sufficient to grant standing. If you live or own land in the vicinity of the property which is the subject of the application, then you probably will have the right to become a party. The Applicant has the right to object to the standing of any persons seeking to be recognized as a party. It will be the Board of Supervisors that determines whether that status is granted.

Tom Culton, 3683 Marietta Avenue, Lancaster, PA, asked to be recognized as a party to this hearing. He is a farm owner whose property is located within walking distance from the proposed Dollar General store. His concerns are potential declining property values and the increase in traffic patterns due to the proximity of the store.

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Sean Delaney of ReedSmith LLP, counsel for Dollar General, objected to granting party status to Mr. Culton because what he has proposed as justification for party status demonstrates a condition that affects every taxpayer in the Township, not just him. It is the job of the Board of Supervisors to represent that interest by determining whether party status will be granted. Is there additional evidence from Mr. Culton regarding his proximity to the proposed property and is he an adjacent landowner?

Mr. Culton commented about boilerplate language, and stated that he has a property that is along the same route where Dollar General will be located. He has a financial obligation to his family that he needs to observe and protect when something such as Dollar General were to come into town. He objects to the Township's agreement to allow a business in town that will bring people coming through the town (Silver Spring) rather than serving people within the town, which he believes was the initial intent of the Traditional Village zoning. He cannot sit back and let this go through, as it is going to change everything.

Josele Cleary, counsel for the Township, asked Mr. Culton to spell his name for the record and to explain what he means by "walking distance." Mr. Culton feels that his 85-year-old grandfather would be able to walk from their home to the proposed store; therefore, he considers the distance between the two properties to be walkable. Ms. Cleary asked if he feels that he lives in the immediate vicinity of the store, to which Mr. Culton replied, "Absolutely." Mr. Delaney said that "walking distance" is an arbitrary term when the real question is what is the actual distance. He drove past the Silver Spring Post Office today and believes the distance from there to the proposed site is at least $\frac{3}{4}$ mile to one mile and technically that is not close proximity. Therefore, Mr. Culton should not be granted party status.

Motion: A motion was made to determine if Mr. Culton should be granted party status or standing. Motion carried, 4-0.

John Rodman, 3931 Marietta Avenue, Columbia, PA believes that the applicant has not met all the requirements of the Conditional Use for the Traditional Village District. Mr. Delaney asked, in regard to proximity, if 3931 Marietta Avenue was closer or farther away than the Post Office. Mr. Fisher stated it is farther away. Mr. Delaney maintained the same objection with Mr. Rodman's request for party status as he had with Mr. Culton. Mr. Dumeyer reiterated that Mr. Rodman's request for party status is not a matter of proximity. He reminded Board members that the question of whether a person believes it is good or bad that an applicant has or has not complied with the Zoning Ordinances of a proposed use is not sufficient to grant standing.

Motion: A motion was made whether to grant party standing to John Rodman. Motion denied, 4-0.

Conduct of Hearing: This hearing will be conducted in the following manner. The Applicant will present evidence in support of the application. All the Applicant's witnesses must be sworn in or affirmed. Other parties will have the right to cross-examine each of the Applicant's witnesses. The members of the Board of Supervisors may also ask questions for clarification. Finally, any person who wishes to ask questions of the Applicant's witnesses will have the opportunity to do so.

After the Applicant has presented all its testimony, the Township staff and other parties will have the right to present evidence. Each such witness will have to be sworn or affirmed. The Applicant's attorney will have the right to cross-examine such witnesses. The members of the Board may ask questions for clarification. Other parties may cross-examine such witnesses, and then any other person in the audience who wishes to ask questions of such witnesses will be given the opportunity to do so. Please be aware that the Board has the right to rule repetitious questions or speeches as being out of order.

After all of the parties' witnesses have testified, any other party who wishes to present testimony will be given the opportunity to do so. The testimony must relate solely to violations of the Zoning Ordinance. Any party wishing

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to testify will have to be sworn in or affirmed. Such persons will also be subject to cross-examination as described before.

After all of the parties have testified, any other person who wishes to make a statement will be given an opportunity to do so.

After the Board has received all relevant evidence, the Board will close the record. The Board has 45 days after the close of the record within which to issue a written decision. The Board will issue its decision at a public meeting. The Board may make a decision on the application at tonight's meeting or any subsequent meeting held within 45 days after the close of the record.

By law, the members of the Board cannot consider information presented outside of this hearing. Please do not attempt to lobby the members of the Board after the hearing tonight.

At this time, board member Kent Gardner arrived at the meeting.

The Chairman called Jodi Heffner, Township Zoning Officer, to be sworn in and to give testimony on behalf of the Township. Ms. Heffner presented six exhibits:

Township Exhibit 1 – Confirms that the legal notice for the Conditional Use Public Hearing was posted in the Township office.

Township Exhibit 2 – Confirms that the legal notice for the Conditional Use Public Hearing was posted at two locations along Marietta Avenue.

Township Exhibit 3 – Provides proof of publication that the legal notice for the Conditional Use Public Hearing was published in the Lancaster Newspaper on June 15 and June 22, 2015.

Township Exhibit 4 – Provides proof that a letter dated June 18, 2015 was sent to the property owner and to the applicant advising them of the scheduled Conditional Use Public Hearing.

Township Exhibit 5 – Provides the draft minutes from the June 18, 2015 meeting of the West Hempfield Township Planning Commission, which recommended approval of the Conditional Use Application for Lancaster (Silver Spring) DDP, LLC Dollar General Store.

Township Exhibit 6 – Provides the review letter from Rettew Associates, Township Engineer, dated June 18, 2015. The Township Staff desires to present the Engineer's review and comments for the referenced project.

The Chairman then called upon the applicants and their representatives to be sworn in and to give testimony on behalf of Lancaster (Silver Spring) DDP, LLC Dollar General Store.

Sean Delany of ReedSmith LLP stated that he would not be testifying but presented three witnesses to testify on behalf of Lancaster (Silver Spring) DDP, LLC Dollar General Store: Mike Swank, P.E., Steckbeck Engineering, Inc.; Bob Gage, GBT Realty Corporation, and Eric Mountz, P.E., Traffic Planning and Design, Inc.

All three were sworn in to provide testimony by Lisa Miller, court reporter.

Mr. Delaney presented 13 exhibits:

Applicant Exhibit A-1 – Sketch Plan for Dollar General building.

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Applicant Exhibit A-2 – Rendering of the Dollar General building.

Applicant Exhibit A-3 – Sample of stone siding to be used on Dollar General building.

Applicant Exhibit A-4 – Sample of red brick to be used on Dollar General building.

Applicant Exhibit A-5 – Sample of lap siding to be used on Dollar General building.

Applicant Exhibit A-6 – Sample of material to be used on white columns for Dollar General building.

Applicant Exhibit A-7 – Sample of cedar gable to be used on Dollar General building.

Applicant Exhibit A-8 – Second rendering drawing of northern face of building with two faux windows on the brick.

Applicant Exhibit A-9 – Traffic Study for Dollar General property.

Applicant Exhibit A-10 – Conditional Use Plan as Amended - last revision June 12, 2015

Applicant Exhibit A-11 – Conditional Use Application submitted April 20, 2015

Applicant Exhibit A-12 – First revised application dated May 8, 2015

Applicant Exhibit A-13 – Revised submission and final application dated June 12, 2015

Mr. Delaney called upon Mr. Swank to explain to the members how far Lancaster (Silver Spring) DDP, LLC Dollar General Store has come in this process with both the Township Staff and the Planning Commission. Mr. Delaney explained that after several discussions and changes to the design elements, the Planning Commission granted approval for the plan. Mr. Swank proceeded to explain the sketch plan of the property.

