

**IN THE MATTER OF**

**BOARD OF SUPERVISORS**

**DILLSBURG LAND, LLC**

**CARROLL TOWNSHIP**

**CONDITIONAL USE APPLICATION  
FOR A TOWNHOUSE DEVELOPMENT**

**YORK COUNTY, PENNSYLVANIA**

**WRITTEN DECISION**

**EXHIBITS**

- B-1 Cover letter from Charles M. Courtney, Esq. And Application for a Conditional Use to construct a Townhouse Development
- B-2 Conditional Use Application Narrative (55 pgs.)
- B-3 Existing Map Conditions
- B-4 Zoning Exhibit Plans for Proposed Carroll Township Townhouses
- B-5 Certificate of Service of Public Notice of the August 30, 2022 Conditional Use hearing published in the Dillsburg Banner (See Ex. 1 attached to B-5) and Written Notice of same to individuals identified in Ex. 2 attached to B-5, and same Written Notice posted on the Carroll Township Website, the Carroll Township Municipal Building and to the subject property (See Ex. 3 attached to B-5)
- B-6 Minutes from the July 28, 2022 Carroll Township Planning Commission meeting
- T-1 Comments from Phillip Brath, Carroll Township Engineer concerning review of Applicant's Condition Use application for a Townhouse Development.
- A-1 Cover letter from Charles M. Courtney, Esq. And Application for a Conditional Use to construct a Townhouse Development.
- A-2 Conditional Use Application Narrative (55 pgs.)
- A-3 Existing Map Conditions
- A-4 Context Plan
- A-5 Conceptual Site Plan
- A-6 Conceptual Landscape Plan
- A-7 Lighting Plan
- A-8 Conceptual Building Floor Plan & Elevation

- A-9 Building front Planting Detail
- A-10 Landscape Buffer Detail
- A-11 Intentionally omitted
- A-12 Updated Building Floor Plan & Elevation
- A-13 Review Letter of Gibson-Thomas Engineering dated July 25, 2022
- A-14 Letter of Gibson-Thomas Engineering dated August 24, 2022
- A-15 Zoning Hearing Board Decision
- A-16 Proposed Conditions
- A-17 Open Space Calculation

**FINDINGS OF FACT**

1. Applicant, Dillsburg Land LLC is the owner of approximately 15.77 acres that consists of eleven (11) separate lots (Parcel Identification Nos. ranging from 20-000-PC-201.00-00000 to 20-000-PC-0211.00-00000) located on the northwest side of the intersection of Ore Bank Road and West Siddonsburg Road (hereinafter “property”).

2. Applicant’s property is located in the Mixed-Use 1 (“MU-1”) Zoning District of Carroll Township which is regulated by Section 450-206 of the Carroll Township Zoning Code (hereinafter “Zoning Code”).

3. Applicant requested relief in the form of a Conditional Use Approval in accordance with Section 450-705 of the Zoning Code.

4. Applicant is requesting relief from the one (1) year deadline in accordance with Section 450-705.F of the Zoning Code.

5. Applicant is requesting conditional use relief in order to construct a 94-townhouse development on the property.

6. Public Notice of the time and place of the hearing in this matter was published in the Dillsburg Banner, a newspaper of general circulation in Carroll Township, on August 4, 2022 and August 11, 2022. Notice of the time and place of the hearing was posted on the Carroll Township website, at the Carroll Township Municipal Building, and on the subject property on August 4, 2022.

7. No objections as to the method and timing of Notice and advertising were raised.

8. No objections as to any of the exhibits (B-1 through B-6, T-1, and A-1 through A-17)<sup>1</sup> were raised.

9. On August 30, 2022 at approximately 6:30 p.m., a hearing was conducted on the matter at the Carroll Township Municipal Building.

10. The Applicant has standing as the equitable owner of the property.

11. Testimony at the hearing was taken from Robert Whalen Jr., General Partner and representative for Applicant, Greg Holtzman P.E., of B.L. Companies, and Jarred Neal P.E., of Traffic Planning & Design, Inc. as well as Phillip Brath Township Engineer and Brandon Slatt, Township Manager and Zoning Officer.

12. The property is an undeveloped combination of eleven lots with nearly sixty percent (60%) of its perimeter adjoining two street rights-of-way.

13. Ore Bank Road is located to the north and east of the property and W. Siddonsburg Road is located to the south and southwest.

14. The property is in an area that has been zoned for, and developed with, a mix of homes, businesses and other nonresidential uses.

15. The property adjoins only one other lot, and said lot is developed with a nonresidential use.

16. The property does not adjoin any lot that is residentially zoned for or developed with an existing residential use.

17. The 94 townhouse dwellings will be distributed among 19 buildings; each building containing between four (4) and seven (7) dwelling units attached in a side by side configuration.

18. Each dwelling unit will be three (3) floors with a garage and basement area on the first floor, main living area on the second floor and bedrooms on the third level.

19. Each unit will have either two or three bedrooms.

20. The development/property will have two (2) access drives; Access Drive A is designed to provide access to, and through the townhouse development by connecting to Ore Bank Road and W. Siddonsburg Road, and Access Drive B is designed as a loop connecting to Access Drive A.

---

<sup>1</sup> Ex B-1 and A-1 are the same exhibit as are B-2 and A-2; B-3 and A-3, T-1 and A-14, and any reference to one includes the other same exhibits, i.e., a reference to B-1 includes A-1 as well.

21. The property will have the necessary 282 parking spaces (3 per unit) required by the Zoning Code.

22. There will be two parking spaces designed for each individual townhouse unit; one in each garage and one in each driveway.

23. The remaining 94 parking spaces will be located throughout a series of 18 smaller common parking areas containing between 3 and 15 spaces that are designed and configured to be perpendicular to either Access Drive A or Access Drive B.

24. The parking spaces in the common parking areas will be located within 300 feet of the units and are designed to be accessed by Access Drive A or Access Drive B.

25. The townhouse dwelling units will be served by public water and public sewer services.

26. Applicant witness Greg Holtzman, P.E. specifically adopted the Application Narrative, Ex. B-2, as his testimony.

### **CONCLUSIONS OF LAW**

1. The Carroll Township Board of Supervisors has jurisdiction to hear the above-captioned Application for Conditional Use pursuant to Section 450-705 of the Carroll Township Zoning Ordinance (Ordinance).

2. Proper Notice of the hearing was given to the public and to all interested parties.

3. Exhibits B-1 through B-6, T-1, and A-1 through A-17 were properly admitted into evidence.

4. Applicant met its burden in establishing the requirements of a conditional use to construct a 94-unit townhouse development with the conditions required by the Carroll Township Zoning Ordinance and this Board in accordance with the attached discussion and decision.

5. Applicant met its burden of proof in establishing just cause for an extension from one (1) year to three (3) years to secure the necessary permits and complete the authorized work for the townhouse development.

### **DISCUSSION**

Applicant Dillsburg Land, LLC applied for conditional use relief in order to construct a 94-townhouse unit development on the property located west of the intersection of Ore Bank Road and W. Siddonsburg Road, Dillsburg, Carroll Township, Pennsylvania, and in conjunction therewith, Applicant requested an extension to three (3) years to secure the necessary permits and

complete the authorized work. This property is located in the Mixed Use-1 Zoning District (MU-1) of Carroll Township.

