

**IN THE MATTER OF:**

**BOARD OF SUPERVISORS**

**APPLICANT TCNE ROUTE 74  
ASSOCIATES, LLC AND TRAMMELL  
CROW COMPANY**

**CARROLL TOWNSHIP**

**OBJECTOR/PARTY SHERRY  
SIRIANNI**

**YORK COUNTY, PENNSYLVANIA**

**CONDITIONAL USE APPLICATION  
FOR A WAREHOUSE/DISTRIBUTION  
CENTER**

**WRITTEN DECISION**

**EXHIBITS**

- B-1 Cover letter dated June 28, 2022 from Charles M. Courtney, Esq. and Application for a Conditional Use to construct a Warehouse/Distribution Center
- B-2 Conditional Use Application Narrative (53 pgs.)
- B-3 Existing Conditions Plan for Lefever Property/Conditional Use Site Plan for Lefever Property (4 pgs.)
- B-4 Certificate of Service of Public Notice of the August 23, 2022 Conditional Use Hearing published in the Dillsburg Banner (See Ex. 1 attached to B-4) and Written Notice of same to individuals identified in Ex. 2 attached to B-4, 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-4)
- B-5 Conditional Use Report dated June 28, 2022, prepared by James S. Snyder, P.E. of Snyder, Secary & Associates, LLC, a Division of Pennoni (6 pgs.)
- B-6 Waste Handling and Material Disposal Plan (6 pgs.)
- B-7 Transportation Impact Assessment-TCNE Route 74 Associates, LLC Warehouse-Lefever Property-prepared by Traffic Planning and Design, Inc.
- B-8 Minutes from the July 28, 2022 Carroll Township Planning Commission Meeting (7 pgs.)
- T-1 Comments from Phillip Brath, Carroll Township Engineer concerning review of Applicant's Condition Use application for a Warehouse/Distribution Center

- A-1 Cover letter dated June 28, 2022 from Charles M. Courtney, Esq. and Application for a Conditional Use to construct a Warehouse/Distribution Center (See Ex. B-1)
- A-2 Conditional Use Application Narrative (53 pgs.) (See Ex. B-2)
- A-3 Existing Conditions Map (See Ex. B-3)
- A-4 Conditional Use Site Plan
- A-5 Conditional Use Site Landscaping Plan
- A-6 Conditional Use Lighting Plan
- A-7 Building Plan and Elevations (2 sheets)
- A-8 Conditional Use Report prepared by James S. Snyder, P.E., of Snyder, Secary & Associates, a division of Pennoni Associates, Inc. dated June 28, 2022 (See Ex. B-5)
- A-9 Waste Handling and Materials Disposal Plan (See Ex. B-6)
- A-10 Transportation Impact Assessment (See Ex. B-7)
- A-11 Review letter of Gibson-Thomas Engineering dated July 25, 2022
- A-12 Letter of Gibson-Thomas Engineering dated August 22, 2022 summarizing Planning Commission Recommendation
- A-13 Proposed Conditions
- A-14 Modified Conditional Use Site Plan
- A-15 Concept Plan for Transportation Improvements

**FINDINGS OF FACT**

1. Applicant, TCNE Route 74 Associates, LLC and Trammell Crow Company (hereinafter “Applicant”) is the equitable owner of an approximate 35.2 acre tract of land with an address of 53 Route 15, Dillsburg, Pennsylvania and identified as Parcel Identification No. 20-000-OC-0079.00-00000 (hereinafter “property”).

2. Applicant has an agreement of sale with the owners of the property, Keith R. Lefever and Garry C. Lefever to develop the property as a warehouse/distribution facility.

3. Applicant’s property is located in the Industrial Zoning District (“I Zone”) of Carroll Township which is regulated by Section 450-209 of the Carroll Township Zoning Code (hereinafter “Zoning Code”).

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

5. Applicant is requesting conditional use relief in order to construct a Warehouse/Distribution Center on the property.

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

7. 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.

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

9. No objections as to any of the exhibits (B-1 through B-8, T-1, and A-1 through A-15)<sup>1</sup> were raised.

10. On August 23, 2022 at approximately 6:30 p.m., a hearing was conducted on the matter at the Carroll Township Municipal Building.

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

12. Testimony at the hearing was taken from Matt Nunn, Principal and representative for Applicant, Joshua D. Hoffman P.E., of Pennoni Associates, Inc., Craig Mellott P.E., of Traffic Planning & Design, Inc. and Sherry Sirianni, 935 York Road Dillsburg Pennsylvania 17019. Phillip Brath Township Engineer and Brandon Slatt, Township Manager and Zoning Officer.

13. Sherry Sirianni was determined by the Board to have sufficient interest so as to be recognized as a party to this matter.

14. The property is an undeveloped parcel of land located west of the intersection of Route 15 and York Road, with frontage along both roads.

15. The proposal includes the construction of an approximate 400,000 square foot warehouse/distribution center that will be used for storage, transfer and distribution of raw materials, manufactured goods and/or products.

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<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, B-5 and A-8, B-6 and A-9; and B-7 and A-10, and any reference to one includes the other same exhibits, i.e., a reference to B-1 includes A-1 as well.

