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SMITHFIELD TOWNSHIP  
MONROE COUNTY, PA

ANDREW HOURIGAN, JR.  
1948-1978

ALSO MEMBER NY BAR  
ALSO MEMBER NJ BAR

ARTHUR L. PICCONE  
1968-2019

Ext. 1175

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August 15, 2022

## **VIA OVERNIGHT DELIVERY**

Mr. Ken Wolfe, Zoning Officer  
Smithfield Township  
1155 Red Fox Road  
East Stroudsburg, PA 18301

RE: Conditional Use Application of Black Buffalo Land Acquisition, LLC  
Property located at 124, 136 & 140 Airstrip Road, East Stroudsburg, Pennsylvania  
Our File No.: F0287-001

Dear Mr. Wolfe:

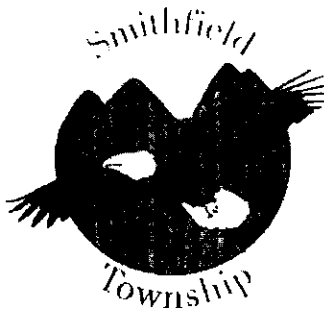
As you may recall, I represent Black Buffalo Land Acquisition, LLC with respect to the above referenced matter. In that regard, I am enclosing herewith for filing ten (10) copies of the following documents:

- 1) Application for a Public Hearing;
- 2) Pre-Hearing Statement;
- 3) Notice of Appearance and Demand for Service; and
- 4) Plans.

I have also enclosed herewith a check in the amount of \$1,500.00 representing the necessary fees for the filing of the conditional use application.

As you can see from the enclosed, Black Buffalo Land Acquisition, LLC is proposing to construct a new warehouse and manufacturing facility on located at 124, 136 & 140 Airstrip Road, East Stroudsburg, Pennsylvania. The proposed facility will include a 131,250 sq. ft. warehouse and manufacturing facility. Specifically, the building will consist of: (i) Finished Product Warehouse; (ii) Factory; (iii) Office; (iv) Material Warehouse; and (v) assembly, production and warehousing of 3D printing products.

Based upon the provisions of the Smithfield Township Floodplain Ordinance, this application will require conditional use approval from the Smithfield Township Board of Supervisors. Specifically, it will be necessary for Black Buffalo Land Acquisition, LLC to obtain conditional use approval pursuant to Sections 103.2.A and 104.2 of the Township Floodplain Ordinance to construct and maintain a discharge pipe and scour hole within Zone AE of the FEMA 100 year floodplain. Notably, the floodplain specifically impacts 190 and 194 Airstrip Road.



1155 Ref Fox Road | East Stroudsburg | Pennsylvania 18301  
Ph: 570-223-5082 | Fax: 570-223-5086  
Email: ken@smithfieldtownship.com | www.smithfieldtownship.com

**Application for Public Hearing**

Application is hereby made for action at a public hearing in conformity with requirements of the Smithfield Township Zoning Ordinance (#38) and any and all amendments thereto.

**Action Requested:**

Variance     Special Exception     Interpretation     Challenge  
 Change in Zoning District     Curative Amendment     Conditional Use  
 Appeal of Zoning Officer's Decision    Other: \_\_\_\_\_

**Name of Applicant:** Black Buffalo Land Acquisition, LLC **Phone:** \_\_\_\_\_

**Address:** 124 Airstrip Road, East Stroudsburg, PA 18301

**Interest of Applicant:** Owner

**Location of Property:** 124/136/140 Airstrip Road, East Stroudsburg, PA 18301


**Zoning District of Property:** M-1 **Tax ID:** \*see below\* **Existing Use:** Airport/Undeveloped

**Details of Action Sought:** See attached Addendum

**Reasons for Action Sought:** See attached Pre-Hearing Statement

The applicant does hereby agree that all the material submitted with this application shall be made part of the records of Smithfield Township and shall not be returned to said applicant, and also certifies and states that to the best of their knowledge and belief, all data, statements and information submitted on or with this application are true and correct.

\_\_\_\_\_  
Signature of Applicant                      Date

                      09/09/22  
\_\_\_\_\_  
Signature of Applicant                      Date

\*16.7.1.8-1 (16731200379122)  
\*16.7.1.6 (16731200572601)

**Certification of Ownership and Acknowledgment of Application**

Commonwealth of Pennsylvania

County of Monroe

On this, the 9th day of August 2022 before me, the undersigned officer, personally appeared Michael Woods, who being duly sworn according to law deposes and says he (is)(are) the owner(s) of the property described in this application and that said application was made with his full knowledge and/or direction and does hereby agree with said application and to the submission of the same as provided by law.