Mr. Swank continued, explaining where on the sketch plan (Applicant Exhibit A-1) Marietta Avenue is located and where the proposed Dollar General will be located, on the south side of Marietta Avenue near the section of Ivy Drive. The 1.79+/- acre lot will be subdivided from the Diffenderfer tract on Marietta Avenue, currently used as an agricultural field. There is an existing access drive located along the eastern side of the property which was constructed as part of the adjacent animal hospital. The access drive will be relocated approximately 20 feet to the west per PennDOT's request that the proposed access drive aligns with Ivy Drive. The building size is 9,100 square feet (130 feet N/S by 70 feet E/W).

This project was originally introduced to the Township in December 2014. Meetings with the Planning Commission were held in March and April 2015, and there have been significant revisions made to the Sketch Plan. Originally the building was located further back from Marietta Avenue with the parking area between the building and the road. Subsequent revisions moved the building closer to Marietta Avenue and placed the parking area to the side and rear of the building. In working with Township, Mr. Swank said that Dollar General has made a lot of progress since December 2014. He will address architectural changes later in the meeting.

The property is located in the Traditional Village zoning district, and Dollar General is requesting Conditional Use approval for the 9,100 square foot retail store. He explained that the access drive will wrap around the rear of the store. Parking will be located on the east and west sides of the store and the parking lot will have 44 parking spaces in accordance with the Township's Zoning Ordinance. The parking lot will also have several grass islands to provide some interior green space.

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Water Utility: Dollar General is proposing to connect to public water and has been in contact with Columbia Water Company. As part of the application, Dollar General submitted a capacity letter from Columbia Water Company indicating it has adequate capacity to service the project. The project will use approximately 180 gallons of water per day. There are restrooms in the store but overall it will not be a large water user. Dollar General also has a signed letter from Columbia Water Company approving the lateral line which will connect with the main line located along the south side of Marietta Avenue.

Sewer Utility: Dollar General has been working with Lancaster Area Sewer Authority (LASA) to purchase the capacity for the store and to approve the design for the lateral from the building to the existing sewer main, located on the north side of Marietta Avenue.

Electric Utility: Dollar General has been working with PPL to connect to its facilities along Marietta Avenue and has received a will-serve letter from PPL that has been submitted as part of the Conditional Use application.

Fuel Utility: Dollar General had contacted the local natural gas provider, UGI, but UGI does not have facilities in close proximity to the proposed site. Therefore, Dollar General will use a propane tank which will be located underground.

Storm Water Management Plan: Storm water runoff will be handled on the south and west sides of the building, where the grade naturally falls to the southwest corner of the property. Dollar General is proposing a storm water management facility in the form of rain gardens along the western and southern sides of the property. Infiltration testing was performed on the property to ensure that the water runoff can infiltrate the ground. Detention basins will also be used as part of the storm water runoff plan. The storm water management calculations were submitted as part of the subdivision and land development process as well as part of the Conditional Use application to ensure that Dollar General meets all the Township's requirements.

NPDES Permit: Dollar General has obtained approval from the Lancaster County Conservation District for the earth-moving permit that must be obtained before any dirt can be moved. This permit also addresses post-construction storm water management on the property.

Mr. Swank concluded his overview of the project. Mr. Delaney asked Mr. Swank specific questions regarding the sketch plan (Applicant Exhibit A-1). Mr. Delaney's questions focused on the bulk area requirements under the Specific Use for the Conditional Use requirements for Zoning Ordinance 403.3.B.2a and subsections.

403.3.B.2.a: Minimum lot area is 10,000 square feet. Dollar General is proposing a lot area of 1.79+/- acres.

403.3.B.2.b: Minimum lot width requirement at the street line is 60 feet. The lot width for Dollar General at the street line along Marietta Avenue is 260 feet.

403.3.B.2.c(1): Not more than thirty percent (30%) of the area shall be covered by a building or structure. Dollar General's proposed coverage of 9,100 square feet on a 1.79+/- acres is less than thirty percent.

403.3.B.2.c(2): Minimum coverage of thirty-five percent (35%) of the lot area shall be covered by plants, trees or other vegetative cover. Dollar General is proposing approximately fifty percent (50%) of the lot to be covered by plants, trees and other vegetative cover.

403.3.B.2.d(1): Minimum front yard setback is 20 feet from the street right-of-way. Mr. Swank confirmed that Dollar General's plan meets this requirement.

403.3.B.2.d(2): Requirements are two side yards with a minimum of 10 feet. Mr. Swank confirmed Dollar General's plan is compliant.

403.3.B.2.d(3): Minimum requirement for rear yard is 40 feet. Dollar General's plans comply with this.

403.3.B.2.e: Maximum building height cannot exceed 35 feet. Dollar General's structure plan is less than 35 feet.

403.3.B.2.f: The building size shall not exceed 6,000 square feet. Dollar General's request for modification is for 9,100 square feet, which is in excess of the maximum square footage.

403.3.B.3.d: Modification of bulk regulation may be permitted under a Conditional Use approval. The maximum individual building size may be increased above 6,000 square feet but may not exceed 10,000 square feet, as long as the application complies with additional criteria set forth in the Ordinance. The proposed building is 9,100 square feet and Dollar General is requesting modification.

403.4.A: Utilities: It has been confirmed that the property will be served by public water and sewer. The lateral lines will emerge below grade and tie into existing lines. Electrical service also will be underground and connect from the building to the utility pole along Marietta Avenue. The meter for electric service will be located on the west side of the building, opposite the majority of the parking area, in the southwest corner of the building. The service box will be shielded from public view by an evergreen vegetative screen along the western edge of the property. The propane tank for heating will also be located underground.

403.4.B.1: Regarding the preservation of historic resources, Dollar General filed the appropriate paperwork with the Pennsylvania Historical Commission to inquire if there was any historic or archeological significance to the site. The PHC responded that there is no historical or archeological significance to this property.

403.4.B.2: There are no structures on the property currently of historic significance.

Mr. Delaney then addressed section **403.4.C** Design Standards of the Zoning Ordinance which has been the subject of much discussion and planning. Subsection C states "*to the extent practicable, all new construction . . . within the TV-Traditional Village District shall be designed with either a traditional village architectural character OR (Mr. Delaney added emphasis here) may be a contemporary expression of traditional styles and forms, respecting the scale, proportion, roof pitch, character, and materials of historic examples in Silver Spring and the surrounding area, in accordance with . . .*" additional standards.

Mr. Delaney asked Mr. Swank to display the architectural rendering of the proposed Dollar General, looking at the entrance of the building from Marietta Avenue and southwest toward the northeast corner of the building.

At this time, Ms. Cleary asked the applicants to label their exhibits for the record. There are two renderings for Dollar General which will need to be differentiated so that in the future anyone reading the transcript will be able to tell the exhibits apart. The Board of Supervisors tends to label exhibits numerically but applicant may use an alphabetical system if desired. Mr. Swank proceeded to label the previously referred-to drawings from earlier in the meeting. (See the above list of applicant's subsequent labeling of the exhibits for the record.)