16. There will be approximately 67 loading/unloading berths/docks and 74 truck/trailer spaces located in the truck courts along the northern and southern sides of the building.

17. A two-lane access drive will connect York Road and the property in order to provide access to and from the Facility.

18. The proposal includes approximately 293 passenger vehicle parking spaces located in two (2) parking lots on the property.

19. The proposed use will generally include the storage and transfer of goods and will not involve processing materials or manufacturing products.

20. The hours of operation for the facility will be up to 24 hours per day and seven (7) days a week.

21. The property will not have gasoline or diesel stations or storage tanks nor will it include facilities for outdoor vehicle maintenance, servicing, washing, or refueling.

22. Applicant witnesses Matt Nunn and Joshua Hoffman, P.E. specifically adopted the Application Narrative Ex. B-2 as their testimony. (See August 23, 2022 Notes of Testimony pgs. 29 and 119).

### **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-8, T-1, and A-1 through A-15 were properly admitted into evidence.

4. Applicant met its burden in establishing the requirements of a conditional use to establish a warehouse/distribution center 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 warehouse/distribution center facility.

### **DISCUSSION**

Applicant TCNE Route 74 Associates, LLC and Trammel Crow Company applied for conditional use relief in order to construct a warehouse/distribution center on the property located

at 53 Route 15, 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 Industrial Zoning District 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 warehouse/distribution center is authorized in the Industrial Zone as a conditional use pursuant to Section 450.209B of the Zoning Ordinance via Section 450-212 Table of Land Use 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.

**§ 450-385. Warehouse and/or distribution centers.**

**A warehouse and/or distribution center is permitted as provided in Article 2 herein and subject to the following criteria:**

**A. The applicant shall provide a detailed description of the proposed use in each of the following topics:**

**(1) The nature of the on-site activities and operations, hours of operation, number of employees, the types of materials stored, the frequency of distribution and restocking, the duration period of storage of materials, and the methods for disposal of any surplus or damaged materials. In addition, the applicant shall furnish evidence that the**

**disposal of materials will be accomplished in a manner that complies with state and federal regulations.**

Applicant submitted sufficient evidence that the activities and operations will primarily be the receipt, indoor storage, transfer and distribution of goods. Inbound deliveries of goods are unloaded and placed in storage. Goods are then removed from storage and loaded for outbound deliveries. It is expected that there will be 120 Inbound and 120 outbound deliveries on a daily basis. Typically, goods being delivered to the facility do not leave the facility same day. They can be stored at the facility for days to months depending on operational demands at the time. The types of goods will include, but not be limited to the following: home furnishings, furniture, floor coverings, automotive, electronics, computers, building materials and supplies, lawn and garden equipment and supplies, office equipment and supplies, sporting and leisure products, health and personal care, clothing and other consumer goods. The facility will not store or distribute any hazardous or inflammable waste or by-products as it is not a manufacturing facility. All substances will be stored and distributed in accordance with all applicable Federal, State and Township law and regulations. Applicant submitted a Waste Handling and Materials Disposal Plan that provides the framework for handling and disposing of waste and materials in accordance with all applicable laws. (See Ex. B-6, B-2 Application Narrative and testimony from Applicant Representative Matt Nunn and Applicant Engineer Joshua Hoffman, P.E.)

The facility will be open 24 hours a day and seven (7) days a week. There will be approximately 200 employees working at the facility during the two (2) largest shifts with a smaller crew working the overnight shift. (See Ex. B-2 and Testimony from M. Nunn)

**(2) Any environmental impacts that are likely to be generated (e.g., odor, noise, smoke, dust, litter, glare, wastewater, stormwater, solid waste, etc.) and specific measures employed to mitigate or eliminate any negative impacts. The applicant shall further furnish evidence that the impacts generated by the proposed use comply with applicable laws and ordinances, including, but not limited to, those listed in Article 3 of this chapter.**

Applicant submitted into evidence a site plan and engineer report prepared by James Snyder, P.E., of Snyder, Secary & Associates, that shows that the facility is designed in accordance with the applicable Federal, State and Township requirements regarding the above potential environmental impacts and therefore complies with this requirement. (See Ex. A-4 Site plan and Ex. A-8 engineer report)

**(3) A traffic impact study prepared by a professional traffic engineer, according to § 435-27C, or successor section, of Chapter 435, Subdivision and Land Development.**

Applicant submitted into evidence a traffic impact study prepared by Craig Mellott, P.E. of Traffic Planning and Design, Inc., which was completed in accordance with the applicable provisions of the Subdivision and Land Development Ordinance (“SLDO”) and PennDOT. (See Ex. B-7 Transportation Impact Assessment – “TIA”)

**B. The subject property shall have a minimum lot area of five acres and a minimum lot width of 300 feet. A maximum lot coverage of 70% shall be permitted.**

The Applicant submitted sufficient evidence showing that the facility will be located on the property that is approximately 35 acres. The property has a width of at least 300 feet. Approximately 55.7% of the property is proposed to be covered by impervious surfaces. (See Ex. A-4 Site Plan and B-2 Narrative)

**C. The use shall provide sufficiently long stacking lanes and on-site loading/unloading areas, so that trucks waiting to be loaded/unloaded will not back up onto public roads. No parking areas or loading/unloading areas shall be permitted within 50 feet of any public street right-of-way line.**

The Applicant submitted sufficient evidence showing that the entrance and exit to and from the facility will be via an access drive to accommodate the traffic and types of vehicles anticipated to access and leave the facility. The access drive is designed to connect with York Road along the northern portion of the property.

