

**BEFORE THE
BOARD OF SUPERVISORS OF
WEST GOSHEN TOWNSHIP**

**IN RE: APPLICATION OF COMMERCE PURSUIT :
CAPITAL, LP FOR A CONDITIONAL USE FOR
A LIFESTYLE APARTMENT AT PROPERTY :
LOCATED AT 956 S. MATLACK STREET, :
WEST CHESTER, PA 19382 :**

DECISION

I. FINDINGS OF FACT

1. The Applicant is Commerce Pursuit Capital, LP (the "Applicant"), with a business address at 300 Virginia Drive, Suite 215, Fort Washington, PA 19034.

2. The Applicant is the equitable owner of the real property located at 956 S. Matlack Street, West Chester, PA 19382, consisting of approximately 4 acres, further identified as Chester County Tax Map 52-7, Parcel 25.2 (the "Property"), pursuant to an agreement of sale with the current owner, Cory Mattia. Exhibit A-1.

3. The Property is located in the I-2-R – Light Industrial – Restricted zoning district in West Goshen Township in which "Lifestyle Apartments" are permitted by conditional use.

4. A conditional use hearing was advertised twice in the Daily Local News; once on July 3, 2018 and once on July 10, 2018, for a July 17, 2018 hearing. Exhibit B-2.

5. Notice of the July 17, 2018 conditional use hearing was posted conspicuously on the Property on July 5, 2018 and notice of the conditional use hearing was mailed to all owners of property located within 1,000 feet of the Property. Exhibit B-3.

6. The Applicant proposes to construct a +/- 62,000 square-foot, 4-story Lifestyle Apartment Building containing 205 residential units, with a contemplated mixture of 44 studio apartments, 143 one-bedroom and one-bedroom with den apartments, and 18 two-bedroom apartments, that will be served by public water and public sewer and contain stormwater conveyance and management facilities. Exhibits A-2, A-6, A-7, and A-8.

7. The Applicant proposes 111 surface parking spaces and 160 below-structure parking spaces for a total of 271 parking spaces, plus 8 handicapped parking spaces. Exhibit A-4.

8. The Applicant proposes the following amenities that will be incorporated into the Lifestyle Apartment: An outdoor swimming pool, a BYOB bar and recreation area, a gym, a yoga studio, a dog-washing station, and a dog run. Exhibit A-2.

9. No balconies are proposed for the apartment units.

10. The proposed Lifestyle Apartment is located 0.12 miles from Pa. Route 202, a major arterial road in West Goshen Township. Exhibit A-2.

11. All area and bulk regulations set forth in the West Goshen Zoning Ordinance applicable to Lifestyle Apartments are met by the proposed plan. Exhibit A-2

12. The Applicant proposes the following traffic improvements:

a. Replace existing traffic signals on S. Matlack Street at its intersection with Rte. 202 with new phased left turn signals onto Rte. 202 from both directions;

b. Widen Matlack Street on the east side to create a greater capacity for turning lanes and better traffic flow for left turns onto Rte. 202 from S. Matlack Street, to allow 46% more cars (19 cars versus 13 cars) to stack in the left turn lane; and

c. Add a 4-car stacking left turn lane from S. Matlack Street westbound onto Willowbrook Lane and add a center turn lane on S. Matlack Street in front of the proposed Lifestyle Apartment for access to the proposed use. Exhibit A-2.

13. The Applicant's civil engineer, Steve Sauselein, P.E. of Edward B. Walsh & Associates, Inc., prepared a conditional use plan for the proposed Lifestyle Apartment use dated June 25, 2018, last revised July 9, 2018, consisting of 3 sheets (the "Plan"). Exhibit A-4a thru A-4c.

14. Sauselien testified that the proposed Lifestyle Apartment will be developed in accordance with the Plan.

15. Sauselein prepared a Conditional Use Stormwater Management Report for the Property dated June 25, 2018 and testified that the Applicant will install all of the recommended stormwater conveyance and management facilities shown to be required by the Report. Exhibit A-5.

16. The Applicant has obtained "will serve" letters from both Aqua America (dated July 3, 2018) for public water service, and West Goshen Township (dated July 11, 2018) for public sewer service. Exhibits A-7 and A-8.

17. The Applicant's traffic engineer, Robert G. Richardson, P.E. of Traffic Planning & Design, Inc., prepared a Transportation Impact Study for the proposed Lifestyle Apartment use dated July 17, 2018. Exhibit A-11.

18. Richardson testified that the traffic improvements proposed by the Applicant, as set forth in Finding of Fact No. 12, above, are warranted and will improve the flow of traffic at the applicable intersections.

19. The Board of Supervisors of West Goshen Township voted 5-0 to grant the Applicant's application for a conditional use conditioned on the Applicant obtaining land development approval from West Goshen Township.

II. CONCLUSIONS OF LAW

1. The Applicant has standing to file the conditional use application as the equitable owner of the Property.
2. The conditional use hearing was advertised, the Property was posted, and the conditional use hearing was held in compliance with the requirements of the Pennsylvania Municipalities Planning Code (“MPC”).
3. The Applicant met its burden of proving that Lifestyle Apartments are permitted by conditional use in the I-2-R – Light Industrial Restricted Zoning District.
4. The Applicant met its burden of proving that its proposed use meets all the specific criteria of the West Goshen Zoning Ordinance applicable to Lifestyle Apartments.
5. The Board of Supervisors of West Goshen Township did not abuse its discretion or commit an error of law by granting the Applicant’s conditional use application.

III. DISCUSSION

In a conditional use case, the applicant has the burden of proving that (1) the proposed use is permitted by conditional use in the zoning district in which the property is located and (2) it meets all the specific, objective criteria contained in the zoning ordinance applicable to that use. Once those criteria have been met by the applicant, the burden shifts to any objectors to show that the proposed use will have an adverse impact on the health, safety, or general welfare of the public, beyond the impact that a typical use of the type proposed would have. If any objectors meet this burden, the burden shifts back to the applicant to show that the proposed use will not have an adverse impact beyond that which a typical use of the type proposed would have.

Here, the Applicant has met its burden of proving both that a Lifestyle Apartment use is permitted by conditional use in the I-2-R Zoning District, and that the proposed use meets the specific, objective criteria of the Zoning Ordinance applicable to the proposed use. Through the testimony of its witnesses, the Applicant showed that the proposed Lifestyle Apartment use would not adversely impact the public health, safety, and welfare beyond that which a typical Lifestyle Apartment would. There were no objectors to the Application.

The Board of Supervisors neither abused its discretion nor committed an error of law in granting the Applicant's application for a conditional use conditioned on the Applicant obtaining land development approval from the Board of Supervisors of West Goshen Township.

IV. ORDER

AND NOW, this 21st day of August, 2018, the application of Commerce Pursuit Capital, LP for a conditional use to allow a Lifestyle Apartment use on the Property is hereby **GRANTED** conditioned on the Applicant obtaining final, unappealable land development approval for the project based on plans filed in accordance with the evidence and testimony presented in this Conditional Use Hearing.

ATTEST:

**BOARD OF SUPERVISORS OF
WEST GOSHEN TOWNSHIP**

Casey LaLonde, Secretary

Christopher Pielli, Esq., Chair

Robin Stuntebeck, Vice-Chair

Mary R. LaSota, Esq., Member

Edward G. Meakim, Jr., Member

Hugh Purnell, Jr., Member

This Decision was mailed to the Applicant
on the _____ day of
_____, 2018.