Section 450-705A of the Carroll Township Zoning Code requires certain general filing requirements for all Conditional Use Applications as follows:

**Conditional uses.**

**A. Filing of conditional use. All applications for conditional uses shall be submitted to the Zoning Officer. All applications shall be made on the form supplied by the Township and shall contain information requested on such form. All applications shall also contain the following information:**

**(1) Name and address of the applicant and, if different, the name and address of the landowner. If the applicant is not the landowner of record, information demonstrating that the applicant has the legal right to make the application shall accompany the application.**

**(2) Existing and proposed features in accordance with Chapter 435, Subdivision and Land Development, requirements.**

**(3) Dimensions and shape of the lot to be developed, and the location and dimensions.**

**(4) The height of any proposed buildings or structures.**

**(5) Existing and proposed uses of all existing and proposed structures and land uses.**

**(6) Existing and proposed off-street parking and loading spaces.**

**(7) Scaled, legible and accurate drawings with sufficient detail to demonstrate compliance with all applicable provisions of this chapter.**

**(8) A written description of the proposed use in sufficient detail to demonstrate compliance with all applicable provisions of this chapter.**

**(9) A listing of all special exceptions and/or variances which the applicant is requesting in connection with the proposed use.**

Applicant complied with the above requirements by submitting all the necessary information with its application.

A zoning ordinance classifies uses in a given zoning district as “permitted uses as of right” or “prohibited uses.” At its discretion, the municipality may classify certain uses as permitted by special exception, or as conditional uses. 53 P.S. §10603(c)(1) [special exception], (2) [conditional use]. In classifying a use as a special exception or conditional use, the municipal governing board makes a legislative decision that the use is a permissible and legitimate use of property within a given zoning district and not adverse to the public interest *per se*. *Bailey v. Upper Southampton*

*Twp.*, 690 A.2d 1324 (Pa. Cmwlth. 1997); *Perkasie v. Moulton Builders, Inc.*, 850 A.2d 778 (Pa. Cmwlth. 2004).

A zoning ordinance classifying uses as conditional uses properly must set forth in the zoning ordinance the standards for such uses. These standards may be objective or subjective in character. An applicant for a conditional use is required to demonstrate compliance with the objective criteria of the zoning ordinance. *Bray v. Zoning Bd. of Adjustment*, 410 A.2d 909 (Pa. Cmwlth. 1980).

Objective criteria include: (1) the kind of use (i.e., the threshold definition of what is authorized as a conditional use); (2) specific requirements or standards applicable to a particular conditional use (e.g., special setbacks); and (3) specific requirements generally applicable to such a use (e.g., parking requirements). *Bray*, 410 A.2d at 911.

Once the applicant has provided such information, and the information demonstrates compliance with the objective requirements of the zoning ordinance, the applicant is entitled to approval because the use is presumed to be consistent with the public health, safety and welfare. *Perkasie v. Moulton Builders, Inc.*, 850 A.2d 778 (Pa. Cmwlth. 2004); *Bailey v. Upper Southampton Twp.*, 690 A.2d 1324 (Pa. Cmwlth. 1997).

The governing body may disapprove the application only if parties that object to the proposal demonstrate with sufficiently particularized evidence, (speculative or generalized evidence is not sufficient to deny an application) (i) that it does not meet the objective criteria of the zoning ordinance or (ii) that there is a high degree of probability that the use would have effects greater than those normally generated by that type of use and those effects will pose a substantial threat to the health and safety of the community. See, e.g. *Marquise Inv., Inc. v. City of Pittsburgh*, 11 A.3d 607 (Pa. Cmwlth. 2010); *Brickstone*, 789 A.2d at 333, 341-342.

A development, including multiple townhouses on a single lot is authorized in the MU-1 Zone as a conditional use pursuant to Section 450.206B of the Zoning Ordinance via Section 450-212 Table of Land Uses by Districts. The following section of the Zoning Ordinance identifies the requirements for the proposed use. Applicant has submitted sufficient evidence to satisfy its burden of proving compliance with the below requirements which is provided after each section of the Ordinance.

**§ 450-350. Multiple-family dwellings or multiple townhouses (single-family attached dwellings) on a single lot.**

**A multiple-family dwelling or multiple townhouses (single-family attached dwellings) on a single lot are permitted as provided in Article 2 herein and subject to the following criteria:**

**A. Minimum lot area: two acres.**

Applicant submitted a site plan into evidence that depicted the area of the subject property as 15.77 acres which is sufficient to satisfy this requirement.

**B. All units must be connected to public sewer and public water systems.**

Applicant submitted sufficient evidence to satisfy this requirement in that all dwelling units will be connected to Dillsburg Area Authority's public sewer system and public water system.

**C. Minimum required setbacks. All structures and dumpsters shall be set back at least 50 feet from every property line. Off-street parking and loading shall be set back at least 25 feet from every property line. Interior building setbacks shall be as follows:**

Applicant submitted a site plan into evidence that depicted that all buildings will be setback distances of at least 50 feet from every property line. Additionally, all off-street parking areas are designed to be set back distances at least 25 feet from every property line.

**(1) Front to front, rear to rear, or front to rear, approximately parallel buildings shall have at least 0.6 times the average length of the buildings between faces of the building or 70 feet whichever is greater. If the front or rear faces are obliquely aligned, the above distance may be decreased by as much as 10 feet at one end if increased by similar or greater distance at the other end;**

Applicant submitted a Site Plan into evidence that showed the total width of the building containing the greatest number of attached dwellings as approximately 140 feet (i.e., 7 attached dwellings each with widths of appx. 20'). The front walls of all buildings are designed to be set back distances at least 84 feet (120' x 0.6) from the parallel front walls of all other buildings. No buildings are designed to have front walls parallel to rear walls or rear walls parallel to other rear walls. (See Ex. B-4)

**(2) Buildings shall front a road, parking area, courtyard, or other building front, not the side or rear of another building, unless said buildings are separated by a minimum of 100 feet;**

Applicant submitted a Site Plan into evidence that depicts the fronts of all buildings to be along parking areas. Further, the fronts of all buildings are designed to be separated by distances at least 100 feet. No building is designed with its front onto the side or rear of any other building. (See Ex. B-4)

**(3) A minimum yard space of 30 feet is required between end walls and 80 feet from rear face to rear face of buildings, and 60 feet from rear to side.**

Applicant submitted a Site Plan into evidence that shows the end walls of all buildings containing attached dwellings to be set back distances at least 30 feet from the end walls of all other buildings. Also, the rear walls of all buildings containing attached dwellings are set back distances at least 60 feet from the side walls of all other buildings. (See Ex. B-4)

**D. Buildings shall be setback a minimum of 25 feet from any parking lot, aisle, or access drive.**

Applicant submitted a Site Plan into evidence that shows all buildings set back distances at 25 feet from all parking lots and access drives in compliance with this requirement. (See Ex. B-4)

**E. All buildings must be set back a minimum of 100 feet from any single-family residential use, and there shall be a thirty-foot landscape buffer along the perimeter where a contiguous single-family residential use exists, constructed and maintained in accordance with this chapter and Chapter 435, Subdivision and Land Development.**

Applicant submitted a Site Plan into evidence that depicted all buildings set back distances at least 100 feet from any single-family residential use on an adjacent lot in compliance with this requirement. (See Ex. B-4)

**F. Buildings shall be designed so as to avoid unvaried patterns of construction or repetitive spaces between the buildings. Variations in the setback or alignment of buildings erected on the same frontage or attached to other buildings shall be deemed desirable, parallel arrangements of buildings should be avoided and desirable variations in such things as the facade, width, color, exterior materials, construction and rooflines of apartment buildings or townhouses shall be deemed desirable.**

Applicant submitted a Site Plan into evidence that depicted all buildings and attached dwellings designed to incorporate varied widths (4 units to 7 units), setbacks (appx. 2' from attached units), alignments and spacing (appx. 30' to 78'). In addition the buildings and attached dwellings are designed to include a variety of other architectural treatments, including colors, materials or rooflines. (See Ex. B-4)

**G. The area to the front of the building shall be landscaped with a mixture of shrubs and hedges with a minimum of four such elements provided for each ground floor unit. Two shade trees per first floor unit shall be planted along the perimeter of the building.**

Applicant submitted Landscape Plans into evidence that showed the areas in front of the buildings landscaped with a mixture of shrubs and hedges with at least four of such elements provided for each dwelling unit, except for permitted driveways, sidewalks and other permitted features. Additionally, two shade trees per unit are proposed to be planted along the perimeter of each building. (See Ex. A-6 and A-10 and testimony from G. Holtzman, P.E.)