[Signature]  
Property Owner

Heidi H. Cha  
Notary Public, State of New York  
Reg. No. 02CH6407031  
Qualified in Suffolk County  
Commission Expires May 4, 2024

My Commission Expires May 4, 2024

[Signature]  
Notary Public or Officer

**For Township Use Only**

Date Application Received: \_\_\_\_\_ Fee Received \$ \_\_\_\_\_ Check # \_\_\_\_\_  
Applicant Notification Date: \_\_\_\_\_ Publication Dates: \_\_\_\_\_ & \_\_\_\_\_  
Hearing Date: \_\_\_\_\_ Review by Twp. Planning Commission: \_\_\_\_\_

Signed: \_\_\_\_\_  
Township Zoning Officer Date

**ADDENDUM TO APPLICATION FOR A PUBLIC HEARING**  
**Application of Black Buffalo Land Acquisition, LLC**  
**124, 136 & 140 Airstrip Road, East Stroudsburg, PA 18301**

Details of Action Sought:

1. Conditional Use Approval pursuant to Sections 103.2.A and 104.2 of the Smithfield Township Floodplain Ordinance to construct and maintain a discharge pipe and scour hole within Zone AE of the FEMA 100 year floodplain.

**HOURIGAN, KLUGER & QUINN**  
A PROFESSIONAL CORPORATION

BY: RICHARD M. WILLIAMS, ESQ.  
IDENTIFICATION NO. 72945

ATTORNEY FOR APPLICANT

LAW OFFICES  
600 THIRD AVENUE  
KINGSTON, PA 18704  
(570) 287-3000 (telephone)  
(570) 287-8005(facsimile)

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IN RE: :  
: Smithfield Township  
APPLICATION OF BLACK BUFFALO : Board of Supervisors  
LAND ACQUISITION, LLC :  
:  
: No.:

**NOTICE OF APPEARANCE AND DEMAND FOR  
SERVICE ON BEHALF OF BLACK BUFFALO LAND ACQUISITION, LLC**

PLEASE TAKE NOTICE that the undersigned, Richard M. Williams, of the law firm of Hourigan, Kluger & Quinn, P.C., as attorney for the applicant, and pursuant to Sections 10908(1) and 10913.2 of the Pennsylvania Municipalities Planning Code, 53 P.S. §§ 10908(1), 10913.2, demands that all notices that are required to be given in this case be also given to and served upon the undersigned, at the office address and telephone number set forth below:

Richard M. Williams, Esquire  
Hourigan, Kluger & Quinn, P.C.  
600 Third Avenue  
Kingston, PA 18704-5815  
Telephone: (570) 287-3000  
Facsimile: (570) 287-8005

HOURIGAN, KLUGER & QUINN, P.C.

By:   
RICHARD M. WILLIAMS, ESQUIRE

Dated: August 12, 2022

**HOURIGAN, KLUGER & QUINN**  
A PROFESSIONAL CORPORATION

BY: RICHARD M. WILLIAMS, ESQ.

ATTORNEY FOR APPLICANT

IDENTIFICATION NO.: 72945

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600 THIRD AVENUE  
KINGSTON, PA 18704  
(570) 287-3000  
(570) 287-8005(facsimile)

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IN RE:

APPLICATION OF BLACK BUFFALO  
LAND ACQUISITION, LLC

:  
:  
: Smithfield Township  
: Board of Supervisors  
:  
:  
:  
: No.:

**PRE-HEARING STATEMENT OF BLACK BUFFALO LAND  
ACQUISITION, LLC**

This application (the "Application") is submitted pursuant to the provisions of the Smithfield Township Floodplain Ordinance (the "Ordinance"). The Applicant, Black Buffalo Land Acquisition, LLC (the "Applicant") seeks Conditional Use Approval pursuant to Sections 103.2.A and 104.2 of the Ordinance to construct and maintain a discharge pipe and scour hole within Zone AE of the FEMA 100 year floodplain.

**I. PROJECT SUMMARY**

The Applicant is proposing to construct a new warehouse and manufacturing facility on property located at 124, 136 & 140 Airstrip Road, East Stroudsburg, Monroe County, Pennsylvania 18301. The property in question (the "Property") is more particularly described in the Monroe County Recorder of Deeds Office in Book 2598, at page 8299. The Property also contains Tax Parcel Identification Nos.: 16.7.1.8-1 (16731200379122) and 16.7.1.6 (16731200572601). The Property is currently owned by the Applicant.

