

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA  
CIVIL ACTION – LAW

HIGHWAY MATERIALS, INC. :  
Appellant : NO. 02-07500  
v. :  
BOARD OF SUPERVISORS OF :  
WHITEMARSH TOWNSHIP : LAND USE APPEAL  
MONTGOMERY COUNTY, PA. :  
Appellee :  
and :  
DONALD AND TRINA COHAN, AND :  
PAUL AND BARBARA HENKELS :  
Intervenors/Appellees :

**ORDER**

AND NOW, this *15<sup>th</sup>* day of *July*, 2008, following argument before the undersigned, and, upon consideration of the Appeal of Highway Materials, Inc. from the March 21, 2002 decision of the Whitemarsh Township Board of Supervisors, and a thorough review of the Briefs and the extensive record submitted by the parties, it is hereby ORDERED and DECREED that the said Appeal is GRANTED, and the decision of the Whitemarsh Township Board of Supervisors, as set forth in Township Resolution No. 2002-17, denying approval of Highway Materials, Inc.'s preliminary land development application and plans for the 'Creekside Commons' project is REVERSED, whereupon:

1. The Appellant's land development application and preliminary land development plans are REMANDED to Whitemarsh Township where, in cooperation with the applicant and in compliance with The Pennsylvania Municipalities Planning Code and the Sunshine Law, the Township's Board of Supervisors shall conduct and direct a complete, good faith review of the aforementioned application and plans, providing Highway Materials, Inc. with all the necessary information and

reasonable opportunity required to revise its preliminary development plans for the purpose of securing both preliminary and final land development approval of the 'Creekside Commons' project in accordance with the applicable requirements of the Whitemarsh Township Zoning Ordinance, the Township Subdivision and Land Development Ordinance and those other governing regulations in effect on the date of the filing of the application and plans which are the subject of this Appeal;

2. Following remand, the Township shall immediately initiate a resumption of its review of the Appellant's preliminary land development plans, taking every precaution to ensure that the process of review and decision-making is fairly conducted and compliant with the law, providing Highway Materials, Inc. with such reasonable extensions of time which may be needed to obtain the information and approvals required from the Township and outside reviewing agencies.

BY THE COURT:

  
KENT H. ALBRIGHT, J.

**Copies mailed on 7/2/08 to:**  
**Court Administration**  
**James J. Garrity, Esquire**  
**Marc D. Jonas, Esquire**  
**Ross Weiss, Esquire**  
**James B. Dolan, Jr., Esquire**  
**Marc B. Kaplan, Esquire**

