BEFORE THE RADNOR TOWNSHIP
BOARD OF COMMISSIONERS

IN RE: APPLICATION OF 60 WEST GP

ADJUDICATION

I. BACKGROUND

60 West GP (the "Applicant") filed a conditional use application in August 2023, seeking conditional use approval for a proposed mixed use project under §280-53.17 of the Township Zoning Code. The conditional use application was advertised two times in the October 4, 2023 and October 11, 2023 editions of the Delaware County Daily Times for public hearing. The Board held hearings on October 18, 2023, December 5, 2023, December 19, 2023, and January 8, 2024. The Board was represented by John B. Rice, Esquire, the Township Solicitor, and the Applicant was represented by David Falcone, Esquire. No other attorneys entered their appearance during the hearing.

The following individuals were granted party status at the hearing:

1. Angus Ronald MacGillivray	11. Ryan Breyer	21. Brian White
2. Henry Schramm	12. Jeff Pearsall	22. Sandy Bauer
3. Carol Burns	13. Brook Hunt	23. Eileen Stoveld
4. John McGrath	14. Elizabeth Reid Maratea	24. John Aiken
5. Leonardo Salese	15. Chris Massaro	25. Nicholas Elisio
6. Lisa C. Delizia	16. Leslie Morgan	26. Dan Prima
7. Kathleen Wright	17. Mike Belitseris	27. Eileen Ware
8. Diane Ware Classen	18. Michael Lihota	28. Chris Todd
9. Reed Taylor	19. Deanna Doane	29. Robert Gilmour
10. Nina Ware	20. Scott Gensler	

II. APPLICANT'S EXHIBITS

A-1 Conditional Use Application
A-2 Proof of Standing (Deed and Agreement Of Sale)
A-3 Conditional Use Plan
A-4 Renderings

A-5 Planting Plan (Parcel B)
(1) Existing Conditions
(2) Planting Plan
A-6 Site Plan (Parcel B)
A-7 Parking Plan
A-8 Fiscal Impact Analysis dated 7/31/2023
A-9 Traffic Impact Study dated 8/2023, last revised 10/2023
A-10 Traffic Evaluation Memorandum dated 9/28/2023
A-11 Fire Marshall Review Memorandum dated 9/21/2023
A-12 C.V. of Robert Lambert, P.E.
A-13 C.V. of Stephen Varenhorst
A-14 C.V. of Christopher J. Williams, P.E.
A-15 Renderings (North & South)
A-16 Building Planting Plan (L410)
A-17 Parking Layout Study
A-18 Revised Conditional Use Plan
A-19 C.V. of Mark A. Roth, P.E.

III. BOARD EXHIBITS

B-1 Proof of Publication/Delco Times
B-2 Gannett Fleming letter dated 9/17/23
B-3 Gilmore & Associates letter dated 9/25/23
B-4 Township Fire Marshall letter dated 9/21/23

IV. FINDINGS OF FACT

1. The Applicant is the equitable owner of the Property pursuant to an Agreement of Sale with AT&T Corp., the legal owner. (Exhibit A-2)

2. The Property is located within the Township's Wayne Business Overlay District (the "WBOD"). .

3. The subject Property is part of a larger approximately 6.6-acre piece of land owned by AT&T Corp. (the "Complete Property") (Exhibit A-2).

4. The Property will be part of a separate subdivision application.

5. Applicant has a right of first refusal to purchase any portion of the Complete Property in the event that AT&T Corp. elects to sell.

6. At present, Applicant has no equitable ownership interest in the Complete Property.

7. The Property is bordered to the west by Bellevue Avenue, to the north by West Avenue, to the east by commercial uses, and the south by Lancaster Avenue. (Exhibit A-3).

