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October 26, 2021

IN RE: APPLICATION OF COEN MARKETS, INC., FOR PRELIMINARY AND FINAL LAND DEVELOPMENT APPROVAL FOR A SERVICE STATION, CONVENIENCE STORE, AND HIGH-TURNOVER SIT-DOWN RESTAURANT DEVELOPMENT, AT 500 MARKET PLACE DRIVE (PARCEL NO. 799-G-3)

FINDINGS OF FACT, CONCLUSIONS, AND DECISION
OF THE BOARD OF SUPERVISORS OF NORTH FAYETTE TOWNSHIP

Applicant/Property Owner:

APPLICANT
Coen Markets, Inc.
1000 Philadelphia Street
Canonsburg, PA 15317

PROPERTY OWNER
Dianne H. King (Trustee)
1180 Long Run Road
McKeesport, PA 15131

Summary of Application:

Application of Coen Markets, Inc. for Preliminary and Final Land Development approval pursuant to the Township Subdivision and Land Development Ordinance, Chapter 22 of the Township Code of Ordinances, as amended, for a Service Station, Convenience Store, High-turnover Sit-Down Restaurant establishment, at 500 Market Place Drive, Oakdale, PA 15071 (a/k/a Tax Parcel ID No. 799-G-3).

Procedural History:

The Application relates to and follow upon Special Exception approval granted by the Township's Zoning Hearing Board, with related variances, to operate a Service Station on the subject property.

The instant Application was filed on or about February 4, 2021, and, after tabling, was first reviewed by the Planning Commission on June 3, 2021. The Application received conditional

Planning Commission recommendation thereafter, and it was subsequently tabled when the Applicant granted the Township an extension through October 29, 2021, in which render a Decision herein.

On October 26, 2021, the Board of Supervisors considered the application and took official action, as reflected hereinafter.

FINDINGS OF FACT

1. Applicant is Coen Markets, Inc., and is represented by Alyssa Golfiera, Esquire. The property owner is Keeley King Goldsmith individually and as Successor Trustee under the Irrevocable Trust Agreement dated December 1, 1981 for the benefit of Keeley Dianne King (“Property Owner” or “Trustee”).
2. The subject property (Allegheny County Tax. Parcel I.D. No. 799-G-3) is located at 500 Market Place Drive, Oakdale, PA 15071, in the B-1 Neighborhood Commercial Zoning District (the “Property”).
3. A 1-story detached retail building is located on the Property, which was previously used as a King’s Family Restaurant. Applicant has entered into a Lease Agreement with the Property Owner for use of the Property.
4. The Applicant proposes to renovate the existing building located on the Property for use as a Service Station, Convenience Store, High-turnover Sit-Down Restaurant establishment, including a 4,850 SF convenience store with a 400 SF high-turnover restaurant and 10 fuel dispensers.
5. After the Application for Land Development was filed, the Township adopted a new Zoning Ordinance. The instant Application is subject to the Zoning Ordinance in place at the time of the original Application date (the “Zoning Ordinance”).
6. According to the Zoning Ordinance, A Service Station is a Use by Special Exception within the B-1 Neighborhood Commercial Zoning District.
7. On April 22, 2021, the North Fayette Township Zoning Hearing Board approved Applicant’s Application requesting a Special Exception for a Service Station use pursuant to Table 27-1, and Sections 27-802(1) and 27-803(1)(H) of the Zoning Ordinance. The Special Exception Decision is incorporated by reference herein.

8. On May 25, 2021, the Township Board of Supervisors approved the Application for Conditional Use for a Pole Sign under §27-702 and §27-703.OO of the Township of North Fayette’s Zoning Ordinance, Chapter 27 of the Township’s Code of Ordinances, Ordinance No. 418, as amended, to replace the existing pole sign located to the east of the entrance drive at the Property with a new pole sign to be located at a different location on the Property. The Conditional Use Decision is incorporated by reference herein.
9. At its public meeting on October 26, 2021, the Township Board of Supervisors, with the Township Planning Commission and Staff’s recommendations, did consider this Application consistent with the Township Code of Ordinances and evidence presented.

CONCLUSIONS

A. The Pennsylvania Municipalities Planning Code provides local government entities with the authority to regulate subdivision and land development through a subdivision and land development ordinance. 53 P.S. § 10501.

B. The Township’s Subdivision and Land Development Ordinance (the “SALDO”) can be found in Chapter 22 of the Township Code of Ordinances. Chapter 22, Part 3, contains the requirements for preliminary and final land development applications.

C. Section 22-312 of the Township’s SALDO sets forth at length the requirements for the traffic impact study, which is required for certain developments.

D. Accordingly, Applicant was required to and did perform a traffic impact study in connection with the proposed development based on the criteria set forth in §22-312 of the Township’s SALDO.

E. The Applicant retained David E. Wooster and Associates, Inc., to perform the traffic impact study. The initial study was completed on January 27, 2021 (revised May 13, 2021, and July 29, 2021).

F. The Township retained Herbert, Rowland & Grubic, Inc., to provide traffic engineer services in connection with the proposed development and companion traffic impact study performed by the Applicant.

G. The revised traffic impact study performed by David E. Wooster and Associates, Inc., revealed that the proposed Development is expected to generate 201 AM trips, 240 PM trips, and 2,858 weekday trips, and the revised traffic impact study further concluded that signalization of the intersection at State Route 0978/State Route 30 and Steuben Street would be required to mitigate the impact of the proposed development.