There will be 67 loading/unloading docks and 74 truck/trailer spaces located in the truck courts (loading and truck maneuvering zones) along the northern and southern sides of the building. Each truck court area extends approximately 185 feet from the building which is sufficient to permit (1) the loading/unloading of truck/trailers that are parked perpendicular to the building (approximately 60 feet); (2) two-way truck movements parallel with, and away from, the building (approximately 70 feet); and (3) the truck/trailer spaces that are perpendicular to but located away from the building (approximately 55 feet).

There will be 293 passenger vehicle parking spaces designed in parking lots located to the southeast and northwest of the building, which is in excess of the 200 required parking spaces for the anticipated total number of employees on the two (2) largest shifts. (See Section 450-416(e) – A warehouse requires one (1) parking space per employee on each of the two (2) largest shifts.)

The proposed warehouse/distribution center use will be able to accommodate the queuing of several dozen trucks/trailers and passenger vehicles entering and leaving the facility, and trucks waiting to be loaded/unloaded will not back up onto public roads. Also, all parking areas and loading/unloading areas are designed to be setback at least 50 feet from the closest public street right-of-way.

Applicant has submitted sufficient evidence to meet its burden of proving compliance with this section of the Ordinance. (See Ex. A-4 Site Plan, A-15 Concept Plan for Transportation Improvements, Ex. B-2 Narrative and testimony from J. Hoffman, P.E.)

**D. Vehicular access shall be so arranged as to minimize danger and congestion along adjoining roads and to avoid the creation of nuisances to nearby properties. Access drives used by trucks shall only intersect with arterial or collector roads or new streets that are proposed, designed and constructed to serve the distribution center and/or warehouse.**



The Applicant has submitted sufficient evidence to satisfy its burden of proving compliance with this section of the Ordinance based upon the analysis above in section (C). Applicant submitted into evidence a site plan and testimony from its engineers, Joshua Hoffman, P.E., and Craig Mellott, P.E., establishing compliance with this requirement.

**E. The subject property shall have a minimum of 300 feet of contiguous road frontage along an arterial and/or collector road.**

The Applicant submitted sufficient evidence which showed that the facility will be located on the property that has at least 300 feet of contiguous road frontage along the right-of-way of York Road (collector road) and Route 15 (arterial road). (See Ex. A-4 and Ex. B-2)

**F. Buildings, access drives, parking areas, staging areas and loading/unloading areas on the subject property shall be located no closer than 200 feet from a residential use or zone, and/or any property containing a school, day-care facility, park, playground, library, hospital, nursing, rest or retirement home, or medical residential campus.**

The Applicant submitted sufficient evidence to establish that the proposed facility, including the building, loading/unloading docks, parking spaces, and truck court areas are designed to be more than 200 feet from a residential use or zone, and/or any other type of property mentioned above. The Site Plan and testimony from Joshua Hoffman, P.E. show that the closest distance to one of the above uses is approximately 700 feet. (See Ex. A-4 and testimony from J. Hoffman, P.E.)

**G. Access driveways shall be a minimum of 28 feet, as measured at the street right-of-way line (unless a different width is required by PADOT as part of the highway occupancy permit process), and a maximum of 40 feet wide, as measured at the throat of the access drive. All access drives onto the same road shall be set back at least 150 feet from one another, as measured from closest points of cartway edges.**

The Applicant submitted sufficient evidence that the proposed width of the access drive at the York Road right-of-way is at least 28 feet, and the proposed width of the access drive at its throat is designed as not to exceed 40 feet. The proposed access drive is designed to be setback at least 150 feet from the closest drive located along the same side of York Road. Applicant has satisfied this requirement. (See Ex. A-4 and A-15)

**H. Any gates or other barriers used at the entrance to parking areas shall be set back and arranged to prevent vehicle backups onto adjoining roads during peak arrival periods.**

Not applicable

**I. Outdoor vehicle service, and/or repair activities, shall be prohibited.**

This requirement is satisfied as Applicant has not proposed any outdoor vehicle service and/or repair activity.

**J. The outdoor storage of unlicensed and/or uninspected vehicles is prohibited.**

This requirement is satisfied as Applicant has not proposed the outdoor storage of unlicensed and/or uninspected vehicles.

**K. The demolition or junking of vehicles and machinery is prohibited. Demolished vehicles and/or parts thereof shall be removed within 30 days after arrival.**

This requirement is satisfied as Applicant has not proposed any demolition or junking of vehicles or machinery.

**L. All outdoor loudspeaker systems shall be designed, arranged, and operated so as to be inaudible at the property line.**

This requirement is satisfied as Applicant has not proposed any outdoor loudspeaker systems.