**H. Not applicable.**

**I. At least 40% of the development site shall be devoted to common open space. Such required open space shall be in addition to any dedicated parklands and/or fees in lieu thereof. One-half of the open space shall be landscaped as a landscape buffer (this shall be in addition to any other required landscaping) and shall be spread throughout the development. For the purposes of this section, the yard area between ground floor units and the parking lot, and a 20 feet long by the width of the ground floor unit shall not be**



**considered open space. The location, design, ownership and maintenance of such common open space shall be subject to the requirements of this chapter, and Chapter 435, Subdivision and Land Development.**

Applicant submitted sufficient evidence to establish that approximately 40.13% of the 15.77-acre Property is proposed as common open space. At least one-half (1/2) of the required common open space is designed and proposed to be landscaped as part of the required landscape buffer. The required common open space is designed so as to be spread throughout the Development. (See A-5 and Testimony from G. Holtzman, P.E.)

**J. Townhouse requirements shall include:**

**(1) At least 30% townhouses shall be at the end of their grouping. No more than 40% of the total number of townhouse groupings shall contain more than six units, and in no case shall any building contain more than 10 units.**

**(2) No grouping shall exceed an overall length of 200 feet.**

**(3) Forty percent of the townhouse fronts shall be staggered from the remaining fronts within a building a minimum of two feet.**

**(4) Each townhouse shall have a private space created through landscaping, fencing or other architectural elements at the rear or side of the unit of at least 200 square feet in area. At least 150 square feet of said space shall be surfaced with durable hard material, such as stone, brick, concrete, or wood.**

**(5) Each townhouse shall have an attached storage area, a minimum of 40 square feet, incorporated into the design of the unit, and accessible from the exterior of the unit.**

Applicant submitted sufficient evidence establishing that 38 (i.e., appx. 40.43%) of the 94 townhouses are designed as end units. Only one (i.e., appx. 5.26%) of the 19 buildings is designed to contain more than six attached dwellings. All buildings are less than 200 feet in length and include front walls that are staggered between attached dwellings by distances of at least two feet. Each townhouse unit will include at least 200 square feet of private space at the rear of the unit, with at least 150 square feet of that space to be decking which will comply with the above requirement. Each unit will include 40 square feet of storage area in the basement accessible from the rear door of the unit. (See Ex. A-12 and testimony from R. Whalen and G. Holtzman, P.E.)

**K. Not applicable.**

**L. Sidewalks shall connect pedestrian destinations, such as building fronts, mailbox pedestals, and adjacent developments.**

Applicant submitted sufficient evidence to show sidewalks and pedestrian pathways designed to provide pedestrian connections to destinations including the building fronts, common open space, parking areas, and adjacent lots or developments. (See Ex. B-4 and A-5 and Testimony from G. Holtzman, P.E.)

**M. A forty-foot landscape screen along public or private street rights-of-way is required when the townhouse rear fronts said public or private street right-of-way.**

Applicant submitted a Landscape Plan showing a 40 foot-wide landscape strip with screening along Ore Bank Road and W. Siddonsburg Road. (See Ex. A-6 and A-10)

**N. On-street (or access drive) parking, where provided, shall be designed as parallel parking spaces.**

Applicant submitted a Site Plan into evidence that depicted 94 parking spaces designed in a series of 18 smaller, common parking areas containing between 3 and 15 spaces that are configured to be perpendicular to either Access Drive A or Access Drive B. On June 27, 2022, the Carroll Township Zoning Hearing Board granted Applicant a variance from Section 450-350.N of the Zoning Ordinance to permit the 94 parking spaces to be perpendicular to Access Drive A or Access Drive B. (See Ex. B-4 and A-5)

Based on the foregoing, Applicant has met its burden of proving all the specific requirements for a multiple townhouse development use.

The Applicant must also establish compliance with all requirements of the Mixed Use 1 Zone which are as follows:

**§ 450-206. Mixed-Use 1 Zone (MU-1).**

**A. Purpose. The purpose of the Mixed-Use 1 (MU-1) Zone is intended to provide for the development of compatible residential and commercial uses in areas where such uses already exist and where the development of such uses is feasible and appropriate. Development within this Zone will require the use of public water and public sewer.**

**B. Permitted uses. See Table of Land Uses by District for Permitted, Special Exception and Conditional Uses<sup>1</sup> (subject to the requirements listed in Articles 3 and 4 of this chapter).**

The Applicant submitted an application to construct a multiple townhouse development on a single lot in the MU-1 zone. A multiple townhouse development is a conditional use in the MU-1 zone.

**C. Agricultural setback requirements. On any separate nonfarm parcel, no shrub shall be planted, and no accessory residential structures or fences shall be placed within 10 feet of any land used for agricultural purposes. Similarly, no tree shall be planted within 30 feet of any land within any agricultural zone. Nothing in this section shall be construed to relieve the applicant from meeting the landscaping requirements contained in this chapter.**

Applicant submitted Site Plan establishing that no shrub is proposed to be planted, and no accessory residential structure or fence is designed to be located within 10 feet of any land principally used for agricultural purposes. Also, no tree is proposed to be planted within 30 feet of any land within either the Agricultural-Conservation Zone ("AC Zone") or the Residential Agricultural Zone ("RA Zone", i.e., agricultural zones). (See Ex. B-4 and A-5)

**D. Maximum permitted height.**

- (1) Principal structure: 35 feet.**
- (2) Accessory buildings and structures: 25 feet.**
- (3) For height exemptions, see § 450-411.**

Applicant submitted sufficient evidence establishing that all principal buildings will not exceed 35 feet in height. There are no accessory buildings proposed by Applicant. (See Ex. A-12 and testimony from R. Whalen and G. Holtzman, P.E.)

**E. Required utilities. All uses permitted within the Mixed-Use 1 (MU-1) Zone shall be served by public water and public sewer.**

Applicant submitted sufficient evidence that all dwelling units are proposed and designed to be connected to Dillsburg Area Authority's public sewer system and public water system. (See testimony G. Holtzman, P.E.)