8. The three properties identified as Special Use Areas within the Township are: (a) North Wayne Municipal Lot/Wayne Train Station; (b) South Wayne Municipal Lot/Post Office; and (c) Bellevue Park and Walk (AT&T Parking Lot). (Zoning Ordinance, 280-53.17. A. (1))

9. The Property is designated as the "Bellevue Park and Walk (AT&T Parking Lot)."

10. Uses within the Special Use Areas are approved by the Board of Commissioners as a conditional use permit. (Zoning Ordinance § 280-53.17. B).

11. The Property presently has a single point of access from Bellevue Avenue. (Exhibit A-3).

12. The Property is presently used as a parking lot consisting of 104 public parking spaces pursuant to a lease agreement between the Township and AT&T Corp.

13. The Property is currently 75.74% impervious. (Exhibit A-3).

14. No buildings are currently located on the Property. (Exhibit A-3).

15. The Property presently has no storm water management.

16. The Applicant is proposing to develop the Property with a single mixed-use building ("Proposed Building") with fifty-two residential units and one retail/personal service shop along with related parking, landscaping, open public areas, stormwater management facilities, and related improvements ("Project").

17. As a part of the Project, the Applicant filed the Application seeking conditional use approval under Zoning Ordinance § 280-53.17 to permit the Project in the WBOD District. (Exhibit A-1).

18. The Project proposes fifteen 1-bedroom units; seventeen 2-bedroom units; and twenty 3-bedroom units.

19. The proposed units will range from approximately 1,100 square feet to 3,100 square feet.

20. The Proposed Building is five stories measured from Lancaster Avenue and four stories measured from Bellevue Avenue.

21. The Proposed Building will have a height of not more than 55' along Lancaster Avenue and a height along the rear of the building of 45'.

22. The Project will meet all required setbacks established by the Zoning Code. (Exhibit A-18).

23. The Project will comply with all parking requirements established by the Township Zoning Code.

24. The Project proposes 126 parking spaces. (Exhibit A-18).

25. The Proposed Building is designed around six courtyards.

26. The proposed courtyards are approximately 40' wide and 60' deep.

27. The courtyards located along Lancaster Avenue and along Bellevue Avenue will be open for public use and maintained by the to-be-established homeowners association.

28. The Project proposes sidewalks along Lancaster Avenue and access through the courtyards.

29. The Project and related improvements will comply with the Americans with Disabilities Act.

30. The Applicant prepared an initial Traffic Impact Assessment for the Proposed Mixed-Use Development – Lancaster Avenue, prepared by McMahon, a Bowman company

("McMahon"), dated August, 2023 and last revised October, 2023 (the "Traffic Impact Study"). (Exhibit A-9).

31. The Traffic Impact Study considered two proposed developments in the vicinity of the Project as part of the Traffic Impact Study background traffic.

32. The Township reviewed the initial Traffic Impact Study and issued a review letter dated September 25, 2023, prepared by Gilmore and Associates (the "Township Traffic Review Letter"). (Board Exhibit B-3).

33. The Township Traffic Review Letter requested that the Applicant study ten intersections and revise the initial Traffic Impact Study accordingly. (Board Exhibit B-3).

34. The Applicant completed the additional studies and updated the Traffic Impact Study in October, 2023. (Exhibit A-9).

35. The Traffic Impact Study was performed collecting turning movement counts during typical weekday peak times in the morning and afternoon and the data collected was evaluated under existing and future conditions.

36. The traffic data collection on all ten intersections was performed in October, 2023 on a typical non-holiday weekday when school was in session.

37. Once the traffic data was collected, the expert traffic engineer evaluated the existing conditions against future conditions without the proposed Project and the future conditions with the proposed Project.

38. The future year for completion of the Project for traffic assessment purposes was estimated to be 2025.

39. Future conditions were generated using the industry accepted Institute of Transportation Engineers Trip Generation Manual.

40. The Traffic Impact Study contemplated a mixed-use building with fifty-two residential units and one retail/personal service shop. (Exhibit A-9).

41. The Project is estimated to generate fifteen new trips during the morning peak hour and thirty-two new trips during the afternoon peak hour. (Exhibit A-9).