The plans depict 45.326 and 23.117 acre parcels. Included within the 45.326 acre parcel, the Applicant proposes the construction of a 131,250 sq. ft. warehouse and manufacturing facility. Specifically, the building will consist of: (i) Finished Product Warehouse; (ii) Factory; (iii) Office; (iv) Material Warehouse; (v) Showroom; and (vi) assembly, production and warehousing of 3D printing products.

In connection with the development, the Applicant proposes to construct and maintain a drainage pipe and scour hole within Zone AE of the FEMA 100 year floodplain. The proposed improvements are depicted as stations 40 to 41 from "INF/DET BASIN 001" on the plans being filed contemporaneously herewith. The floodplain specifically impacts 190 and 194 Airstrip Road.

Notably, the Applicant is proposing to construct and maintain a drainage pipe and scour hole within Zone AE of the FEMA 100 year floodplain in response to the request by the Monroe County Conservation District that stormwater be discharged directly into the wetland North of the site.

## **II. RELIEF REQUESTED**

Section 103.2.A of the Ordinance provides that: "[i]t shall be unlawful for any person to undertake, or cause to be undertaken, any construction or development anywhere in, on, under, across or through the floodplain of the Township of Smithfield unless a conditional use permit has been obtained from the Floodplain Administrator and after hearing by the Township Board of Supervisors." Similarly, Section 104.2 provides that "[a] conditional use permit shall be required before any construction or development is undertaken in, on, under, across or through any floodplain area of the Township."

As the plans submitted in conjunction with the Application demonstrate, the Applicant is proposing to construct and maintain a drainage pipe and scour hole within Zone AE of the FEMA 100

year floodplain. Accordingly, conditional use approval in accordance with Sections 103.2.A and 104.2 of the Ordinance is requested.

### III. LEGAL STANDARDS

In Pennsylvania, a conditional use is a use "which the governing authority has determined is not adverse in and of itself to the public interest." Westinghouse Elec. Corp. v. Council of Twp. of Hampton, 686 A.2d 905, 907 (Pa. Cmwlth. 1996), citing Susquehanna Twp. Bd. of Commissioners v. Hardee's Food Systems, 59 Pa. Cmwlth. 479, 430 A.2d 367 (1981). A conditional use has been defined as nothing more than a special exception which falls within the jurisdiction of the municipal legislative body, rather than zoning hearing board. Bailey v. Upper Southampton Twp., 690 A.2d 1324, 1326 (Pa. Cmwlth. 1997). A conditional use is actually a permitted use absent proof that adverse impact on the public interest is greater than might be expected under normal circumstances. Robinson Twp. v. Westinghouse Broadcasting Co., 63 Pa. Cmwlth. 510, 440 A.2d 642, 644 (1981).

Once the applicant has demonstrated compliance with the standards set out in the zoning ordinance, a permit must be granted, unless objectors prove with competent evidence that the proposed use will have a detrimental effect on the health, safety or welfare or will conflict with the expressions of general policy contained in the ordinance. Westinghouse Elec. Corp. v. Council of Twp. of Hampton, 686 A.2d at 907 citing Foster Grading Co. v. Venango Twp. Zoning Hearing Bd., 49 Pa. Cmwlth. 1, 412 A.2d 647 (1980). Thus, the applicant for a conditional use permit has initial burden of proving compliance with the specific requirements in the zoning ordinance. After the applicant meets the initial burden, the burden is then on any objectors to show a high degree of probability that the use will adversely impact on the public interest; and a mere possibility of adverse impact is not enough. Levin v. Bd. of Supervisors of Benner Twp., Centre County, 669 A.2d 1063, 1069 (Pa. Cmwlth. 1995).



IV. CONCLUSION

At hearing, the Applicant will demonstrate compliance with all applicable standards as outlined in the Pennsylvania Municipalities Planning Code and the Ordinance for the granting of the proposed conditional use. Moreover, the Applicant believes that no evidence can be presented showing a high degree of probability that the proposed use will adversely impact upon the public interest.

In summary, the Applicant requests that the Board of Supervisors grant a conditional use permit pursuant to Sections 103.2.A and 104.2 of the Ordinance to allow the Applicant to construct and maintain a discharge pipe and scour hole within Zone AE of the FEMA 100 year floodplain on the Property.

Thank you, in advance, for your consideration in this matter.

Respectfully submitted,

HOURIGAN, KLUGER & QUINN, P.C.

BY: 

RICHARD M. WILLIAMS, ESQUIRE  
Attorney for the Applicant, Black Buffalo Land  
Acquisition, LLC

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