**F. Not applicable.**

**G. Not applicable.**

**H. Landscaping and screening. A minimum fifteen-foot-wide landscape buffer shall be provided along all property lines, including the street frontage. Such landscape buffer can be waived for that portion of the site occupied by a joint parking lot and/ or loading area shared by adjoining uses. Any portion of the site not used for buildings, structures, parking compounds, loading areas, outdoor storage areas and walkways shall be maintained with a vegetative ground cover and other ornamental plantings. A visual landscape screen must be provided along any adjoining lands within the RS-1, RS-2, RS-3, RA, and AC Zones, or where adjoining an existing residential use. Landscaping and screening requirements are set forth in Article 4 of this chapter.**

Applicant submitted Landscape Plans depicting buffer strips with widths of at least 15 feet along all property lines. All portions of the site (i.e., Development) which are not designed to be covered by buildings, structures, parking compounds, and walkways and other permitted elements are designed to include, and proposed to be maintained with, vegetative ground cover and other ornamental plantings. All required landscaping and screening is designed to comply with applicable landscaping and screening requirements of Article 4 of the Zoning Ordinance. (See Ex. A-6 and A-10 and testimony from G. Holtzman, P.E.)

**I. Not applicable.**

**J. Minimum dimensional requirements.**

Table of Dimensional Requirements - Mixed-Use 1 Zone

| Building Type  | Minimum Lot Size | Maximum Permitted Density Without Dis | Minimum Lot Width       |                                | Maximum Lot Coverage Without Dis | Required Setbacks <sup>2</sup> |                          |                     |
|--|------------------|---------------------------------------|-------------------------|--------------------------------|----------------------------------|--------------------------------|--------------------------|---------------------|
|  |                  |                                       | At Building Line (feet) | At Street Right* of-Way (feet) |                                  | Front Setback (feet)           | Each Side Setback (feet) | Rear Setback (feet) |
| Single-family attached dwellings (townhouse) on a single lot | 2 acres          | 6                                     | 200                     | 150                            |                                  | 50                             | 50                       | 50                  |

NOTES:

- 1 Density calculated on total gross acreage of tract, including land intended for public, civic and open space use. Maximum and base densities apply without and with the use of development Incentives, respectively.
- 2 Subject to modification as per Article 3
- 3 Ten feet on each side, except that each accessory structure (excluding fences) Shall be set back a distance at least equal to its height from each side and rear lot line
- 4 Buildings (including residential and nonresidential buildings) along major thoroughfares must be set back at least 50 feet from the right-of-way line of such thoroughfare. Major thoroughfares shall be any arterial, major collector, or minor collector Access Drive As specified in the Northern York Regional Comprehensive Plan or other ordinances of the Township.

Applicant submitted sufficient evidence establishing that the Development is proposed to be located on the Property that is approximately 15.77 acres. The proposed density is approximately 5.96 dwelling units per acre (i.e., 94 townhouse units / 15.77 acres). The Property has widths of at least 200 feet as measured at distances 50 feet back from the Ore Bank Road right-of-way and W. Siddonsburg Road right-of-way, and has widths of at least 150 feet as measured along these rights-of-way. Approximately 29.8% of the Property is proposed to be covered by impervious surfaces. Finally, Applicant's Site Plan depicts building setbacks of 50 feet from the Property lines. (See Ex. B-4 and A-5 and testimony from G. Holtzman, P.E.)

Based upon the foregoing, Applicant has submitted sufficient documentary and testimonial evidence to satisfy its burden of proving the requirements applicable to uses in the Mixed Use-1 Zone.

The Applicant has the burden to prove compliance with applicable requirements specified in Specific Criteria of Article 3 of the Zoning Ordinance which are as follows:

**§ 450-354. Open space or common open space land use and design standards. Open space or common open space, particularly perimeter buffer yards, containing existing attractive or unique natural features, such as streams, creeks, ponds, woodlands, specimen trees and other areas of mature vegetation worthy of preservation, may be left unimproved and in a natural state. As a general principle, the preservation of undeveloped open space in its natural state or as existing farms is encouraged. A developer may make certain improvements, such as the cutting of trails for walking or jogging, and the provision of picnic areas. Protected open space land in all subdivisions shall meet the following standards:**

**A. Applicant established that none of the required common open space is designed to include any of the uses prohibited in this section.**

**B. Open space design standards.**

**(1) An open space or common open space plan shall be provided consistent with this section with each proposed development proposing open space or common open space.**

**(2) The required open space land shall consist of both primary conservation areas (PCAs), all of which must be included, and secondary conservation areas (SCAs).**

**(3) Open space lands shall remain undivided. In no case shall less than 25% of the land comprising the adjusted tract area be available for the common use and passive enjoyment of the subdivision residents.**

**(4) Buffers for adjacent public parkland. Where the proposed development adjoins public parkland, a natural open space buffer at least 150 feet deep shall be provided within the development along its common boundary with the parkland, within which no new structures shall be constructed, nor shall any clearing of trees or understory growth be permitted (except as may be necessary for trail construction). Where this buffer is unwooded, the Board of Supervisors will require vegetative screening to be planted, or that it be managed to encourage natural forest succession through "no-mow" policies and the periodic removal of invasive alien plant and tree species.**

**(5) Greens, commons and squares shall have a minimum area of 0.25 acres and a maximum area of 0.75 acres. A village green shall preferably be surrounded by roads or, at a minimum, abut a road on at least one side for a length equal to 25% of its circumference.**

**(6) A method of delineating private lots from common open space areas shall be § 450-354 § 450-354 :2 provided. Such method may include shrubbery, trees, markers or other methods acceptable to the municipality.**

**(7) Not more than 33% of open space shall be used for stormwater management, conforming with this section.**

Applicant submitted sufficient evidence establishing compliance with the above requirements. The common open space is designed to be located on one lot. Approximately 40.13% of the Property is designed to be made available for the common use and passive enjoyment of the residents of the Development. Approximately 0.56-acre area of common open space is designed to be located near the center of the proposed Development and bound on all sides by Access Drive A, Access Drive B or common parking spaces. Not more than 33% of the common open space is designed or intended to be used for stormwater management facilities. (See Ex. A-5 and A-17 and testimony from G. Holtzman, P.E.)

**C. Other requirements.**

**(1) No portion of any building lot may be used for meeting the minimum required open space land, except as permitted within estate lots. However, active agricultural land with farm buildings, excluding areas used for residences, may be used to meet the minimum required open space land.**

**(2) Common open space shall be substantially free of structures, but may contain such improvements as approved in the development plan that are appropriate to recreational and other open space uses of the land, and shall not include playgrounds, athletic fields or other open space areas of any schools or religious institution to be included within the proposed development.**

**(3) Not applicable.**

Applicant submitted sufficient evidence establishing compliance with the above requirements. The common open space is required, permitted and designed as part of the Development of multiple townhouses on one lot. The common open space is designed to be substantially free of other non-recreational structures; except for structures that are appropriate for recreational and other open space uses, which may be proposed and approved as part of the subsequent subdivision/land development plan process, or as otherwise permitted by the Zoning Ordinance. The common open space is designed so as to not include any playground, athletic field or other open space area of any school or religious institution.

**D. Not applicable.**

**E. Ownership and maintenance of open space land and common facilities.**

**(1) Development restrictions.** All open space land shall be permanently restricted from future subdivision and development. Under no circumstances shall any development be permitted in the open space at any time, except for those uses listed in § 450-354A.