42. The Traffic Impact Study included truck and delivery in its estimated trips calculation.

43. The Studied Intersections presently operate at no less than a level of service "B".

44. The Traffic Impact Study concluded that there is no anticipated change in the overall level of service at each of the Studied Intersections when comparing pre-development conditions with anticipated post-development conditions. (Exhibit A-9).

45. The Project will have a single point of access along Bellevue Avenue. (Exhibit A-3; A-9).

46. No public parking is being proposed on Bellevue Avenue as part of the Project.

47. A crosswalk is proposed across Bellevue Avenue.

48. No crosswalk is proposed at the Property across Lancaster Avenue.

49. The Project proposed to relocate existing public parking from the Property to a presently private, AT&T parking lot located along West Avenue (the "New Parking Lot"). (Exhibit A-17).

50. The Applicant engaged its traffic expert to prepare a Traffic Evaluation Memorandum prepared by McMahon, dated September 28, 2023 (the "Parking Memorandum"), to evaluate the movement of the existing parking from the Property to the New Parking Lot. (Exhibit A-10).

51. The Parking Memorandum studied the New Parking Lot's current and proposed usage.

52. The Property presently has 104 public parking spaces. (Exhibit A-3).

53. The New Parking Lot is proposed to have 127 public parking spaces. (Exhibit A-17).

54. The Traffic Impact Study includes pedestrian movements as part of the traffic impact analysis.

55. The Project will have emergency access from West Avenue by way of an easement over the primary AT&T parcel located adjacent to the Property.

56. The Property currently has no stormwater management or rate or volume control.

57. The proposed stormwater management system is approximately 19,000 cubic feet/120,000 gallons.

58. Post development stormwater conditions will improve existing conditions on and around the Property.

59. The Project proposes to keep in place the existing tree canopy along Lancaster Avenue. (Exhibit A-3).

60. The Proposed Building has made provisions for trash pickup and loading within the Proposed Building.

61. In or around August, 2023, the Applicant filed the Application seeking conditional use approval under Zoning Code § 280-53.17 for the Project.

62. On October 2, 2023, the Applicant appeared before the Radnor Township Planning Commission.

63. At the Hearings, the Applicant presented testimony from Kenneth Kearns, partner with 60 West GP ("**Kearns**") on behalf of the Applicant.

64. The Applicant presented testimony from Robert Lambert, P.E. of Site Engineering Concepts, LLC ("**Lambert**") who was admitted and accepted without objection as an expert in engineering and land development. (Exhibit A-12).

65. The Applicant presented testimony from Mark Roth, P.E., of McMahon ("**Roth**") who was admitted and accepted without objection as an expert in traffic planning and design. (Exhibit A-19).

66. The Applicant presented testimony from Stephen Varenhorst of Varenhorst PC ("**Varenhorst**") who was admitted and accepted without objection as an expert in architecture and design. (Exhibit A-13).

67. As part of the Application, the Applicant submitted the "60 West Avenue Conditional Use Plan" prepared by Site Engineering Concepts, LLC consisting of eight sheets (the "**Original Site Plans**"). The Original Site Plans were marked as Exhibit A-3.

68. The Original Site Plans were revised to correct typographical errors noted during the December 5, 2023 Hearing and were re-submitted at the December 19, 2023 Hearing with a revised date of December 7, 2023 (the "**Revised Site Plans**"). The Revised Site Plans were marked as Exhibit A-18.

69. The Revised Site Plans corrected Sheet 3 of the Original Site Plans by correcting a typographical error on the conditions table with respect to impervious coverage.

70. The Revised Site Plans corrected Sheet 5 of the Original Site Plans by including a parking summary, updated zoning table, reference to an emergency access easement and corrected

setback dimensions. Each change to Sheet 5 was noted in red on Exhibit A-18. The Original Site Plans and Revised Site Plans shall be collectively referred to herein as the "**Site Plans**".

71. Following the submission of the Application, the Township issued a review letter for the Project by the Township's third-party engineer, Gannett Fleming, dated September 17, 2023, which review letter was marked as Exhibit B-2.