403.4.C.1(a): Mr. Delaney resumed reading this section of the ordinance: "*Where any individual building facade . . . is visible from any public right-of-way or public space. . . and exceeds sixty (60) feet in length, there shall be a clear dimensional differentiation of roof line and/or an offset in facade of at least ten (10) feet, effectively breaking the single façade into two or more facades each no more than sixty (60) feet in length. When single facades are proved to be longer than 60 feet in connection with conditions of this application*". We have to look at the changes in design and how it mitigates the negative effect of such a long facade.

Mr. Delaney asked Mr. Swank to explain to the Board the changes that have been made to the Dollar General store design. Mr. Swank referred to Mr. Delaney's previous comment about the many lengthy meetings Dollar

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General has had with the Township Planning Commission to discuss some of the existing structures in the area. He pointed to Applicant Exhibit A-2 to illustrate the east side of the building measuring 130 feet and is adjacent to the majority of parking for the store. This facade of the building is broken up into three different sections, separated by white columns which are offset from the building face. It also had a raised parapet which "steps up" two feet from the roof line of the two northern and southern sections. The most northern section would be comprised of stacked stone (Applicant Exhibit A-3) and would extend from the ground elevation to the bottom of the parapet. The second section moving south would be comprised of red brick (Applicant Exhibit A-4), also extending from the ground elevation to bottom of parapet. The middle section will have two faux windows (no glass) to break up that side of the building. The final section to the south will have lap siding (Applicant Exhibit A-5). He displayed a sample of the material the white columns will be made of that break up the façade (Applicant Exhibit A-6). The final material sample presented was the cedar gable to be used for the entrance located at the northeast corner of the building (Applicant Exhibit A-7).

The applicant presented Exhibit A-8, a rendering of the northern face of the building, parallel to Marietta Avenue. It will be comprised of stacked stone (A-3) from ground level up to the bottom of the parapet. It will have a white vertical column (A-6) which will be offset from the face of the wall. The western side of the bottom of the wall will be made of brick (A-4) and the top will be lap siding (A-5). The top section of the lap siding is offset from the lower section of the wall. Moving south, the center section is brick and has a raised parapet which is higher than the northern and southern sections. The top of the wall is offset from the lower face of the wall. This section also has two faux windows. The southern section is similar to the northern section with concrete on bottom and siding at the top and is offset horizontally from that section of the wall. The HVAC equipment for the building will be located on the roof and will be screened from view by the raised parapets.

Mr. Delaney referenced the Township Planning Commission's recommendation of approval of the Conditional Use application based on the above plans. However, the Planning Commission wants additional conditions imposed on the application. Mr. Delaney referred to Applicant Exhibit A-2, a rendering of the Dollar General building. One condition was to repeat the shuttered window on the side of the façade and place a cupola at the front of the building. Mr. Swank pointed out these features on a previous rendering of the design plan. This version had a more Traditional Village feel, but Dollar General was reluctant to put those elements on the plan before presenting the situation to the Board of Supervisors. An alternative would be to 1) install a non-functioning window, 2) put in an actual fake window with glass, or 3) put a round vent (similar to those seen in the eave of a barn) pushing up toward the roof peak. These are alternatives designed to meet the Planning Commission's recommendations. Everything suggested so far is strictly aesthetic in nature. Dollar General did not want to presume what the Board of Supervisors might prefer, but they did want to share what are some alternatives to the design. The Board will need to consider the alternatives in design as presented on Applicant Exhibit A-2 with the replicated shutter window or a round louvered vent.

Ms. Cleary questioned Mr. Swank about these statements. Is the applicant saying they will agree to such a condition? Mr. Swank said yes, if it the Board's pleasure, Dollar General will agree to any one of those three options.

403.4.C.1.(a): Mr. Delaney continued, addressing the requirements of Zoning Ordinance Section ". . . where any individual building façade...is visible from any public right-of-way or public space and exceeds 60 feet in length, there shall be a clear dimensional differentiation of the roof line, such as an obvious difference in height." Dollar General believes that the three sides visible on Applicant Exhibit A-2 and Applicant Exhibit A-8 are the only elevations that are visible from a public space. However, the Planning Commission disagreed and felt that the rear facade should also have a raised parapet. Dollar General has not shown that change for the same reasons as given above. The Planning Commission recommended that the rear elevation have a parapet added. Again, it is at the pleasure of the Board whether it feels that another parapet is necessary. The HVAC units would not be visible from the rear of the property and there is not a parapet proposed for there.

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Ms. Cleary asked Mr. Delaney to clarify his statement regarding the rear parapet. Will the applicant accept the condition that a parapet be placed at the rear if the Board elects to impose it? Mr. Delaney answered yes.

403.4.D.1 and 403.4.D.2: Mr. Delaney asked Mr. Swank to display Exhibit A-1 again and to address the Zoning Ordinance Section which calls for pedestrian access. Dollar General is proposing a five-foot long concrete sidewalk along Marietta Avenue extending from the western property line to the proposed access drive and another five-foot long concrete sidewalk on the eastern side of the access drive. The locations at the access drive will be outfitted with ADA-accessible handicapped ramps. A connecting sidewalk running east-west will come up to the door of the proposed store so that a pedestrian traveling on the sidewalk can walk to the store.

Mr. Delaney asked Mr. Swank to explain what Dollar General proposes to do in reference to Zoning Ordinance Section **403.4.D.5** which states that [The property should] *be designed to limit the number of new access points to public roads and to limit potential for turning movement conflict.*” As previously mentioned, the existing access drive on the east side of the property for the adjacent animal hospital will be relocated 20 feet west per PennDOT’s request. That access drive will continue to be used by the animal hospital as well as the proposed retail store. The shared access drive will come south from Marietta Avenue and will have access to the animal hospital to the east and continue south and then west to allow vehicles to enter the Dollar General parking lot. Dollar General is meeting this zoning requirement by having a shared access drive and limiting access points to Marietta Avenue.

Mr. Delaney asked Mr. Swank to explain the layout of the parking lot and what work is proposed to satisfy the Traditional Village desired landscaping requirements to break up the mass of the lot. The parking lot will have 44 spaces as well as a 12 foot by 33 foot loading space at the rear of the store for deliveries. On the inside of the parking lot Dollar General is proposing to place some curved concrete islands planted with grass and shade trees in accordance with the Zoning Ordinance requirement to break up the mass of the parking lot. These islands will also allow stormwater runoff to infiltrate. The trees will shade the parking lot and reduce the thermal impact. Along the western side of the property (Applicant Exhibit A-1) there will be an evergreen tree screen to shield the view of the structure to the many vehicles traveling on Marietta Avenue. Trees will be planted in the parking lot islands and around the parking lot to provide shade and to break up the visual. When looking at the building while traveling on Marietta Avenue, there will be some trees placed between the building and the road. For the perimeter of the parking lot, Dollar General is proposing planting some lower-height shrubs to help shield headlights which may shine across the street to the east and the north. Trees will also be planted on the south side of the site in the stormwater management facility to help improve infiltration in accordance with the best management practice guidelines set forth by the local conservation district and the Department of Environmental Protection. Mr. Delaney asked if there were any new public streets or houses proposed for this site, to which Mr. Swank answered no.

Mr. Delaney addressed the proposed condition from the Planning Commission’s proposal for the Conditional Use Approval that additional landscaping be provided along the front facade of the store, specifically 20 feet along the front with flowering shrubs 6 to 8 feet in height. The Applicant agrees to this condition as long as it stipulated that the 6 to 8 foot requirement be that at maturity and not at the planting stage. Dollar General indicated it is willing to accept this condition.