**(2) Ownership options.** The following methods may be used, either individually or in combination, to own open space areas and associated common facilities. Common facilities shall not be transferred to another entity except for transfer § 450-354 § 450-354 :3 to another method of ownership permitted under this section, and then only when there is no change in the common facilities or in the open space ratio of the overall development. Ownership methods shall conform to the following:

**(a) Fee-simple dedication to Carroll Township.** Carroll Township may, but shall not be required to, accept any portion of the common facilities, provided that:

**[1] There is no cost of acquisition to Carroll Township; and**

**[2] Carroll Township agrees to and has access to maintain such facilities.**

**(b) Condominium associations.** Common facilities may be controlled through the use of condominium agreements. Such agreements shall be in accordance with relevant state law. All open land and common facilities shall be held as common element. **(c) Homeowners' associations.** Common facilities may be held in common ownership by a homeowners' association, subject to all of the provisions for homeowners' associations set forth in state regulations and statutes. In addition, the following regulations shall be met:

**[1] The applicant shall provide Carroll Township a description of the organization of the proposed association, including its bylaws, and all documents governing ownership, maintenance, and use restrictions for common facilities;**

**[2] The proposed association shall be established by the owner or applicant and shall be operating (with financial subsidization by the owner or applicant, if necessary) before the sale of any dwelling units in the development;**

**[3] Membership in the association shall be automatic (mandatory) for all purchasers of dwelling units therein and their successors in title; and**

**[4] The association shall be responsible for maintenance and insurance of common facilities.**

**[a] The bylaws shall confer legal authority on the association to place a lien on the real property of any member who falls delinquent**

**in his dues. Such dues shall be paid with the accrued interest before the lien may be lifted;**

**[b] Written notice of any proposed transfer of common facilities by the association or the assumption of maintenance for common facilities must be given to all members of the association and to Carroll Township no less than 30 days prior to such event; and**

**[c] The association shall have adequate staff to administer,  
§ 450-354 § 450-354 :4**

The Applicant has submitted sufficient evidence establishing compliance with the above applicable requirements. If the Application is approved, Applicant agrees as part of the subsequent subdivision/land development plan approval process to permanently restrict the common open space areas from: (i) future subdivision and development; and (ii) any use except for those expressly permitted uses listed in Section 450-354.A of the Zoning Ordinance.

The common open space areas are proposed to be owned and maintained by a homeowners association described in Section 450-354.E(2)(c) of the Zoning Ordinance. If the Application is approved, as part of the subsequent subdivision/land development plan approval process the Applicant agrees to submit the required supporting documentation and information set forth in Section 450-354.E of the Zoning Ordinance. Also, Applicant agrees to submit a plan for the maintenance of the common open space lands and operation of common facilities in accordance with Section 450-354.E(3) of the Zoning Ordinance.

Based on the foregoing, Applicant has met its burden of proving compliance with all applicable specific criteria required by the Zoning Code.

The Applicant has the burden to prove compliance with applicable requirements specified in Article 4 of the Zoning Ordinance that apply to all land use applications filed with the Township. These criteria are as follows:

**§ 450-402. Access drive requirements.**

**A. Access drives shall conform to the Subdivision and Land Development Ordinance access drive requirements, as amended, currently § 435-41 of Chapter 435, Subdivision and Land Development. All means of access to a property shall be classified as either a street, access drive, shared driveway or driveway. Access drives shall be required to provide access from a street to a parking facility via the parking facilities aisles or to any nonresidential use except agriculture. Access drives shall be stubbed to adjoining property lines and encumbered with a cross access easement agreement in order to provide access to adjoining property and minimize the number of intersections along existing streets. Similarly, when an access drive has been stubbed to a property, the access drive shall be extended into the property for access.**

Applicant submitted sufficient evidence establishing that the Development on the Property will be connected to Ore Bank Road and W. Siddonsburg Road via a network of two



interconnected access drives (i.e., Access Drive A and Access Drive B). Both access drives are designed to connect the parking facilities and buildings to the two public streets. The access drives are designed in accordance with the applicable requirements of Section 435-41 of the Subdivision and Land Development Ordinance ("SLDO). Due to existing or proposed conditions or requirements, it is not feasible to connect to, or stub the proposed access drives to connect to, the only lot adjoining the Property. (See Ex. A-5 and testimony from G. Holtzman, P.E. and J. Neal, P.E.)

**B. Prohibited uses of access drives. Access drives are for the sole purpose of accommodating the passenger vehicles of persons associated with the use which requires them. Access drives shall not be used for the following:**

- (1) The sale, display or storage of automobiles or other merchandise.**
- (2) Performing services (including services to vehicles).**
- (3) To provide access to a driveway for a single-family detached use.**
- (4) To provide direct access to parking spaces other than parallel parking.**

Applicant submitted sufficient evidence showing that neither access drive is proposed to be used for: (i) the sale, display or storage of automobiles or other merchandise; (ii) performing services (including services to vehicles); or (iii) providing access to a driveway for a single-family detached use. (See Ex. A-5 and testimony from G. Holtzman, P.E.)

On June 27, 2022, the Carroll Township Zoning Hearing Board granted Applicant a variance from Section 450-402.B(4) of the Zoning Ordinance to permit direct access to the perpendicular parking spaces in the common parking areas from Access Drive A or Access Drive B. (See Ex. A-15)

**§ 450-403. Accessory uses and structures.**

**A. Decks.**

**(1) The deck shall not be located any closer to the street or access right-of-way than the front of the principle building (as determined by the Zoning Officer). Decks shall observe a ten-foot rear and side yard setback and not encroach within any easements.**

**(2) Concrete pads, pavers, and unattached decks constructed to sit on the ground without foundations and are flush with the surrounding grade shall be placed a minimum of three feet from a property line and not be located within any easements.**

Applicant submitted a Site Plan establishing that there will be no deck, concrete pad or paver encroachments into any required setback.

**B. Not applicable.**

**C. Lighting. Outdoor lighting shall be required for safety and personal security for uses that operate during hours of darkness where there is public assembly and/or traverse; including, but not limited to, multiple-family dwelling, commercial, industrial,**

public recreational, and institutional uses and shall comply with the following: § 450-403 § 450-403 :2

(1) Intensity of illumination shall be based on intensities and uniformity ratios in accordance with the current recommended practices of the "Illuminating Engineering Society of North America (IESNA) Lighting Handbook," latest edition.

Applicant confirmed it would comply with the above requirement.

(2) Not applicable

(3) All lighting fixtures shall be arranged to prevent objectionable glare on adjoining property or roadways and the night sky from stray light from poorly aimed, placed, applied or shielded light sources.

(a) All outdoor lighting, whether or not required by this chapter, on private, residential, commercial, industrial, municipal, recreational or institutional property, shall be aimed, located, designed, fitted and maintained so as not to present a hazard to drivers or pedestrians by impairing their ability to safely traverse (disabling glare), and so as not to create a nuisance by projecting or reflecting objectionable light onto a neighboring use or property (light trespass and nuisance glare).

(b) All lighting shall be directed downward and inward towards the site and all lenses or bulbs shall be fully recessed or shielded with no light emitted above 90°.

Applicant submitted sufficient evidence establishing that all outdoor lighting fixtures are designed to be arranged to prevent objectionable glare on adjoining property or roadways and the night sky. All outdoor lighting fixtures are designed to be aimed, located, designed, fitted and maintained so as not to present a hazard to drivers or pedestrians by impairing their ability to safely traverse (disabling glare). All outdoor lighting fixtures are designed to be aimed, located, designed, fitted and maintained so as not to create a nuisance by projecting or reflecting objectionable light onto a neighboring use or property (light trespass and nuisance glare). (See Ex. A-7 and testimony from G. Holtzman, P.E.)

(c)&(d) Not applicable.

(e) The maximum illumination off-site shall be one footcandle at grade level, except at driveways or access drives connecting to a street where the illumination shall not exceed five footcandles.