72. The Township also issued a review letter for the Project by the Township's third-party traffic engineer, Gilmore and Associates, dated September 25, 2023, which review letter was marked as Exhibit B-3.

73. Additionally, the Township issued a review letter for the Project by the Township's Fire Marshall dated September 21, 2023, which review letter was marked as Exhibit B-4.

V. DISCUSSION

The Radnor Township Board of Commissioners (the "Board") heard testimony, argument and evidence from the applicant and multiple parties concerning the proposed conditional use pursuant to 913.2 of the MPC, 53 P.S. 10913.2, and Section 280-137 of the Township Zoning Ordinance (the "Ordinance"). The burden is on the Applicant to establish that the application complies with the Ordinance's objective standards. Visionquest Nat'l, Ltd. V. Bd. Of Supervisors of Honey Brook Twp., Chester Cnty, 569 A.2d 915 (Pa. 1990); City of Hope v. Sadsbury Twp. Zoning Hearing Bd., 890 A.2d 1137 (Pa. Cmwlth. 2006). Section 913.2 of the Pennsylvania Municipalities Code ("MPC") permits a governing body of a municipality to grant or deny a conditional use application in accordance with express standards and criteria set forth in applicable ordinances (53 P.S. 10913.2).

The Applicant seeks approval for a mixed use, residential/commercial, project within the Wayne Business Overlay District (WBOD) under Article XII-A of the Township Zoning

Ordinance. The WBOD regulations at Section 280-53.17. define three Special Use Areas for development, one of which is the Bellevue Park and Walk and the AT&T parking lot at the corner of Lancaster Avenue and Bellevue Avenue. Section 280-53.17. B. requires the Board to take into consideration certain site considerations and impacts set forth at Section 280-53.17. B. The use regulations for this Special Use area are set forth at Section 280-53.17.C and permit multiple family dwelling units, retail stores, offices, facilities serving the general public and other accessory uses. Subsections D. through H. of this Section address dimensional criteria, parking criteria, architectural and design criteria, and other requirements for uses within this Special Use Area of the WBOD.

A conditional use is similar to a special exception use, the only difference being that the governing body of the municipality acts as the hearing board in lieu of the township zoning hearing board. Conditional uses identified in zoning ordinances are acknowledgments by the township that the use is a permitted use subject to additional conditions or criteria as defined in the zoning ordinance. Once an applicant for a conditional use demonstrates compliance with the specific requirements of the zoning ordinance, such as use, dimensional criteria, parking criteria, and the like, objectors have an obligation to present testimony and evidence to rebut applicant's testimony. A conditional use application can only be denied if objectors demonstrate through substantial evidence that the impact of the proposed use will be greater than what would be normally expected from such use. A conditional use within a zoning ordinance is a recognition by the Township that the use is a type of permitted use absent some extraordinary health and safety impact of the use.

In the present case, Applicant presented substantial testimony through expert witnesses that the proposed project would meet the zoning requirements of the ordinance. To the extent that the zoning ordinance requires that the Board take into consideration impacts, the consideration of

those impacts can be met by attaching conditions to an approval in lieu of an outright denial of the application. Although various parties made statements for and against the proposal, generalized, subjective statements are insufficient evidence to support a denial of the plan as presented.

VI. CONCLUSIONS OF LAW

1. The Property is one of three properties within the Township designated as a "Special Use Area" pursuant to the Zoning Ordinance Section § 280-53.17.

2. Special Use Areas have been selected for special use because they are located close to public transit, dining, and retail opportunities, offering the potential for unique urban residential and nonresidential projects to meet the growing and future demand for different uses within the WBOD. (Zoning Ordinance § 280-53.17. A. (2).)

3. Multiple-family dwellings are enumerated uses within the Special Use Areas of the WBOD. (Zoning Ordinance § 280-53.17. C. (1).)

4. Retail stores and personal service shops are enumerated within the Special Use Areas of the WBOD. (Zoning Ordinance § 280-53.17. C. (2).