403.4.E: Mr. Delaney indicated another proposed condition for the Dollar General store is landscape and general streetscape designs. There are some additional amenities that the Township can require if it desires, such as public benches, landscaping, and sidewalks, all of which have been provided. Another suggestion by the Planning Commission is the inclusion of a bike rack. Mr. Delaney asked Mr. Swank if Dollar General is including a bike rack in the plan. Mr. Swank said yes, a bike rack will be located at the northeast corner of the store near the entrance.

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Moving beyond the specific conditions and addressing the general Conditional Use requirements, Mr. Swank stated that Dollar General has already presented testimony from the public utilities about service and infrastructure. Referencing the potential traffic impact of a Dollar General store, Mr. Delaney requested that the traffic study as approved by the Township and PennDOT be entered as Applicant Exhibit A-9. Mr. Delaney asked Mr. Mountz if this design would materially increase traffic congestion on Township roads, particularly Marietta Avenue. Mr. Mountz said it is his opinion that the Dollar General store plan will not impact traffic on Township roads, based on his assessment. Mr. Delaney was asked if the internal traffic flow design promotes traffic circulation, proper parking, buffering and general proper design from a traffic standpoint. Mr. Mountz said it is his opinion that the plan will accommodate the items listed. Mr. Delaney said this was all the questions he had.

Mr. Delaney summarized the other general criteria related to wastewater treatment. Testimony has been provided that addresses this issue and the site will be serviced by public sewage service. The site plan provided to the Township as part of the ongoing land development process and conditional use process provides for site grading and drainage. The use itself (retail) is permitted in the Traditional Village district. The modification of size is permitted as a Conditional Use. Dollar General has demonstrated satisfaction of all the objective and subjective criteria as required by the Township and is entitled to the approval of the Conditional Use as applied. He asked that a few additional exhibits be entered for the record by the applicant, starting with Exhibit A-10, Conditional Use Plan as Amended, revised as a result of all the discussions with Township staff and the Planning Commission. Ms. Clery asked what the date of the last revision was. Mr. Swank responded June 12, 2015.

Finally, three exhibits which comprise Dollar General's application were entered into testimony: Applicant Exhibit A-11 submitted on April 20, 2015, and A-12, the first revised application based on comments from Township staff, the Planning Commission and the Township solicitor. For the record, Ms. Clery asked the date of this revision submission, to which Mr. Delaney responded May 8, 2015. Exhibit A-13, the revised submission dated June 12, 2015, represents the final Applicant Exhibit.

In closing, Mr. Delaney reiterated that the Dollar General application meets the requirements for Traditional Village development and asked that the Conditional Use application be granted. He added that the Planning Commission has recommended approval with the conditions Dollar General has discussed and he welcomed any questions the Board or the public may have.

Mr. Dumeyer explained that now was the opportunity for the recognized party of standing to the hearing – Tom Culton – to cross examine the applicants. Mr. Culton asked the Board if he must speak to Dollar General's lawyer in court terms. Mr. Dumeyer said that as long as Mr. Culton's questions were stated in plain English there should not be a problem.

Mr. Culton: Has there been a structural test done on the land for sinkholes, etc.?

Mr. Swank: There was a geotechnical investigation completed on the property.

Mr. Culton: Has the land been deemed sound for a building of such size?

Mr. Swank: Yes.

Mr. Culton: Has the carving studio [Hillcrest Carving, 3540 Marietta Avenue] and its patrons been notified of their new neighbors?

Mr. Swank: I believe that the Notice was posted at the Township building and in the local newspaper of the hearing this evening.

Mr. Culton: Has there been any conversation between the patrons and/or the owners of said building [3540 Marietta Avenue]? Have they been in contact with you or not?

Mr. Swank: They have not been in contact with me.

Mr. Culton: Also, the 180 gallons of water [use] per day and the underground tank...has that been structurally appropriated?

Mr. Delaney: Could we split that into two questions since they are two totally different things?

Mr. Culton: [To the Board]: Is that for me to judge?

- Mr. Dumeyer:** He [Mr. Delaney} brings up a good point. Why don't we go ahead and ask it in two parts.
- Mr. Culton:** A vessel . . . has that been structurally approved to be put underground at that location?
- Mr. Swank:** I'm going to answer that in two parts. The tank is not for water. The underground tank is for propane and that will be installed in accordance with the regulations which are appropriate for underground propane tanks. That tank will be specified to be adequate to handle any loads which may be above that tank and the surrounding soil. In regard to water, the building will be connected to the public water system with a line from the building to the existing water line.
- Mr. Culton:** The main thing I was thinking about is the proximity to the farmer's field in case there was a rupture . . . you are pretty close to the field there and there's an underground gas line through there. I'd be upset if something were to happen there. What if an emergency vehicle pulls out? I don't know the timeline you have set forth but it seems that you are ready to go and if this were to go forward. . . if an emergency vehicle were to pull out and the way you have positioned your window...people go flying through here [Marietta Avenue]. That seems like that's a natural transgression and have you given any thought to that? I don't know the timeline on the fire station moving up this way and so if these guys were to go . . . would that. . .
- Mr. Dumeyer:** I don't know that I can answer your question what that timeline is.
- Mr. Culton:** Do you understand...you have a fire company with emergency vehicles that are leaving there, and there hasn't been any timeline put forth for them to relocate yet. So if your building goes in there before, are you comfortable going in there and impeding an emergency?
- Mr. Swank:** I'm not sure I understand the question but I don't think we are impeding any emergency vehicles in any way.
- Mr. Culton:** I have one final question. We all hate traffic issues during construction . . . you are building right off the road . . . what's our timeline on this?
- Mr. Swank:** Obviously construction will not move forward until all permits and approvals are in place which we are currently working to obtain. We would like to proceed with construction should we receive all those necessary permits and approvals. Speaking to your question about the impact to traffic along Marietta Avenue, we are proposing some improvements along Marietta Avenue, those being curbs and replacing the shoulder along our property frontage which will have a minimal impact on the traffic on Marietta Avenue.
- Mr. Culton:** I'm talking about during construction.
- Mr. Swank:** That's what I was referencing, is those improvements which will be installed during construction. This will have a minimal impact on traffic on Marietta Avenue. I anticipate because all the work will be done outside the travel lanes, traffic will be able to continue relatively unimpeded along Marietta Avenue during construction.
- Mr. Culton:** I want to bite my lip and concede, as I flew down from Cambridge from MIT for this and I'm unimpressed.
- Mr. Delaney:** Permission to redirect. Mr. Swank, at the beginning of cross-examination, you were asked about geotechnical study and the suitability of the site of the proposed development and you testified that the geotechnical study had been done and could support the proposal. Would that include the installation of an underground tank for propane?
- Mr. Swank:** Yes, yes it would.
- Mr. Delaney:** I have nothing else.