[1] The amount of illumination projected onto a residential use from another property shall not exceed 0.1 vertical footcandle measured line-of-sight from any point on the adjacent residential property. § 450-403 § 450-403 :3

Applicant submitted sufficient evidence that all outdoor lighting fixtures are designed so that illumination levels do not exceed one footcandle as measured at grade level along the Property lines. All outdoor light fixtures are designed so as not to project illumination onto an adjacent

residential lot exceeding 0.1 vertical footcandle as measured line-of-sight from any point on such adjacent residential lot. (See Ex. A-7 and testimony from G. Holtzman, P.E.)

**(f) Vegetation screens shall not be employed to serve as the primary means for controlling glare. Rather, glare control shall be achieved primarily through the use of such means as full cutoff fixtures, shields and baffles, and appropriate application of mounting height, wattage, aiming angle, fixture placement, etc.**

Applicant submitted sufficient evidence establishing that the outdoor lighting fixtures are designed so as to control glare via full cutoff fixtures, shields and baffles, or appropriate application of mounting height, wattage, aiming angle, fixture placement. (See Ex. A-7 and testimony from G. Holtzman, P.E.)

**(g) Dusk-to-dawn lighting that has a color temperature of more than 3,600 Kelvins is not permitted in residential or rural zones and permitted in industrial, commercial and mixed-use zones only as part of an overall lighting plan demonstrating compliance with IESNA standards for facility lighting.**

Applicant submitted a Lighting Plan that shows all dusk-to-dawn outdoor lighting fixture designed in compliance with all applicable IESNA standards. (See Ex. A-7)

**(4) Not applicable**

**(5) Damaged, destroyed or inoperable fixtures shall be replaced with the same, or substantially the same (as determined by the Zoning Officer), lighting fixture components in a timely manner, not to exceed 60 consecutive calendar days.**

Applicant confirmed that it would comply with the above requirement if, and when the need arises.

**(6) Lighting (including streetlights owned by private entities) shall be maintained in good working order in a manner consistent with the originally approved lighting plan.**

Applicant agreed to properly maintain the outdoor lighting fixtures in compliance with this requirement.

**(7) This requirement shall be complied with throughout the duration of this use pursuant to the Zoning Code.**

**(8) Not applicable.**

**(9) Controls shall be provided on all nonresidential lighting that shall automatically extinguish all outdoor lighting when sufficient daylight is available using a control device or system such as a photoelectric switch, astronomic time switch or equivalent functions from a programmable lighting controller, building automation system or lighting energy management system.**

**(a) Automatic lighting controls are not required for lighting under canopies, lighting for tunnels, parking garages, garage entrances, steps, walkways, building entrances and similar conditions.**

**(b) Automatic lighting reduction shall be considered in the lighting design. Total outdoor lighting lumens shall be reduced by at least 30% or extinguished, where practicable and permitted under IESNA standards, as activity levels decline.**

Applicant submitted sufficient evidence, including a lighting plan and testimony from G. Holtzman, P.E., that establishes compliance with the requirements stated above in (9).

**§ 450-405. Corner lots.**

**A. Obstruction of vision at street intersections. At all street intersections, no obstructions to vision between 30 inches and 72 inches in height above curb level shall be erected or maintained on any lot within the clear sight triangle as defined within Chapter 435, Subdivision and Land Development, or as shown on the approved subdivision or land development plan.**

Applicant submitted evidence, including a site plan and testimony from its' engineer, that showed there was no unauthorized visual obstructions within the parameters stated above. (See Ex. A-5 and testimony from J. Neal, P.E.)

**B. Setbacks on corner lots. On a corner lot, front yards are required on all street frontages and the other yards shall be deemed to be rear yards.**

Applicant submitted sufficient evidence showing that 50 foot front yards are provided along the portions of the property adjoining the rights-of-way of Ore Bank Road and W. Siddonsburg Road. Also, applicant established that a 50 foot rear yard is provided along the the other property line.

**§ 450-407. Driveway requirements.**

**A. Not applicable.**

**B. Pennsylvania Department of Transportation Highway occupancy permit is required if the driveway or access drive intersects with a state-owned road.**

Applicant agrees to comply with this requirement.

**C. Not applicable.**

**D. Driveways must be constructed to be consistent with the design, maintenance, and drainage of the intersecting street or swale. Proposed driveways must meet current design standards for maintenance, design, and drainage.**

Applicant submitted sufficient evidence through submission of a Site plan and testimony from its engineer establishing compliance with this requirement. (See Ex. A-5 and testimony from G. Holtzman, P.E.)

**E. Not applicable.**

**F. Driveways must meet PaDOT Title 67, Chapter 441, sight distance requirements.**

Applicant submitted sufficient evidence that the driveways will meet sight distance requirements. (See Ex. A-5 and testimony from J. Neal, P.E.)

**G. Driveways shall be located in safe relationship to sight distance and barriers to vision and shall not be steeper than 10% within 20 feet of the edge of the street.**

Applicant submitted sufficient evidence through its Site Plan and testimony from its engineer establishing compliance with the above requirements. (See Ex. A-5 and Testimony from J. Neal, P.E.)

**H. Not be within 10 feet of a fire hydrant, catch basin or drain inlet.**

**I. Not be within 40 feet (center line to center line) of another driveway, except when duplex or townhouse units are proposed. When multiple duplexes or townhouses are proposed on a single lot, and maintenance/reconstruction of driveways is provided for as part of a planned residential community (i.e., condominium), a driveway may be located adjacent to another driveway without separation provided the total width does not exceed 24 feet; and provided the driveways together are separated by a minimum distance of 20 feet (from edge to edge) from any other driveway. Otherwise, when multiple duplexes or townhouses are proposed on a single lot, or when a single duplex or townhouse is proposed on an individual lot, individual driveways shall be separated by a minimum of six feet (from edge to edge), and the maximum driveway width shall be 12 feet when within 10 feet of the curb. § 450-406 § 450-407 :10 § 450-408. Waste/recycling/reuse dumpsters.**

**J. Not be within three feet of a property line.**

**K. Driveways must also comply with all regulations of § 435-40 of Chapter 435, Subdivision and Land Development.**

Applicant submitted sufficient evidence, through its site plan and testimony from its engineer, establishing compliance with the above requirements stated in (H) through (K). (See Ex. A-5 and testimony from G. Holtzman, P.E.)

**§ 450-412. Landscaping requirements.**

**Landscaping of all proposed developments and of all projects for which a zoning permit is required is required and shall conform to the landscaping requirements of § 435-52 of Chapter 435, Subdivision and Land Development. Furthermore, the following requirements apply:**

**A. Not applicable.**

**B. A minimum of thirty-foot landscape buffer is required along front lot lines for all uses within the Commercial, Industrial, and Mixed-Use 1 and Mixed-Use 2 Zones.**

Applicant submitted sufficient evidence that the landscape strips will have widths exceeding 30 feet along the front property lines adjoining the rights-of-way of Ore Bank Road and W. Siddonsburg Road. (See Ex. A-6 and A-10)

**C. Parking lots (including contiguous access drives) shall be surrounded by a minimum of a fifteen-foot landscape buffer in addition to any required interior landscaping. Said landscape buffer shall be superseded by required building front landscaping and may be combined with any perimeter lot landscape buffers or screens, provided the parking lot and said landscape buffer or screen is contiguous.**

Applicant submitted a Landscape Plan establishing landscape buffer strips with widths at least 15 feet along all Property lines, including the street frontages, so as to encircle the Property and common parking facilities. (See Ex. A-6 and A-10)

**D. Not applicable.**

**E. Not applicable.**

**F. A minimum of a twenty-foot landscape buffer is required along all side and rear lot lines (unless a larger landscape buffer is required elsewhere in this chapter) within the Commercial, Industrial, Mixed-Use 1, and Mixed-Use 2 Zones.**

Applicant submitted a Landscape Plan showing landscaped buffer strips with widths at least 20 feet designed along the rear (western) Property line. (See Ex. A-6 and A-10)

**G. Not applicable.**

**H. Landscaping must be maintained in accordance with the approved landscape plan.**

Applicant agreed to properly maintain the landscaping in accordance with this requirement.