5. The area and bulk requirements of the WBOD Special Use Areas are set forth in Section 280-53.17. D. and E of the Zoning Code. (Zoning Ordinance § 280-53.17. D. & E; Exhibit A-18).

6. Within the Special Use Areas of the WBOD, the minimum front yard setback measured from the center line of the street is 25'. (Zoning Ordinance § 280-53.17. D (1); Exhibit A-18).

7. Within the Special Use Areas of the WBOD, the minimum side and rear yard setbacks is 15'. (Zoning Ordinance § 280-53.17. D (2); Exhibit A-18).

8. Within the Special Use Areas of the WBOD, the height of any building or structure shall not exceed 55' or be less than 30'. (Zoning Ordinance § 280-53.17. D (4); Exhibit A-18).

9. Buildings that exceed 30 feet in height must have a ten-foot horizontal architectural offset from the front of the property before continuing vertically. (Zoning Ordinance § 280-53.17. F. (1).

10. For the Special Use Areas of the WBOD, parking spaces must be located in the rear, side or underneath of the building. (Zoning Ordinance §280-53.12).

11. For the Special Use Areas of the WBOD, one parking space per dwelling unit less than 800 square feet and two spaces per dwelling unit 800 square feet or greater shall be provided. (Zoning Ordinance §280-53.12(1)).

12. For the Special Use Areas of the WBOD, one space for each 300 square feet of floor area for any retail use shall be provided. (Zoning Ordinance §180-53.12(3)).

13. For the Special Use Areas of the WBOD, one space for each 300 square feet of floor area for any retail use shall be provided. (Zoning Ordinance §180-53.12(3)).

14. The Proposed Building has a ten-foot horizontal architectural offset from the front of the Property before continuing vertically as required for any building in excess of 30' in accordance with the Township Zoning Code. (Zoning Ordinance § 280-53.17. F(1); Exhibit A-4(1))

15. The Proposed Building will have a front yard setback measured from the center line of Lancaster Avenue of 50' where a minimum of 25' is required. (Zoning Ordinance §280-53.17. D(1); Exhibit A-18).

16. The Proposed Building will have a side yard setback of 25' where a minimum of 15' is required. (Zoning Ordinance §280-53.17. D. (2); Exhibit A-18).

17. The Proposed Building will have a rear yard setback of 26' where a minimum of 15' is required. (Zoning Ordinance §280-53.17. D. (2); Exhibit A-18).

18. The proposed impervious coverage for the Project will be approximately 63,000 square feet or 83% of the Property where 90% impervious coverage is allowed. (Exhibit A-18; Zoning Ordinance §280-53.17. D(3)).

19. Pursuant to Section 280-53.12, the Project is required to provide 126 parking spaces consisting of 104 parking space for the residents of the proposed fifty-two residential units (i.e. two spaces per unit over 800 square feet); thirteen parking spaces for visitors (i.e. one parking space per four units); and nine parking spaces for the proposed 1,300 square foot retail space (i.e. one parking space for each 200 square feet of the unit and two employee spaces). (Zoning Ordinance § 280-52.12; Exhibit A-18).

20. In accordance with Section 280-137 A. (1) of the Zoning Ordinance, the proposed use meets all of the specific requirements applicable to Special Use Areas in Section 280-53.17. of the Zoning Ordinance.

21. The Applicant's proposed use as modified by the Board's conditions is consistent with the Township's Comprehensive Plan and the goals of the WBOD; is consistent with the area surrounding the property; is suitable with respect to traffic impacts provided proposed improvements are implemented; and is reasonable in terms of the logical and efficient extension of public services and facilities to the site in accordance with Section 280-137 A. (2) of the Zoning Ordinance.

22. The seventeen conditions approved by the Board Order are each an essential element necessary for compliance with the conditional use requirements of Section 280-53. 17. B. of the Zoning Ordinance.