At this time, Mr. Dumeyer inquired if members of the Board of Supervisors had any questions to ask of any of the witnesses for clarification. Mr. Fisher asked Mr. Mountz about his testimony to the fact that Dollar General anticipates that this [project] would have no adverse effect to the traffic. What kind of traffic numbers is Dollar General talking about here? What's the average daily traffic (ADT) for this new road during vehicle peak hours? Mr. Mountz replied that this question is in reference to Exhibit A-10 [actually Applicant Exhibit A-9] Transportation Impact Assessment. Table 6 in that report indentified the trip general for the 9,100 square foot retail store, based upon that data which is an industry standard criteria for estimating traffic. Over the course of a 24-hour period Dollar General is anticipating 292 vehicles utilizing the store. That means one entering trip utilizing

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the store as well as one exiting trip, so it would be 292 total vehicles over the course of a 24-hour period. The study also analyzed the weekday A.M. and weekday P.M. commuter peaks at the busiest hours as well as the Saturday peak hours for this facility. The ADT anticipated the A.M. weekday peak hours will add 35 new vehicle trips, the P.M. weekday peak hours will add 51 vehicle trips, and the Saturday peak hours count is 52 vehicle trips. Putting that in perspective, on average Dollar General is looking at 1 new vehicle trip approximately every 2 minutes during the A.M. weekday peak hours and approximately 1 new vehicle trip every 1 minute during the P.M. weekday and Saturday peak hours.

Mr. Fisher asked if Mr. Mountz had the current traffic count for Marietta Avenue at the Dollar General proposed location. Mr. Mountz said Exhibit A-10 [A-9] Table 3 estimates the ADT of Marietta Avenue as 10,645 vehicles per day, based upon information obtained from PennDOT.

Mr. Fisher asked Mr. Mountz if Dollar General's plan for widening the road with a shoulder and curbing was correct. Mr. Mountz replied that is correct. Mr. Fisher asked if that plan would be along Dollar General's frontage. Mr. Mountz said correct. Mr. Fisher continued, expressing his concern that PennDOT wants Dollar General to move that drive west. Currently as cars are stopped to turn left onto Ivy Drive, cars that go around the stopped turning cars go off the shoulder, creating a road issue and a road shoulder problem. Will Dollar General's plan do anything to correct this? Will this plan correct this? Mr. Fisher sees wider radiuses there but he doesn't know how far that extends down into that area. Mr. Mountz gave a summary of the plan. Marietta Avenue in the eastbound direction will continue to consist of a single travel lane in the eastbound direction that will accommodate all the through movement along Marietta Avenue, and the left and right-hand turn movement into Ivy Drive and the shared driveway respectively. The shoulder is being provided at the request of the Township and PennDOT in accordance with ordinance requirements. With respect to bypassing stopped vehicles there is not a separate turning lane proposed for traffic in the eastbound direction.

Mr. Fisher said that perhaps Mr. Mountz did not understand his question. Currently there is an issue there with the shoulder just beyond the existing driveway. Vehicles go around stopped cars that are waiting to turn and what Dollar General is proposing to do could possibly impact that situation. He wants to make sure Dollar General either corrects that situation or doesn't make it any worse than it is because it is not a good situation. To Mr. Fisher's point, Mr. Mountz said that the addition of the Dollar General store is not going to make that (traffic) situation any worse that it is. With respect to a vehicle traveling around a left-hand turning vehicle, the shoulder is being widened in accordance with the applicable requirements of the Township and PennDOT. There will still be the ability for a vehicle to travel around somebody waiting to make a left-hand turn movement. Dollar General is improving the condition, making it a consistent width through that area with respect to that shoulder. Referring to Applicant's Exhibit A-1, it shows that the widening in that area - because of the shift of the driveway to the west - is accommodated basically along the eastern limits and within the existing footprint of the existing driveway. This gives the Board the context of the limits the proposed improvements would extend to.

Mr. Fisher asked if there is anything in the proposal about a horse hitching post. Mr. Swank responded, looking at Applicant Exhibit A-1, and explained that Dollar General is proposing a hitching post and rail on the south side of the store. Per Dollar General's discussion with the Planning Commission, the post and rail is located in front of two parking spots in the southwest corner of the parking lot. Those spaces could be used by horse and buggies and Dollar General has located the post and rail as far from the access drive as possible and potentially away from other vehicles parked in the lot. This location was chosen so cars are far enough away as to not scare the horses. Mr. Fisher said the hitching post is very close to where the cars will turn and go toward the front of the store. He is not sure that Dollar General is giving the horses much room and distance from the actual traffic that is there. Horses can spook easily and there could be a lot of traffic going by them as they are tied up. He is glad that Dollar General thought of including a hitching post, but where they plan to place it is not the best location, in his opinion. Mr. Swank replied that the location of the post and rail is in an area that Dollar General feels will have the least impact. He thinks Dollar General would be willing to relocate the hitching post if there is better placement for it.

Mr. Dumeyer asked if Dollar General is saying it would be agreeable to make a location adjustment for the hitching post if the Township could demonstrate another place to put it. Mr. Swank said yes.

Mr. Gardner asked about the five lights across the east side and two lights across the north side. The Engineer's report stated that Dollar General's proposed foot-candle of 36 would have to go down to a 3 foot-candle. Are store hours extended during the holiday season? There are 2 residential properties right across the street from the proposed location. How will Dollar General protect those residences (particularly the farmer's house) from the shining lights? Mr. Swank explained that Dollar General had discussed this with the Planning Commission and received some comments from the Township Engineer in that regard. At Dollar General's meeting with the Planning Commission in May, the lighting issue was discussed at length and it was determined that the proposed lighting design does meet the requirements of the Township's regulations, which is a maximum average of 3 foot-candles across the site. Dollar General is below that maximum average of 3 foot-candles across the site and therefore meets the Township's regulations in regard to site lighting.

Mr. Gage answered the question about hours of operation, which are Monday through Saturday from 8 A.M. to 9 P.M. and Sunday 9 A.M. to 9 P.M. Mr. Fisher asked if the lighting would be turned off when the store is not in operation. Mr. Gage replied that at a vast majority of Dollar General stores some lights are left on for security reasons. The building signs will be turned off and one light in the parking lot near the entrance will stay on overnight for security reasons. A night light in the building wall will stay on as well. Mr. Gage is not aware of any other lights that will remain on.

Mr. Gardner, as a member of the Lancaster County Clean Water Consortium, sees a lot of impervious space on the Dollar General property. He understands the functioning of rain gardens and knows a little bit about the soil at that location. If we get a massive event and the rain garden is at capacity, where is the water going to go? Mr. Swank said they designed the site with a rain garden, which is a flat-bottom facility. At the bottom of this facility they are installing an engineered soil mix of native soil, compost and sand. In that soil mix they are going to plant some wet-tolerant grass that will thrive, soak up some water and encourage evaporation, evapotranspiration and infiltration. The infiltration testing on the existing soil at the proposed design elevations found that some infiltration will take place. The storm water design consists of this flat-bottom rain garden that will handle the runoff from the building and the parking lot, therefore increasing the loading ration to spread out and infiltrate that water. Water that is not infiltrated will be stored or detained in that facility and released by an outlet structure downstream. Mr. Swank said that calculations demonstrate that the rate of runoff leaving the site will be less than the current rate. Mr. Fisher asked where this storm water outlet is located. Mr. Swank said it is at the southwest corner of the property which is the low point on the property. Mr. Fisher added that this water will then shoot across to the adjoining property. Mr. Swank said yes, in the same manner it does today. Mr. Fisher asked if there is an easement or anything that takes that water on. Mr. Swank said that the Dollar General plan does show an easement extending across this property which meets up with an existing storm water easement that runs east to west along the adjacent property to the south.

Mrs. Martin said that the hitching post for horses will also need to be shaded. Mr. Swank said Dollar General is planting a tree right beside the current location of the hitching post and as the tree matures it will provide shade for horses. Mr. Fisher asked if there is an island along that area. Mr. Swank said there is, along the southern side of the parking lot. Mr. Fisher asked if they might add some other plantings to that island. Mr. Swank replied yes and this would help to screen passing vehicular traffic from the horses.