**M. The parking, storage, staging and/or loading/unloading of vehicles associated with the use shall be confined to the subject property; no satellite parking, storage, staging and/or loading lots or areas shall be permitted.**

The Applicant submitted a site plan that showed all vehicle parking, storage, staging and loading/unloading areas located on the subject property. There were no satellite lots or areas in the proposal. (See Ex. A-4, A-14 and Testimony from J. Hoffman, P.E.)

**N. The applicant shall furnish evidence that the storage and disposal of materials and waste will be accomplished in a manner that complies with all applicable state and federal regulations.**

The Applicant submitted a Waste Handling and Material Disposal Plan. (See Ex. A-9) Additionally, the analysis in Section 450-385.A(1) above confirms Applicant has submitted evidence of compliance with this requirement.

**O. Green space shall be 200 feet along adjoining lands containing a residential use or zone.**

**(1) Within the required green space, a thirty-foot wide landscape screen is required and/or an earthen berm having a maximum slope three feet horizontal to one foot vertical and a minimum height of 15 feet above grade; and**

**(2) Stormwater management facilities may be located within the green space but not within the required landscape screen.**

Applicant submitted sufficient evidence establishing compliance with this requirement as the site plan shows that all adjoining land is in the Industrial Zone. The property does not adjoin land that contains an existing residential use or is residentially zoned. (See Ex. A-4 and testimony from M. Nunn and J. Hoffman, P.E.)

Based on the foregoing, Applicant has met its burden of proving all the specific requirements for a warehouse/distribution center use.

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

**§ 450-209. Industrial Zone (I).**

**A. Purpose.** The purpose of the Industrial Zone is to accommodate larger-scale high quality economic development. Other industrial uses are also permitted. The areas designated for this zone have superior vehicular access and proximity to public utilities so as to stimulate their development and use. Landscaping and buffer requirements are imposed to protect adjoining residential areas.

**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 warehouse/distribution center in the Industrial Zone. A warehouse/distribution center is a conditional use in the Industrial Zone.

**C. Required public utilities.** All uses shall be served by public sewer and public water.

The Applicant submitted evidence that the facility will be connected to the Dillsburg Area Authority's public sewer and water systems. (See Ex. B-2 and testimony from M. Nunn and J. Hoffman, P.E.)

**D. Maximum permitted height.**

(1) Sixty feet, provided that any building over 35 feet in height must be set back a distance equal to or greater than its height.

(2) For height exemptions, see § 450-411.

The Applicant submitted a site plan and an elevation exhibit prepared by KSS Architects that show that the height of the building is designed to be up to sixty (60) feet. Since the height of the building exceeds 35 feet, Applicant's has submitted evidence that the building will set back at least sixty (60) feet from all property lines. (See Exhibits A-4 & A-7 and testimony from M. Nunn and J. Hoffman, P.E.)

**E. Maximum lot coverage.** maximum lot coverage is 70%.

The Applicant submitted sufficient evidence that shows approximately 55.7% of the property is proposed to be covered by impervious surfaces thereby meeting the above requirement. (See Ex. A-4, A-14 and testimony from J. Hoffman, P.E.)

**F. Outdoor storage.** No outdoor storage is permitted.

The Applicant did not propose any outdoor storage.

**G. Off-street loading.** Off-street loading shall be provided as specified in Article 4 of this chapter. In addition, no off-street loading area shall be permitted on any side of a

**building facing an existing adjoining residential use, nor any side of a building facing an adjoining street.**

Applicant submitted sufficient evidence that shows that the off-street loading areas are designed to be located along the northern and southern building walls, and not along any wall facing an existing adjoining residential use nor an adjoining street. Additionally, Applicant submitted evidence establishing compliance with the off-street loading requirements of Article 4 which will be discussed later in this decision. (See Ex. A-4, A-14 and Ex. B-2)

**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.**

The Applicant submitted sufficient evidence that shows landscape buffer strips with widths at least 15 feet along all property lines, including the street frontages in compliance with Article 4 requirements. The proposed buffers are a minimum of 20 feet along the property lines. Additionally, all portions of the site not intended to be covered by buildings, structures, parking compounds, walkways or other permitted elements are designed to include vegetative ground cover and other ornamental plantings. The property does not adjoin land that is located in the RS-1, RS-2, RS-3, RA, or AC zones. All required landscaping and screening requirements of Article 4 of the Zoning Ordinance have been met and will be discussed later in this decision. (See Ex. A-4, A-5 Conditional Use Landscaping Plan, and testimony from J. Hoffman, P.E.)

**I. Waste products. All trash and or recycling dumpsters shall be located within a side or rear yard, set back at least 50 feet from any adjoining lands within the residential or rural-agricultural zones or where adjoining an existing residential use, and at least 15 feet from all other adjoining property lines. All trash dumpsters shall comply with the screening requirements of Article 4 of this chapter.**

The Applicant submitted sufficient evidence that shows compliance with this requirement as the facility is designed to include indoor trash and recycling dumpsters and compactors located within the building. (See Ex. A-4) No dumpster is proposed to be located outside of the building.