VII. ORDER

AND NOW, this 26 th day of February, 2024, after due deliberation and discussion at public hearings, and considering all testimony and evidence presented by all parties, the Radnor Township Board of Commissioners does hereby grant the Conditional Use Application of 60 West GP, subject to the following conditions:

1. The Applicant shall comply with all applicable Township Ordinances and shall submit a land development plan pursuant to the Township's Subdivision and Land Development Ordinance prior to the construction of any facilities. Applicant's land development plan shall take into consideration the Special use area factors set forth in Section 280-53. 17. B. of the Township Zoning Ordinance.

. 2. The number of residential units permitted for the project shall be reduced to no more than forty-five (45) dwelling units.

. 3. The building façade for the project shall be consistent with the existing architecture of the Wayne Business Overlay District by incorporating brick and stone into the façade which shall be reviewed by the Township's Design and Review Board during the land development process.

. 4. During the land development process, the Applicant shall meet with a representative group of neighbors on a monthly basis or as often as the neighbors and the Applicant can agree, to provide progress updates on the plan and construction activities. Applicant shall consult with the neighbors' group on the proposed architectural style, façade materials, pedestrian improvements and public accessibility to the proposed green space.

. 5. The Applicant shall maintain the existing green space and street trees along the Lancaster Avenue and Bellevue Avenue frontages of the property in a manner to be approved by the Township and shall set back the proposed building from Lancaster Avenue and Bellevue Avenue in order to maintain this green space and these trees. This green space shall be publicly accessible during the construction process.

. 6. The building setback from Lancaster Avenue shall be increased to a minimum of 65 feet from the center line of that road, and the building setback from Bellevue Avenue shall be increased to a minimum of 30 feet from the center line of that road.

. 7. The Applicant shall make a capital contribution to the Township for traffic and pedestrian improvements in the areas adjacent to the property in an amount of $10,000.00 per dwelling unit to be utilized for infrastructure or other improvements within the Township's sole discretion. Payment of this contribution shall be done according to a schedule established by the Township during the land development process.

. 8. The Applicant shall divert stormwater runoff from the existing AT&T building parking lot on the east side of that building to the proposed stormwater facilities for this project.

9. The Applicant shall resurface and stripe the existing AT&T parking lot on West Avenue and shall install parking islands, landscaping, and surface stormwater facilities in a manner to be approved by the Township Engineer.

10. The Applicant shall perform a sewage capacity certification study of the Township's sanitary sewer system and shall furthermore perform a stormwater infiltration and inflow (I & I) study on the upstream sewer line tributary to Midland Avenue. In the event of excessive I & I, the Applicant shall undertake remedial repairs to mitigate the I & I at the direction of the Township.

11. The Applicant shall perform a pedestrian connectivity study during the land development process and shall study traffic circulation and parking congestion during the late afternoon and evening hours and shall identify potential improvements.

12. Applicant shall install a green roof for the project in order to mitigate stormwater runoff from the roof. Rooftop occupancy for any residential or recreational purpose shall be prohibited unless approved by the Board of Commissioners during land development.

13. The proposed mixed-use building shall be LEED certified in accordance with the Neighborhood Development criteria of the U.S. Green Building Council unless modified by the Township during land development.

14. Prior to land development approval, the Applicant shall secure in the name of the Township and for the Township's benefit a lease for the AT&T parking lot along West Avenue for public parking use in a form substantially the same as the Township's existing lease for the existing Bellevue Avenue parking lot.

15. The Applicant shall install a sprinkler system for all underground parking areas in a manner to be approved by the Township's Fire Marshal.

16. The Applicant shall secure an emergency access easement through the adjacent AT&T property between the subject property and West Avenue.

17. In the event the Applicant or successor in title does not receive land development approval within three (3) years from the date of this decision for the project, this approval shall be void, and the Applicant or successor must seek reapproval from the Board of Commissioners.

RADNOR TOWNSHIP BOARD OF COMMISSIONERS

Maggy Myers

Maggy Myers, President

Date of Mailing:

February 29, 2024