**I. Parking lots, buildings, and overhead utilities shall not encroach into landscape screens and buffers. Access drives, driveways, and aisles shall not be located longitudinally within a landscape screen or buffer; however, they may traverse landscape screens and buffers when providing access between adjoining properties, or when providing access to the property from a street. Sidewalk shall not be located longitudinally within a landscape screen or buffer.**

Applicant submitted sufficient evidence that there are no unauthorized encroachments into required landscaped buffer strips or screening. (See Ex. A-6 and A-10 and testimony G. Holtzman, P.E.)

#### **§ 450-414. Minimum habitable floor area.**

**The minimum livable floor area of a dwelling unit, or any building or structure hereafter erected or used for living purposes, shall be 700 square feet. In case of apartment**

**houses and conversion apartments, the minimum livable floor area shall be not less than 400 square feet per apartment.**

Applicant submitted sufficient evidence that the habitable floor area of each of the dwelling units is designed to be at least 700 square feet. (See Ex. A-12 and testimony from R. Whalen)

**§ 450-416. Parking requirements.**

**A. Off-street parking requirements. Off-street parking shall be required in accordance with the provisions of this section prior to the occupancy of any building or use. These facilities shall be designed and constructed in accordance with Chapter 435, Subdivision and Land Development, and provided whenever:**

- (1) A building is constructed or a new use is established;**
- (2) The use of an existing building is changed to a use requiring more parking facilities;**
- (3) An existing building or use is altered or enlarged so as to increase the amount of parking space required; and**
- (4) A nonresidential parking lot is proposed greater than 5,000 square feet in size.**

The Application proposes the Development that includes constructing 19 new buildings for 94 new townhouse units, a new use. The parking facilities are required and designed to be constructed in accordance with the applicable provisions of the Zoning Ordinance and the SLDO. (See Ex. A-5 and testimony from G. Holtzman, P.E.)

**B. Site plan approval.**

**(1) Each application for a building or zoning permit (for a use for which parking spaces are required) shall include a legible, accurate, scaled site plan showing the proposed layout of the lot. The drawing shall clearly indicate all of the design elements required by this chapter; and**

**(2) No permit shall be issued for any use for which parking spaces are required unless the site plan has been approved or necessary variances have been obtained.**

The Applicant agrees to submit the required site plan in accordance with Section 450-416.B of the Zoning Ordinance as part of the subsequent building or zoning permit approval process. Applicant submitted a site plan with its application that depicted the parking facilities designed in accordance with the applicable provisions of the Zoning Ordinance.

**C. Areas computed as parking spaces. Areas which may be computed as open or enclosed off-street parking spaces include any private garage, carport, or other area available for parking, other than a street or driveway. However, a driveway within a required front yard for a one-family or two-family residence may count as one parking space other than a corner lot as provided in this chapter.**

Applicant submitted sufficient evidence establishing that required off-street parking spaces for the townhouse units are designed to be located in individual private garages and within front yards on individual private driveways, as well as in common parking areas along the access drives. (See Ex. A-5 and testimony from G. Holtzman, P.E.)

**D. Size of spaces. Minimum parking stall width shall be 10 feet, minimum length shall be 20 feet. Handicap accessible spaces shall meet ADA requirements.**

Applicant submitted sufficient evidence that all parking spaces are designed with widths at least 10 feet and depths at least 20 feet. All handicap accessible parking spaces are designed to comply with all applicable ADA parking requirements. (See Ex. A-5 and testimony from G. Holtzman, P.E.)

**E. Schedule of required parking spaces. The following lists required numbers of parking spaces by use type. Any use involving a combination of several uses shall provide the total number of spaces required for each individual use. For uses that do not have a specific number of required off-street parking spaces referenced within the following schedule, the Zoning Officer shall use that standard which best approximates the needed number of required off-street parking spaces.**

| Parking Schedule                    |  |
|-------------------------------------|--|
| Use Description                     | Minimum of One Parking Space for Each  |
| Multiple townhouses on a single lot | 1/2 dwelling unit, plus an additional 1 off-street parking space per dwelling unit located within 300 feet of each unit. Off-street parking facilities with 12 or fewer spaces may be designed as dead-end facilities. |

Applicant submitted a site plan proposing 94 townhouse units as part of the Development. Therefore, 282 off-street parking spaces (94 DUS x 3 spaces) are required and designed to be located in individual private garages and within front yards on individual private driveways, as well as in common parking areas along the access drives within 300 feet of the units. (See Ex. A-5)

**F. Not applicable.**

**G. Access. Unobstructed access to and from a street shall be provided. Such access shall meet the requirements of § 435-41, Access drives, in Chapter 435, Subdivision and Land Development. No entrance or exit for any off-street parking area serving a commercial or industrial use shall be located within 100 feet of any street intersection, or in instances where 100 feet is not achievable due to a lot that existed prior to adoption of this chapter lacking sufficient width, the access drive shall be located as far from the right-of-**



**way as possible while maintaining a three-foot separation between the access drives and property lines.**

Applicant submitted a site plan into evidence that showed the parking spaces designed to include unobstructed access to and from the access drives. The proposed Development is not a commercial or industrial use. (See A-5)

**H. Drainage and surfacing. All open parking areas shall be properly drained and all such areas shall be paved (bituminous or concrete) in accordance with Chapter 435, Subdivision and Land Development, except for parking spaces accessory to a one family or two-family dwelling.**

Applicant submitted sufficient evidence that all common off-street parking areas are designed so as to be drained and paved in accordance with the applicable provisions of the SLDO. (See Ex. A-5 and Testimony from G. Holtzman, P.E.)

**I. Not applicable.**

**J. Not applicable.**

**K. Not applicable.**

**L. Location and ownership. Required accessory parking spaces, open or enclosed, shall be provided upon the same lot as the use to which they are accessory or elsewhere, provided all spaces therein are located within 200 feet walking distance of such lot. In all cases such parking spaces shall conform to all the regulations of the district in which the parking spaces are located; and in no event shall such parking spaces be located in any residential district unless the use to which the spaces are accessory are permitted in such residential districts or upon approval by the Zoning Officer and Planning Commission. Such spaces shall be in the same ownership as the use to which they are accessory and shall be subject to deed restriction, approved by the Zoning Officer and Planning Commission binding the owner and his heirs and assigns to maintain the required number of spaces available either:**

**(1) Throughout the existence of such use to which they are accessory; or**

**(2) Until such spaces are provided elsewhere.**

Applicant submitted sufficient evidence showing that all required parking is designed to be located on the same Property as the Development. All required parking is designed in accordance with the applicable locational and distance requirements for townhouses in the MU-I Zone. If the Application is approved, the Applicant agrees that all required parking spaces are to remain under the same ownership as the use to which they are accessory. (See Ex. A-5 and testimony from R. Whalen and G. Holtzman, P.E.)