**J. Minimum dimensional requirements. Unless otherwise specified, all uses within this zone shall comply with the following table:**

The Applicant submitted sufficient evidence that shows compliance with the Industrial Zone Dimensional Requirements identified in the table in this section of the Township Zoning Code. (See Ex. A-4 and testimony from J. Hoffman, P.E.) Additionally, the analysis of the requirements of Section 450-385.B confirms compliance with the above requirements.

The site plan shows the building parking lots and loading/unloading docks are designed to comply with the applicable set back requirements for warehouse/distribution centers in the MU-1 Zone. Accordingly, the application complies with the applicable area and dimensional requirements.

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 Industrial Zone.

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.**

The Applicant submitted sufficient evidence that shows the facility is designed to be connected to York Road (a collector road) via a two-lane access drive along the northern portion of the property. The access drive is designed to connect the parking and loading areas to the public street. Due to the existing conditions, it is not feasible for Applicant to connect to, or stub the proposed access drive to connect to land adjoining the property. The access drive is designed in accordance with the applicable requirements of Section 435-41 of the Subdivision and Land Development Ordinance (“SLDO”) and Applicant has proven compliance with this requirement. (See Ex. A-4, A-14 and A-15)

**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**

The Applicant submitted sufficient evidence establishing that the access drive is designed for the purpose of accommodating the anticipated vehicles associated with the

warehouse/distribution center. The proposal does not include the access drive being used for any of the prohibited activities above. (See Ex. A-4 and testimony from J. Hoffman, P.E.)

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

**B. Fences and walls.**

**(1) Fences and walls (including retaining walls) may be erected, altered and maintained within the yards, provided that such fence or wall shall not exceed four feet in height in the required front yard; 6.5 feet in height in the rear or side yards.**

Applicant submitted evidence that it intends to construct a retaining wall in the front and side yards, however, it is designed to be located outside of any required minimum yard setback. Therefore, the above requirement is inapplicable.

**(2) No wall, fence, sign or other structure shall be erected or altered, and no hedge, trees, shrubs or other growth shall be maintained or permitted which may cause danger to traffic or a street or public road by obscuring the view.**

Applicant submitted a site plan depicting the location and design of the retaining wall which shows it will be constructed so as not to obscure any viewpoints and that would cause danger to traffic, a street or public road. Accordingly, Applicant satisfied the above requirement. (See Ex. A-4 and A-14)

**(3) Fences, walls and retaining walls are prohibited within the right-of-way of any street, unless constructed by the Township, state or other governmental entity or agent thereof as a part of a public infrastructure project. Fences, walls and retaining walls are prohibited within the clear sight triangle, drainage, sewer and any other public easement or right-of-way when a fence, wall or retaining wall conflicts with the purpose or content of the easement or right-of-way. Fences within existing or proposed landscape screens and adjacent to public street right-of-way shall be set back at least 15 feet from the public street right-of-way, unless designed integrally with the landscape screen during the subdivision and land development process and approved by the Township.**

Applicant submitted sufficient evidence by way of a site plan and testimony that depicts the retaining wall designed to be located outside of any street right-of-way, clear sight triangle, public easement or right-of-way. The proposed retaining wall is set back distances greater than 15 feet from any public street right-of-way. Accordingly, Applicant complies with this requirement.

**(4)-(6) Not applicable**

**(7) Proposed walls exceeding four feet in height and viewable from roadways or adjoining residential zones or uses must be landscaped in accordance with § 435-52 of Chapter 435, Subdivision and Land Development, as amended, as a twenty-foot landscape buffer.**

Applicant submitted sufficient evidence by way of a site plan and testimony from its Engineer Joshua Hoffman, P.E., that a 30-foot landscaped buffer yard is designed in the front yard along York Road and Route 15. Applicant satisfied this requirement.

**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:**

**(1) Not Applicable**

**(2) For Commercial Zones or uses, Industrial Zones or uses, with the exception of uses that include dispensing of vehicle fuel, the intensity of illumination is limited to five footcandles at all areas of the site. For uses that include dispensing of vehicle fuel, the intensity of illumination for all areas of the site is limited to eight footcandles at all areas of the site. The average illumination intensity in the area directly below the canopy shall not exceed thirty footcandles and the maximum intensity shall not exceed thirty-five footcandles. Also, the maximum intensity shall not exceed fifteen footcandles within 10 feet of the perimeter of the canopy. Within 20 feet of any fuel tank storage area the intensity of illumination is limited to fifteen footcandles.**

Applicant submitted sufficient evidence showing that illumination from the proposed facility will not exceed five (5) footcandles at all areas of the facility. No vehicle fuel storage tank is proposed by Applicant. Applicant satisfied this requirement. (See Ex. A-6 Applicant Lighting Plan and testimony from J. Hoffman, P.E.)