Mr. Culton interjected at this time, declaring he is speaking for animals that cannot speak for themselves. He wondered about the availability of water for the Plain Community's horses, some who come from 10 or 15 miles away. Traveling such a long way on a hot day demonstrates a need for access to water for the horses. Mrs. Martin said this is something Dollar General needs to think about. Mr. Dumeyer agreed that a water trough at the Dollar General location is a good idea.

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Mr. Burkhardt asked Mr. Swank to explain the distance from the center line to the curb on the eastbound lane of Route 23 (Marietta Avenue). Mr. Swank said for the existing eastbound travel lane the distance from the center line to the curb is approximately 11 feet. The shoulder is approximately 3 feet. He said it was discussed at length with the Planning Commission about potentially widening Marietta Avenue in this area. It was the Planning Commission's desire to keep Marietta Avenue relatively narrow at this location because it is the entrance to the Village District. The Township does not want to encourage high vehicular speeds and having a narrower roadway would help to discourage vehicles from traveling excessively fast through the Village District. Mr. Burkhardt asked if the concept here is that the curb would be in the State right-of-way for Route 23. Mr. Swank said this is correct and added that as part of this project Dollar General is offering an additional five feet of right-of-way. The current right-of-way along State Route 23 is 25 feet from center line. For the Township's regulations, it is required that Dollar General provide a 60 foot-wide right-of-way. Since we only have one-half of that right-of-way to deal with, we are providing an additional 5 feet of right-of-way for dedication should the Township or PennDOT chose to accept. All of the roadway permits including the curb and shoulder work would be in the PennDOT right-of-way. Mr. Gardner asked for clarification about the proposed sidewalk, asking if the proposed sidewalk was located within that wider potential right-of-way. Mr. Swank said the sidewalk is located wholly on the Applicant's property.

Mr. Gardner asked what type of vehicle will be delivering Dollar General's products to sell. Mr. Gage said it is a WD-62, a 62-foot long tractor trailer, the type normally used in Pennsylvania. Being an ex-truck driver, Mr. Gardner sees a major flaw in the design. The truck driver is going to have to do a blind side back-up to get into there and he's probably going to want to back down that access road and then back the truck into the dock. Mr. Gage responded all Dollar General properties are designed so that all truck maneuvers take place within the property lines. The truck will come up the access road, turn into the Y, pull across the side of the store and back-up into the loading area. Mr. Gardner asked if that would be enough room. Mr. Gage said the drive-bys are wider than what is normally required so it is not a problem. As for frequency of deliveries, Dollar General trucks will come from a distribution center once per week.

Mr. Fisher asked about the building's architecture. This is challenging and he doesn't want to insult anybody, as he can see that they have spent a fair amount of time trying to make this (Dollar General) look pleasing. He knows every building in the Traditional Village center and he doesn't see anything in the design that looks even remotely close to this. Dollar General has some nice materials to put on the building, but from an architectural standpoint it just doesn't work. (What about) a mansard roof or some gables? Even if they are false gables? Almost every building in the TV district has a gabled roof, a traditional peaked roof. The Post Office is about the only building in the District that doesn't have a peaked roof. Mr. Fisher also struggles the proximity of the site with Burkhardt Station which is a very historical building and is right next door to the proposed Dollar General. There is so much opportunity to do something that blends a little more with the neighboring building. Dollar General considered putting a vent or a window or something in the front of the entry area and certainly that would go a long way to help break that area up and look a little bit more pleasing. Just raising the parapets doesn't really do much for your building.

Mr. Gage said that Dollar General struggled quite a bit with the exterior of this building and what was desired by the Planning Commission and Township staff. According to Mr. Gage, Dollar General could not get any direct answers as to what exactly was desired here. The idea was to try to break up that long wall and make it appear as if it were several buildings attached to each other. That was the basic concept that Dollar General started with on this rendering. With that in mind Dollar General went with materials trying to break up that area even further with pilasters that separate the materials horizontally and then the parapets with different elevations in an effort to break them up even further. Dollar General would be more than happy to do whatever the Township requires on the exterior of this building. We can make it entirely brick, such as the entirely brick building next door. We're working on our fourth rendition of trying to get to the desired architecture that the Village is after. They have various photographs from around town and there are several buildings in town that are made up essentially of the same material as what Dollar General is trying to target here with the different facades along the long walls,

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making it look like there are several buildings. That is what Dollar General is trying to go for. It is very hard to see in a rendering like this exactly what a building will look like, as it would with the materials that are displayed on the tables.

Mr. Fisher said from his perspective and opinion, looking at this one façade, Dollar General added false windows to one side but not to the other three sides. If Dollar General wants this façade to look like multiple buildings then they need to have something like that. Maybe if there were a mansard around the outside? Would that changed a little bit if they were to use different materials? He thinks that would help blend in the building a little bit. Mr. Fisher said that no one would be fooled by this (design) to think that it is multiple buildings. Mr. Gage said the same could be said about the other buildings that are located in town that are of the same architectural design and are obviously one building. Looking at proposed façade, we are trying to eliminate the monotonous material on a 130 feet long building. If the faux shutters would satisfy the Township, Dollar General will put shutters all the way around the entire building. If we want brick on the entire thing, they will do that. They are open to some suggestions. According to Mr. Gage, it's been difficult to get suggestions and the directions have been very vague. This is the fourth rendition submitted by Dollar General trying to get to that point. They feel that this is probably about as close as they are going to get without further direction from anyone. Dollar General is meeting all the requirements, adding bump-outs, different materials, architectural interests, raised parapets, and a gable at the entrance. We feel that Dollar General has put up a very strong effort to try to get to the point the Township wants them to be at.

Mr. Dumeyer asked Mr. Gage if there was a reason Dollar General did not go with a peaked roof. Mr. Gage said as far as he can tell from the Township ordinance, a peaked roof is not required nor that Dollar General have a gable roof on this building. Mr. Dumeyer said yes, but it is preferred. Mr. Gage said they tried to hit a happy medium and put a gable over the entrance. This building does not lend itself to a gable roof design. It would have to be a completely different structure in order to move in that direction. This is a prototypical building that they use on every Dollar General built. Dollar General has the leeway to change materials on the outside, add parapets and add the entry element as done here, but in order to go with a gable design it would take a full re-design which is fairly extensive. Mr. Fisher said if Dollar General had a mansard that would somewhat mimic a gable roof, it would break up that height of the wall. To him, it is the height of that total wall that raises some architectural issues. Mr. Gage said that if a mansard roof is the goal, then Dollar General can start over and do a mansard roof. Mr. Fisher said he tries to be anything but vague.

Mr. Gage said they have been really frustrated in trying to get any kind of idea from the Board and staff as far as a direction that the Township is looking for. Dollar General does not want to come in and waste the Township's time or the Board's time. They have made several attempts. They can go back to one of the earlier attempts. If the Township wants a brick building with a mansard-style roof all around, Dollar General can take a shot at that and send a drawing. Mr. Fisher's thoughts are that with a mansard around the building, it will break up the look of the height of the wall. Mr. Gage asked for clarification - instead of the height appearance being altered using parapets, the Township wants a mansard roof with different heights. Basically the mansard would be part of the parapets extending up. Mr. Fisher suggested adding a few more faux windows and maybe shutters to mimic some of the other buildings that are in town. Mr. Dumeyer pointed out that there are shutters on the building, designed as closed faux shutters. Mr. Gage said that direction (from the Township) would very much help. If it is glazing on the windows that the Township is after, Dollar General can do that, but obviously it won't be real glass.