**M. Not applicable.**

**N. Prohibited uses of a parking lot. Automobile parking lots are for the sole purposes of accommodating the passenger vehicles of persons associated with the use which requires them. Parking lots shall not be used for the following:**

- (1) The sale, display or storage of automobiles or other merchandise;**
- (2) Performing services (including services to vehicles);**
- (3) Required off-street parking space shall not be used for loading and unloading purposes, except during hours when business operations are suspended; and**
- (4) Except in specifically designated areas, the parking of trucks in excess of 9,000 pounds GVW, or "recreational vehicles" as defined herein. This regulation shall be conspicuously posted at each entrance to parking lots for commercial or mixed uses with more than 100 spaces.**

Applicant submitted sufficient evidence that all of the common parking areas are designed and intended to be solely for the purposes of accommodating the passenger vehicles of persons associated with the use that requires them. None of the prohibited uses set forth in Section 450-416.N of the Zoning Ordinance are proposed as part of the Application. (See Ex. A-5 and testimony from R. Whalen and G. Holtzman, P.E.)

**§ 450-428. Vehicular access.**

**Every lot hereafter created shall be adjacent to and gain direct access from:**

- A. A public street;**
- B. A street intended to be dedicated to the Township,; or**
- C. A private street improved to the standards of a public street as established by the Chapter 435, Subdivision and Land Development.**

Applicant submitted sufficient evidence establishing that vehicular access to the Development on the Property is located adjacent to, and is designed to gain direct access from, Ore Bank Road and W. Siddonsburg Road, both public streets. (See Ex. A-5 and testimony from G. Holtzman, P.E. and J. Neal, P.E.)

Based upon the foregoing, Applicant has submitted sufficient documentary and testimonial evidence to satisfy its burden of proving the applicable requirements specified in Article 4 of the Zoning Ordinance that apply to all land use applications filed with the Township.

Township Engineer, Phillip W. Brath, P.E., of Gibson Thomas Engineering Co., Inc. prepared two (2) separate written submissions with comments after reviewing Applicant's conditional use application, narrative and several plans, including alteration, modification and additions to same. (See Ex. A-13 dated July 25, 2022 and Ex. A-14 dated August 24, 2022). Applicant provided testimony addressing the comments raised by the Township Engineer at the August 30, 2022 conditional use hearing. (See testimony of R Whalen, G. Holtzman, P.E., and J. Neal, P.E.)

**§ 450-705. Conditional uses.**

**F. Time limitation.**

**(1) If a conditional use is granted, the necessary permit shall be secured and the authorized action begun within one year after the date when the conditional use is finally granted.**

**(2) Should the appellant or applicant fail to obtain the necessary permits within said one-year period, or having obtained the permit should s/he fail to commence work there under within such one-year period, it shall be conclusively presumed that the appellant or applicant has waived, withdrawn, or abandoned his/her application, and all approvals and permit granted to him/ her shall be deemed automatically rescinded by the Board of Supervisors.**

**(3) The Board of Supervisors as a part of the original application before the Board, may approve extended deadlines from those listed above for just cause.**

As part of its conditional use application for a multiple townhouse unit development, Applicant has requested an extension of the one-year deadline stated in (1) above to a three (3) year time frame. Applicant provided testimony that the time constraints to obtain the necessary subdivision/land development plan approvals, agency approvals from the Pennsylvania Department of Transportation and the Department of Environmental Protection, the permitting process and possible construction delays will exceed one year. Accordingly, Applicant has requested the extension of the deadline to three years. The Applicant has submitted sufficient evidence of just cause to extend the deadline relative to the requirements of Section 450-705F from one (1) year to three (3) years.

Accordingly, the Board finds that Applicant has met all the requirements for a conditional use provided for in the Carroll Township Zoning Ordinance.

In accordance with the above, the Carroll Township Board of Supervisors issues the attached decision:

**DECISION:**

**And Now**, this \_\_\_\_\_ day of October 2022, in consideration of Applicant's request, after public hearing, and in reliance of Applicant's representations, the testimony and the exhibits and plans presented, the Applicant's request for conditional use relief relative to the establishment of a multiple townhouse unit use and an extension of the one (1) year deadline the meet the requirements of Section 450-705F of the Carroll Township Zoning Code to three (3) years is hereby granted with the following conditions which were acceptable to the Applicant:

1. Prior to any separate sale of any individual home, a homeowners association shall be established for the maintenance of common elements such as stormwater management basins and facilities, common open space, access drives, and other common elements, as authorized under the Pennsylvania Uniform Planned Community Act, 68 Pa.C.S.A. § 5101 et seq.

2. During the review of the land development plan for the project, if it is determined that the proposed access to Ore Bank Road is required to be shifted towards Siddonsburg Road to meet applicable sight distances, such driveway shift shall be reflected on such land development plan.

3. For the intersection of Ore Bank Road and Siddonsburg Road, Developer shall install the turning lane improvements that are recommended in a traffic impact study that is approved by PennDOT. In the alternative, if a roundabout is approved by PennDOT to be installed in place of this current intersection, Developer shall make a pro rata contribution towards the cost of the roundabout in the amount of 20% of the cost of constructing such roundabout. In addition, if such roundabout is approved by PennDOT for construction, Developer shall provide to the Township, at no cost to the Township, right-of-way that is required for such roundabout, provided that such right of way does not result in the loss of townhouse units or otherwise preclude implementation of the design of the project and any required zoning relief is obtained. Developer shall install a left turn lane for left turns from Ore Bank Road to Access Drive A provided that any required right-of-way is secured at Developer's cost.

4. In addition to the payment of a fee in lieu of dedicating recreation land, the development shall incorporate a playground with play equipment. Such playground shall be identified on the land development plan that is submitted for the project.

5. The land development plan for the project shall propose sidewalks that connect directly to the adjoining Dillsburg Shopping Center property at two locations so as to provide direct pedestrian access to the shopping center from the project.

6. Prior to recording a land development plan for the proposed development, Developer shall make a lump sum contribution to the Township for emergency services (fire, police, etc.) in the amount of \$10,000.

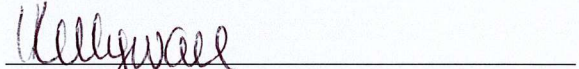
7. During the review of the land development plan, the Applicant shall evaluate, and propose to install if desired by the Township, speed tables or other traffic calming measures so as to deter use of proposed Access Drive A by cut-through traffic.

[SIGNATURE PAGE TO FOLLOW]

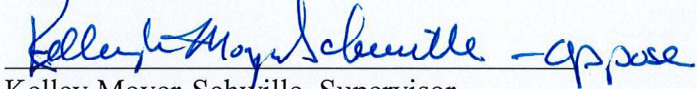
Carroll Township Board of Supervisors



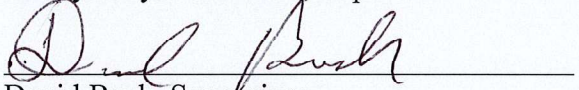
Tim Kelly, Chairman



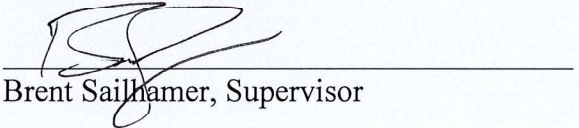
Kelly Wall, Vice-Chair



Kelley Moyer-Schwille, Supervisor



David Bush, Supervisor



Brent Sailhamer, Supervisor

(Written Decision of Findings issued this 17<sup>th</sup> day of October 2022)