**(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 depicted all outdoor lighting fixtures designed to be aimed, located, fitted and maintained so as not to present a hazard to drivers or pedestrians by impairing their ability to safely traverse nor will the fixtures create a nuisance by projecting or reflecting objectionable light onto a neighboring use or property. The outdoor lighting fixtures are designed to be downward and inward towards the site. All lenses or bulbs will be fully recessed or shielded with no light emitted above 90 degrees. Applicant complies with this requirement. (See Ex. A-6 and testimony from J. Hoffman, 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.**

**(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.**

**(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 sufficient evidence by way of a lighting plan (See Ex. A-6) and testimony from J. Hoffman, P.E. depicting all outdoor lighting fixtures designed in compliance with the above requirements.

**(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 J. Hoffman, 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. Applicant satisfied the requirements in this section. (See Ex. A-4 and testimony from J. Hoffman, P.E.)

**§ 450-406. Diesel idling.**

**A. Applicability. This section applies to the operation of every heavy-duty diesel-powered motor vehicle within land development plans approved and zoning permits issued subsequent to the adoption of this zoning regulation.**

**B. General.**

**(1) No entity, owner or operator shall cause or allow the engine of any heavy-duty diesel-powered motor vehicle subject to this section to idle prior to, during layover between, at the destination of, or at the conclusion of, any trip or route or in performance of work for more than five consecutive minutes, unless the Exemption section below applies.**

**(2) No driver shall cause or allow the engine of any heavy-duty diesel-powered motor vehicle subject to this section to be accelerated while idling, unless such action is taken in order to operate vehicle -mounted accessory or service equipment.**

**(3) Should alternative power units or idle reduction technologies be available and unoccupied, diesel-powered motor vehicles must turn off their engines and use these options for power, heating, and air conditioning.**

Applicant agreed to operate the facility in compliance with the above diesel idling requirements as well as those stated in 450-406(c). (See testimony of M. Nunn)

**§ 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.**

**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 sufficient evidence that the landscape buffer strips are designed in compliance with the above requirements. (See Ex. A-5 Landscaping Plan and testimony from J. Hoffman, P.E.)

**D. Not applicable.**

**E. Required landscape buffers and screens may occupy the yard area created by setbacks.**

**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 sufficient evidence via a site plan (see Exhibit A-4) and testimony from its Engineer, Joshua Hoffman, that established the landscaped buffer strips were designed in compliance with the requirements stated in (E) & (F) above.

**G. Not applicable.**

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

**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 to establish compliance with the above requirements. (See Ex. A-4 and B-2)

**§ 450-413. Loading facility requirements.**

**A. Off-street loading shall be required in accordance with this section prior to the occupancy of any building or use, so as to alleviate traffic congestion on streets. These facilities shall be provided whenever:**

**(1) A new use is established.**

Applicant submitted evidence by way of a site plan showing a design of off-street loading areas that will alleviate traffic congestion in compliance with the above requirement. (See Ex. A-4 and A-14)

**B. These facilities shall be designed and constructed in accordance with the following:**

**(1) Each required loading and unloading berth shall be at least 12 feet wide, 33 feet long, and 14 feet high and shall be of sufficient dimension to accommodate the vehicles that are loading or unloading.**

**(2) Each loading and unloading berth shall be marked in the field through pavement markings, signage or both.**

**(3) Access to loading and unloading berths may be combined with access to a parking lot.**

**(4) All permitted or required loading berths shall be on the same lot as the use to which they are accessory, unless the applicant can prove that one or more such uses will be generating a demand for loading spaces primarily when the other use is not in operation. In which case, the applicant may count the number of shared spaces for each use toward the total number of spaces required.**

**(5) All loading and unloading areas shall be landscaped and screened to obscure the view of the loading and unloading vehicles and platforms from any public street and adjacent residential zones or uses.**

**(6) No area allocated to loading and unloading facilities may be used to satisfy the requirements for off-street parking or transportable containers.**

**(7) All loading and unloading facilities shall be located and designed so that the vehicles intended to use them can maneuver safely and conveniently to and from a public right-of-way and complete loading and unloading operations without obstructing, encroaching, or interfering with any public right-of-way, parking lot, parking aisle, or access drive.**

Applicant submitted sufficient evidence establishing compliance with the above loading facility requirements. The loading/unloading berths comply with the required dimensions and are

designed to have the proper markings identified above. The berths are on the same lot as the facility and are designed with the required landscaping to obscure the view of the loading/unloading vehicles from any public street and adjacent residential zone. Applicant submitted sufficient evidence that the facility is designed so that vehicles that use it can maneuver safely and conveniently to and from a public right-of-way and complete loading operations without obstructing, encroaching or interfering with any public right-of-way, parking lot, aisle, accessway or access drive. (See Ex. A-4 and testimony from Applicant Engineers J. Hoffman, P.E. and C. Mellott, P.E.)