H. Applicant's Engineers have submitted proposed traffic signal plans and design elements for the proposed mitigation to PennDOT for its review, comment, and approval. Although PennDOT has issued certain comments on the proposed signalization plan, its review process continues and its outcome remains uncertain;

I. In the meantime, and in order to facilitate the Plan's development without further delays while PennDOT's review continues, Applicant has agreed to make, and the Township has agreed to accept in lieu of requiring said improvements as a condition of this approval pursuant to §22-312(4) of the SALDO, a payment from Applicant of \$300,000.00, as a conditional reimbursement for the estimated costs associated with the proposed traffic signalization improvements in connection with the proposed land development, including but not limited to the installation of the traffic signal at State Route 0978/State Route 30 and Steuben Street, under the terms and conditions as set forth hereinafter in this Decision.

DECISION:

IN RE: APPLICATION OF COEN MARKETS, INC., FOR PRELIMINARY AND FINAL LAND DEVELOPMENT APPROVAL FOR A SERVICE STATION, CONVENIENCE STORE, AND HIGH-TURNOVER SIT-DOWN RESTAURANT DEVELOPMENT, AT 500 MARKET PLACE DRIVE (PARCEL NO. 799-G-3)

Based on the foregoing Findings and Conclusions, and pursuant to the Township Subdivision and Land Development Ordinance, Chapter 22 of the Township Code of Ordinances, as amended, the Board of Supervisors does hereby **Approve** the Application of Coen Markets, Inc., for Preliminary and Final Land Development Approval for a Service Station, Convenience Store, High-turnover Sit-Down Restaurant establishment, at 500 Market Place Drive, (Tax Parcel I.D. No. 799-G-3), Subject to the following:

A. Applicant's use and development of the subject property shall comply with all applicable Federal, State, County and Township laws, statutes, ordinances, resolutions and regulations.

B. Applicant shall comply with all conditions of approval of this Decision, the Special Exception Decision issued by the Zoning Hearing Board and dated April 22, 2021, and the Conditional Use Decision issued by the Township Board of Supervisors dated May 25, 2021, and shall submit such revised plans and otherwise address all comments of the Township Engineers and Staff issued through and including the date of this Decision.

C. Applicant shall execute a developer's agreement and post security to guarantee completion of all required site plan improvements required under this Approval of the companion Land Development Plan, both in such form and with security in such amount as determined to the satisfaction of the Township Solicitor and Township Engineer.

D. Applicant shall execute a Stormwater Maintenance Agreement regarding the detention facility/facilities and any other private drainage improvements located in or otherwise serving any finally approved land development, providing for the perpetual maintenance thereof by the Applicant, Owner(s) and their successors, in a form acceptable to the Township Solicitor, shall be executed and recorded by Developer. Proof of recording thereof shall be provided to the Township, and the associated contribution to the Township's Stormwater Facilities Maintenance Fund shall be satisfied in accordance with the Township Ordinances and the Stormwater Maintenance Agreement.

E. Coen Markets, Inc. will contribute to the Township Three Hundred Thousand (\$300,000.00) Dollars, in cash, to be utilized by the Township to cover and/or offset the cost of traffic improvements that are required at the intersection of West Steuben Street and Shipland Road/SR 30 (the "Intersection"). Traffic improvements may include, but are not limited to, the installation of a traffic signal at the Intersection. The aforementioned contribution, in its entirety, shall be remitted to the Township prior to the Township's issuance of a building permit for Coen's proposed development, and said moneys shall be placed in an escrow account, held by the Township, for the specific purpose of the Intersection improvements. The Township will facilitate the installation of the Intersection's traffic improvements, and the Township shall take the lead as the applicant with PennDOT for the traffic improvements. Coen will direct Wooster to supply the Township's engineers with the various traffic impact data associated with Coen's position with PennDOT and the proposed traffic mitigation/signal. Specifically, Applicant shall provide to the Township all information in the possession of David E. Wooster and Associates, Inc., related to the Traffic Impact Study completed on January 27, 2021 (revised May 13, 2021, and July 29, 2021). This information shall be provided in electronic format, and will be utilized by the Township, its Staff, and Engineers, to facilitate the installation of required traffic improvements. Coen's contribution shall be released from escrow and returned to Coen if said traffic improvements are not approved by PennDOT within two (2) years of the Township's issuance of a building permit for Coen's proposed development, *provided, however*, that if the Township and PennDOT are working in good faith toward the approval of the Intersection's traffic improvements, Coen shall consent (which consent shall not be unreasonably withheld) to an extension of this deadline up to three (3) times, each for a (1) year term, upon written request by the Township.

H. Truth in Advertising Ordinance-Ord. 479 (enacted April 27, 2021): Applicant shall all times shall comply with Township Ordinance No. 479 with regard to identification of "the Township of North Fayette" in relation to developmental signage and in advertising and promotional materials.

I. Applicant shall reimburse the Township for all Engineer, Solicitor or other professional consultant fees, review and inspection fees, and all other expenses incurred by the Township in relation to this Application and approval, and for any inspection/construction phase review/inspection fees incurred by the Township through its professional consultants.

J. Applicant may, within thirty (30) days of service of this Decision, notify the Township of their refusal to accept any or all of the above Conditions of Approval (Items “A” through “I”), in which case, the Township shall be deemed to have denied approval of this Application. In the event the Applicant does not, within said period, notify the Township of his refusal to accept any/all Conditions of Approval, this Decision, and Approval, with the Conditions, shall stand as granted. _____

AND, NOW, to wit, on this 26th day of October, 2021, the within DECISION is hereby Rendered by the North Fayette Township Board of Supervisors, upon a motion duly made, seconded, and Adopted at a public meeting, as follows:

James Morosetti, Chairman

Date

Bob Doddato, Vice Chairman

Date

Mark O'Donnell, Member

Date

Attest:

Andrew Hartwell, AICP
Assistant Township Manager

Date