Mr. Fisher pointed out that on the front of the building, something needs to be broken up. Perhaps a false vent false and maybe below that some sort of a barn door that would somehow match next store neighbor Burkhart Station. Again it's all false but breaking up that reversed gable at the entrance would be prudent and would more closely resemble some of the buildings right close by would really do something to shrink the height of that vertical wall appearance. A mansard will look like a roof, and then the wall appearance will appear to shrink 6 to 8 feet or so.

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Mr. Burkhart asked if every architectural element above that entryway is false. Mr. Gage answered yes. Mr. Burkhart expressed his perspective on the building design, asking what if that whole thing were lowered to look like a front porch, reducing Dollar General's costs, and making the design more fitting with the village concept. Mr. Gage asked if this was the general consensus of the Board? Mr. Dumeyer would like to know about how the building design comes in at a 45 degree angle at each one of the walls on the front entry feature. While it is not unattractive, how does that tie in with the Traditional Village look, which is essentially German-style architecture. Mr. Gage said Dollar General is using the model utilized in a Main Street type of design, as the Township requested. This is the model that is used in most areas. He doesn't think it would be appropriate to change the entry to the side of that short wall away from the parking lot, nor is it appropriate to place the entrance on the long wall of the building near the street. This is a hybrid version with a Main Street feel and we still have the entry to the adjacent parking lot and the walkway. Mr. Dumeyer asked if this design is a compromise. He also asked who the architectural firm is that designed the building. Mr. Gage said it is actually Dollar General and this is their prototype and what dictates the general style of the building.

Mr. Fisher talked about the back of the building and the parapet that is currently planned – how high is that? Mr. Gage said it varies. Mr. Fisher asked if the HVAC units on the roof will be hidden and what the height is of the parapets from the roof level up. Mr. Gage said they are 14 feet. There are to 6 foot parapets around there which will hide the air conditioning units. Mr. Burkhart liked the interesting combination of everything. Looking at the Traditional Village buildings that use the old German style of lap siding, the Dollar General design fits in with the village look instead of having so much different material. Mr. Gage can they achieve that by using the lap siding in different colors, or break up the pilasters and continue with lap siding all the way. Mr. Burkhart said that is a possibility and it would save Dollar General money. Mr. Gage said no, actually the cost is the same regardless of the materials used. Mr. Fisher said the different materials add something to the building, but again it is the wall height that must be changed. Knocking it down from 20 feet or 16 or 14 feet would go a long way to make the design more acceptable. This is what Mr. Fisher would like to see.

Mr. Burkhart asked if a person can drive the whole way all around the building or is that parking lot on the west side. How many parking spots are in the lot. Mr. Swank said 44 spaces. The required number is 30, so Dollar General exceeds this by 14 over what is required. Also, there are two spots for horses. No other questions from the Board at this time.

Mr. Dumeyer said now is an opportunity for other people in the audience to make a statement or to ask questions of the Applicant at this time. Ms. Cleary reminded Mr. Dumeyer that Mr. Culton has the right to ask any questions of the Applicant at this time. Mr. Culton did not.

Ms. Daneen Kemple, 3647 Marietta Avenue, asked if where the horses are hitched is near where the truck will be going around to the back. She said it sounded like this is a shared parking area for cars and not a rail for the horses. Mr. Gage said it is a dedicated spot for the horses. Mr. Swank said the spots are currently lined for vehicular traffic but are to be used by horses. Mr. Fisher wants Dollar General to make it a dedicated spot for the Amish customers coming to the store. Mr. Swank asked if the horse location counts toward the requirement for 44 required spaces in the parking lot. Ms. Cleary said parking is calculated in accordance with the Zoning Ordinance and so if the ordinance calls for 44 spots, that means 44 cars. Mr. Burkhart pointed out that anything a person can sit upon or ride is considered a vehicle, and so a buggy is a vehicle. Mrs. Hemple is concerned about the cars coming in for parking with no room for horses. Mr. Fisher said we need to establish a specific area. Mrs. Martin said the truck would be backing in there, too. Mr. Dumeyer said there is an understanding that the Township will work with Dollar General to pick the most appropriate place to put the hitching rail. Mrs. Martin said she will look out for the horses.

Mrs. Hemple said it looks like the parking lot is looking down Marietta Avenue. She was under the impression that the parking lot would be to the rear. Correct? Mr. Fisher said the parking is to the side, and explained that the parking lot is behind the building face. The leading edge is not in front of the building nor is it behind it. The

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parking lot is beside the store. There is some parking behind the store.

Also based on the picture she is looking at, she doesn't see any kind of shrubbery that blocks the view of the parking lot from Marietta Avenue. She thought that the intent was to have screening that would block the look of the building from traffic traveling on Marietta Avenue. Mr. Gage explained that landscaping icons were left off the drawing she is looking at. The landscaping is there but this drawing does not show it. Mr. Fisher said Mr. Delaney mentioned that he was OK with the street trees/bushes provided they would be 6 to 8 feet at maturity. What street trees mature at 8 feet? There are rhododendron and dwarf dogwood in several varieties that go up to 16 feet high. This is a question that Dollar General and the Township can get clarification on. Mr. Fisher definitely wants some good looking flowering street trees to create a village feel and he is not familiar with an 8 foot tree at maturity. Mr. Gardner mentioned several varieties of rhododendron that go from 14 to 16 feet high so this is not a simple issue. Mr. Fisher needs clarification on what the trees along that frontage will do to create a village feel as drivers pass by, and he is not seeing an 8 foot high tree. Mrs. Martin mentioned that crape myrtle is an option. Mr. Gage said he does not want to get something that is too tall. Mr. Delaney said to remember that the Planning Commission's recommendation of 6 to 8 feet is at the time of planting, not at maturity.

At this time Mr. Dumeyer asked if the Township staff had anything to present. Mr. Youtz said no.

Mr. John Rodman took his turn to ask questions of Dollar General, who said this proposed building is similar to other buildings in the Traditional Village district with a long wall. What other building in this area has a 130 foot long wall? He would like to know what existing building Dollar General looked at. That was before the Traditional Village was approved 8 years ago. Every building in the Traditional Village district was already here before it was approved. The idea behind Traditional Village zoning was to create and maintain the look and appeal of a village. How does a building with a 130 foot wall with some Tyvek or plastic columns much different? It is not an improvement over a plain 130 foot wall. Mr. Gage explained that they did not have the architectural drawings with them tonight. Mr. Rodman asked what other buildings in the Traditional Village have faux windows? Does the rear wall have any vertical columns breaking that up or is one long wall one long wall? Mr. Gage said it is one long wall with columns on either side. Mr. Rodman asked what material will be used for the gable. Mr. Gage said cedar. Mr. Rodman asked about roofing materials Mr. Gage said asphalt shingles, but Mr. Garnder said on the drawing it says metal roof. Mr. Gage said Dollar General can go in either direction, especially if they are going to re-design the roof to a mansard style.