**C. Site Plan Approval.**

**1-2. These requirements will be adhered to at the time of the issuance of a building permit.**

**3. This is addressed in Section D (6) below.**

**D. Off-street loading spaces required. The loading and unloading area shall be of sufficient size to accommodate the numbers of vehicles that are anticipated to use the facility, but shall not be less than the following:**

**(6) For manufacturing, wholesale, and storage uses, and for dry-cleaning and rug cleaning establishments and laundries, one berth for 5,000 square feet to 10,000 square feet of floor area in such use, and one additional berth for each additional 20,000 square feet of floor area or fraction thereof so used.**

Applicant proposes to construct a warehouse/distribution facility with a storage use component. Applicant submitted a site plan depicting 67 loading/unloading berths and 74 truck/trailer spaces located in the truck courts along the northern and southern sides of the building. The building will be 400,000 square feet which would require a minimum of 21 loading/unloading berths. Applicant submitted sufficient evidence of compliance with this requirement. (See Ex. B-2, A-4 and testimony from M. Nunn and J. Hoffman, P.E.)

**§ 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.**

**(4) A nonresidential parking lot is proposed greater than 5,000 square feet in size.**

The off-street parking requirements are applicable to the proposed conditional use since it involves the construction of a building and the nonresidential parking lot will be greater than 5,000 square feet.

**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 evidence via a Site Plan that depicts passenger vehicle parking spaces for the facility that are designed to be located in the parking lots on the property in compliance with the above requirement. (See Ex. A-4)

**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.**

The site plan submitted into evidence by Applicant depicts all parking spaces complying with the above dimensional requirements.

**E. Schedule of required parking spaces.**

**Warehousing and whole trade establishment – minimum of one parking space for each employee on each of the two (2) largest shifts.**

Applicant submitted testimony that the two (2) largest shifts for the facility will have a total of 200 employees. Therefore, 200 off-street parking spaces would be required by the Ordinance. Mr. Nunn and Mr. Hoffman testified that the facility would have 293 off-street parking spaces which was confirmed by the Site Plan submitted into evidence. The applicant satisfied the above requirement.

**F. Interior landscaping. At least 10% of the area of a parking facility containing more than 20 cars either initially or cumulatively shall be devoted to interior landscaping and conform to the standards set forth in § 435-52 of Chapter 435, Subdivision and Land Development.**

The proposed passenger vehicle parking areas include more than 20 passenger vehicle parking spaces. The proposed parking lots are designed to include the interior landscaping specified in the table in the Application narrative (See Ex. B-2 pgs. 41-42) which meets the requirements of the above referenced section of the Subdivision and Land Development Ordinance. (See Ex. A-4 and testimony from J. Hoffman, P.E.)

**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 sufficient evidence that shows the parking spaces are designed to include unobstructed access to and from the access drive and is compliance with Section 435-41 of the SLDO. (See Ex. A-4 and testimony from J. Hoffman, P.E.)

**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 into evidence a Site Plan (See Ex. A-4) and testimony from its Engineer, J. Hoffman, P.E., that shows all off-street parking areas designed so as to be drained and paved in accordance with the applicable provisions of SLDO.

**I-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 that shows all required parking spaces designed to be located on the same property as the facility and in accordance with the applicable locational and distance requirements for warehouse/distribution centers in the I Zone. Applicant has satisfied the above requirements. (See Ex. A-4 and testimony from J. Hoffman, P.E.) Furthermore, Applicant submitted evidence that the parking lot would not be used for any of the prohibited uses stated in Section 450-416N. (See Ex. B-2 Application Narrative).

**§ 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 into evidence a Site Plan and a Concept Plan for Transportation Improvements (See Exhibits A-4 and A-15), and testimony from its Engineers, J. Hoffman and Craig Mellott, that shows a design for vehicular access to the facility that complies with the above requirement.

**§ 450-429. Waste handling requirements.**

**A. Required information. All commercial, industrial, institutional, and health-care related uses shall be required to continuously maintain the following information regarding materials and waste handling, including:**

- (1) Listing of all materials to be used and/or produced on the site;**
- (2) Listing of all wastes generated on the site; and**
- (3) Written evidence that the storage, treatment, processing, transfer, and disposal of all materials and wastes shall be accomplished in a manner that complies with all applicable federal, state, county, and municipal requirements, including, but not limited to, the following:**

**(a) The Pennsylvania Municipal Waste Planning, Recycling and Waste Reduction Act (Act 101);**

**(b) The Pennsylvania Solid Waste Management act (Act 97);**

**(c) The Federal Emergency Management Act;**

**(d) The Federal Superfunds Amendment and Reauthorization Act;**

**(e) The Pennsylvania Hazardous Materials Emergency Planning and Response Act; and**

**(f) The Pennsylvania Low-Level Radioactive Waste Disposal Act.**

**B. Material safety data (MSDS) sheets. All commercial, industrial, institutional, and health-care-related uses shall be required to furnish material safety data (MSDS) sheets to the Township within 30 days of receipt of any required MSDS update.**

Applicant stated that the storage and disposal of materials and waste will comply with all applicable Township, State and Federal regulations. (See testimony from M. Nunn and J. Hoffman, P.E.)

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-11 dated July 25, 2022 and Ex. A-12 dated August 22, 2022). Applicant provided testimony addressing the comments raised by the Township Engineer at the August 23, 2022 conditional use hearing. (See testimony of M. Nunn, J. Hoffman, P.E., and C. Mellott)

**§ 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 warehouse/distribution center, 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. 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 warehouse/distribution center 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. The land development plan for the proposed development shall depict (i) a 30-foot-wide easement for the future installation of public sanitary sewer and/or water facilities along the entire length of the western boundary of the subject property or (ii) the extension the existing 30-foot-wide sanitary sewer easement along the eastern boundary to the northern boundary of the subject property for purposes of accommodating future installation of water and sanitary sewer facilities.



The location of such easement (i.e. whether located along the western boundary or the eastern boundary) shall be determined by mutual agreement between Developer and the Township during the review of the land development plan. The location of the easement shall not affect the design reflected on the conditional use plan. If such easement is located along the western boundary, then it is acknowledged that required landscape plantings will be located within a portion of the easement area near the access drive. If the easement is located along the eastern boundary, then it is acknowledged that the proposed access drive will cross the easement area.

2. If authorized by PennDOT through issuance of a highway occupancy permit and subject to securing any additional right of way and driveway releases and permits that are required by PennDOT, install a right turn lane on the southbound U.S. Route 15 approach to the intersection of U.S. Route 15 and S.R. 0074 prior to issuance of a certificate of occupancy for the proposed building. The issuance of a highway occupancy permit shall not be a condition precedent to recording a land development plan or issuance of a building permit. The design of such improvement shall be reflected on highway occupancy permit plans that are approved by PennDOT.

3. If authorized by PennDOT through issuance of a highway occupancy permit, a dedicated left turn lane shall be installed at the southbound S.R. 0074 approach to the intersection of U.S. Route 15 and S.R. 0074 prior to issuance of a certificate of occupancy for the proposed building. The issuance of a highway occupancy permit shall not be a condition precedent to recording a land development plan or issuance of a building permit. The design of such improvement shall be reflected on highway occupancy permit plans that are approved by PennDOT.

4. The Township anticipates the possibility of the future (i) removal of the intersection of U.S. Route 15 and S.R. 0074 if the southern portion of S.R. 0074 is relocated to the east by PennDOT and (ii) turnover from PennDOT to the Township of the portion of existing S.R. 0074 between such relocated S.R. 0074 and U.S. Route 15, and (iii) the installation of a cul-de-sac at the southern terminus of the portion of existing S.R. 0074 that is turned over to the Township. The land development plan for the proposed development shall identify and reserve as future right-of-way an area along existing S.R. 0074 in proximity to the intersection of U.S. Route 15 and S.R. 0074 for the future installation of such cul-de-sac by the Township. Such cul-de-sac shall have a minimum radius of 100 feet. The specific location of such future right of way for the cul-de-sac shall be determined by mutual agreement between the Township and Developer and shall not interfere with the design and layout depicted on the conditional use plan.

5. Prior to recording a land development plan for the proposed development, Developer shall make a lump sum contribution to Northern York County Fire Rescue Station 15 in the amount of \$50,000.00.

6. As part of the review of a land development plan for the project, a copy of the site plan shall be submitted the Fire Chief of the Northern York County Fire Rescue Station 15 for review.

7. The land development plan for the proposed development shall depict one emergency access drive extending (i) from the existing driveway along S.R. 0074 at the southeastern corner of the subject property to the proposed parking area on the eastern side of the proposed building,

if authorized by PennDOT, (ii) from the proposed access drive extending along the northern portion of the subject property to the northern boundary of the subject property (so as to enable a future emergency access connection into the adjoining property to the north), or (iii) such other location that is determined by mutual agreement between Township and Developer. Such emergency access shall be gated, shall not be required to be paved, and may have a gravel or other stabilized surface.

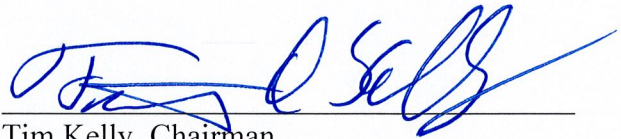
8. Truck drivers traveling to or from the subject property shall not be permitted to stay overnight in trucks on the subject property.

9. To ensure sufficient room for the stacking of trucks, guard sheds shall not be permitted to be installed any closer than 360 feet to the proposed access drive's intersection with S.R. 0074 (as measured along the travel path established by the access drive).

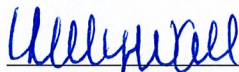
10. The proposed warehouse building shall be designed and constructed to be solar-ready so as to reserve a portion of the roof of the proposed building for the possible future installation of solar panels. This condition does not require the installation of solar panels but rather requires the building to be designed to accommodate the possible future installation of solar panels on a portion of the roof if desired by a tenant or occupant of the building.

11. Applicant agrees to fence the truck court in accordance with Matt Nunn's testimony at the August 23, 2022 Conditional Use Hearing.


Carroll Township Board of Supervisors



Tim Kelly, Chairman



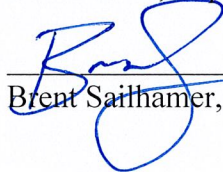
Kelly Wall, Vice-Chair



Kelley Moyer-Schwille, Supervisor



David Bush, Supervisor



Brent Sailhamer, Supervisor

(Written Decision of Findings issued this 3<sup>rd</sup> day of October 2022)