Mr. Delaney said it is his understanding that the Traditional Village Ordinance was adopted approximately 7 years ago and there was an attempt to preserve the character. Part of that character is what was in existence at the time the ordinance was adopted. The Traditional Village zoning is not a "whatever we want kind of standard." Dollar General is honestly trying to work toward what the Township is comfortable with. But the fact that a building was here before the Traditional Village zoning went through doesn't change the fact that it [the building] is part of the village. That would include the Turkey Hill which is relatively new and no one is happy with its presence in the Village district. The fact that Turkey Hill is set back helps a lot. But it is in the village so you can't just look at the lovely barn on the other side of town and have everything look like that. With this feedback Mr. Delaney added a disclaimer that he is just an attorney but the Dollar General proposed store is a modern interpretation of the Traditional Village aesthetic. That is what the ordinance says.

Tom Albright, 1333 Jasmine Lane, Lancaster (East Hempfield Township) said he heard the earlier testimony about a single tractor trailer coming in once a week for delivery. Is this based on a certain revenue number? How is that one tractor trailer a week traffic determined? Is it a full tractor trailer that comes once a week or is it half full? What is the tolerance of revenue to the store that dictates one tractor trailer per week? Today this store might generate the revenue that substantiates one tractor trailer delivery per week. What happens 5 years from now? Mr. Gage said the Dollar General program is set up to utilize one tractor trailer delivery for three stores per week as loaded at the Dollar General distribution center. There is some room for adjustment if they need to and there are smaller trucks that deliver to this store and to all Dollar General stores throughout the week but only one tractor

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trailer. Mr. Albright asked if this plan is based on a projected 292 cars in a 24 hour period? Mr. Gage said it is based on a 13,000 store chain average across the country. Typically the formula is 10 cars per hour per store, based on an institutional standard level set by the Federal government for the whole country. Those are the standards Dollar General has to stick to. Mr. Albright asked if this store location is considered to be a highly successful location? Is it considered to be one that will exceed the average? Mr. Gage said based on a preliminary estimate, this store will hit the target, but we won't know until the store is open. Mr. Albright asked if store success is based on the population of the territory it is in? Mr. Gage said yes it is based on annual income, population median income, etc. Mr. Dumeyer said the Mr. Culton's interjections were not helping at this time but rather were distracting from our ability to get the information.

Ms. Kemple asked for clarification. Is there one tractor trailer that comes in per week but are there also smaller delivery trucks? Mr. Gage said yes, there is one tractor trailer in a week but other smaller trucks are in and out, such as bread trucks and milk trucks. Ms. Kemple said so there is more than one delivery per week. Mr. Gage said yes.

Mr. Culton said the main thing he is concerned about is what happens when this store fails and you have this empty business, like we do with the Jay Group? What happens when everybody who lives along this road puts up a sign saying "Don't Support Dollar General" (and he knows they will). What will happen if that store goes out of business and then we have a vacant space that we tore up some farmland for? We tore up the Charles Chip factory up there and now that property is for sale. As a farmer he hates to see this farmland gone. He said we should use our brainpower to maybe bring something in that would benefit the community more and would bring the money in rather than shipping money out to a 14,000 chain store. We should not be looking at chain stores. That is not what the Village was designed for. He said the Township should make a concerted effort to look for grants to bring in local businesses rather than a chain store. Dollar General studied the socio-economic makeup of our town and that is how they prey upon communities like this. They screw up the traffic and the soul of the community. It's time to bring community back to the village.

Mr. Dumeyer said Dollar General made its presentation and we can only go with what they said. None of us can predict what the success of the store will be. Mr. Fisher stressed that the area where Dollar General is looking to build is zoned commercial and any retail operation is allowed there, whether it is Dollar General or Grandpa's Market. We have to protect those rights.

Mr. Dumeyer asked if there were any more comments from the Applicant or from Mr. Culton, the party of standing. Any more comments, questions or statements from anyone else in the room? From counsel? From staff? With no further comments, Mr. Dumeyer called for a motion to close the record on the hearing.

Motion: A motion was made by Edward Fisher, seconded by Kent Gardner, to close the record of the hearing on the Conditional Use Application of Lancaster (Silver Spring) DDP, LLC Dollar General Store. Motion carried, 5-0.

Mr. Dumeyer said the record is closed at this time and the Board cannot take any more information or comments at this time. He asked what the Board's thoughts are on making a decision on the Conditional Use application. Mr. Fisher said the Board generally likes to have counsel's help before rendering a decision, and the Board should look to counsel for advice. The Board of Supervisors meeting is next week and there is a holiday (July 4) in between. Mr. Dumeyer suggested they wait until the August meeting

Ms. Cleary explained that Board has 45 days to render a decision and could do so at the August 7 meeting. The timeline is too tight for the July meeting, especially if the Board wants to impose any conditions before making its decision. The Board does have the right to discuss and deliberate in an executive session as a semi-judicial body per the Pennsylvania Supreme Court decision. If the Board can wait until after the July meeting, they can exchange information, and counsel can put together a decision to circulate. Subsequently the Board can get back

to counsel and then render the decision at the August meeting. Mr. Dumeyer asked if the Board needs to make a motion to render the Board's decision or more theoretically to call a special meeting, although it will cost money to advertise legally. Ms. Cleary said no motion is needed. However, the Board can render its decision at any public meeting within 45 days of testimony. The Board members may talk among themselves and when the decision is rendered, it is rendered. The issue as she sees it is the plan can be discussed but there may in fact be changes made to implement conditions.

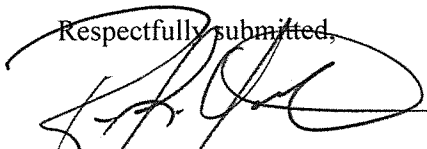
Mr. Delaney inquired about the Planning Commission's recommendations based on packet but now there are changes both physically and dimensionally. Does that require that Dollar General to go back to the Planning Commission? Mr. Dumeyer said there is no need to return to the Planning Commission. That would entail presenting more information, something that cannot be done now that the record is closed on the Conditional Use application. Mr. Fisher said the Board will make the changes. Mr. Delaney asked if it would be appropriate for Dollar General personnel to attend the Board of Supervisors July meeting in the event there is discussion or feedback at that meeting, or if there is conduit for comments if there were any discussion on the plan. Ms. Cleary said there should not be further discussion about the Dollar General Conditional Use application at a public meeting (Kennedy vs. Upper Milford Township). The Board can deliberate before or after the July meeting since they would be together and it would be convenient to do so, or in executive session. In a quasi-judicial capacity the Board does have the right to meet in executive session.

Mr. Delaney asked a procedural question about the pending land development plan that has been approved by the Planning Commission. Is it appropriate for that approval to not be on the July Board of Supervisors meeting agenda but be delayed until the August meeting? Mr. Fisher asked what if there would be discussion on the hitching post or other matters raised this evening? Ms. Cleary said they cannot communicate with (Township Manager) Ron Youtz or have him in executive session because he is a party. Basically the Board renders its decision based on the testimony given tonight. There is nothing more the Board can hear from anybody. As counsel, Ms. Cleary is the only person the Board can talk to.

Ms. Cleary said the plan can be discussed at the August meeting but there may in fact need to be changes made, assuming the Board approves it.

IV. ADJOURNMENT TO EXECUTIVE SESSION TO DISCUSS A LEGAL MATTER

Motion: A motion was made by Edward Fisher, seconded by Kent Gardner, to adjourn the Conditional Use Hearing at 9:50 p.m. and to go into Executive Session to discuss a legal matter. Motion carried, 5-0.

Respectfully submitted,

Ron Youtz
Township Manager

