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January 10, 2023

Township of Caernarvon Board of Supervisors  
Township of Caernarvon  
3307 Main Street  
Post Office Box No. 294  
Morgantown, Pennsylvania 19543-0294

Re: Magnolia Greene Planned Residential Development  
Application of Green Hills Land, LLC

Dear Members of the Township of Caernarvon Board of Supervisors:

This Firm serves as Special Counsel to the Township of Caernarvon Planning Commission (the "Township Planning Commission") regarding the application for Tentative Approval of a Planned Residential Development to be known as Magnolia Greene (the "PRD Application"). The proponent of the PRD Application is Green Hills Land, LLC (the "Applicant").<sup>1</sup> We understand that the Applicant is an affiliate of the business known as Berks Homes.

This letter constitutes the Township Planning Commission's recommendation regarding the PRD Application as contemplated pursuant to Section 628.4. of the Township Zoning Ordinance (as amended, the "Zoning Ordinance"). **For the reasons set forth below and the Review Letters which are attached as exhibits to this letter (collectively, the "Review Letters"), the Township Planning Commission recommends that the Board of Supervisors deny the PRD Application.**<sup>2</sup>

This letter is organized in three (3) Sections, as follows.

1. In Section I, the Township Planning Commission discusses the substance of the PRD Application.

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<sup>1</sup> The property which is the subject of the PRD Application is the site of the Morgantown Airport and is known to the County Assessment Office as Tax Map Parcel No. 5320-02-55-2777 and Tax Map Parcel No. 5320-01-45-3650, respectively (the "Property"). According to information which the Applicant noted on the Revised Plan (as hereinafter defined), the area of the Property measures 56.674 acres. As currently configured, the Property has significant frontage along Main Street (State Route 23). As set forth in the PRD Application, the owners of the Property are Vernon K. Beiler and Betty J. Beiler. To the Township Planning Commission's knowledge, the Applicant did not present to the Township evidence of the Applicant's standing to submit and pursue approval of the PRD Application.

<sup>2</sup> The Review Letters include the following:

- A. Kraft Engineering letter dated December 20, 2022;
- B. Twin Valley Fire Department letter dated December 19, 2022;
- C. Technicon Enterprises Inc., II letter dated December 14, 2022;
- D. Public Works Foreman electronic mail message dated December 13, 2022;
- E. Berks County Planning Commission letter dated November 22, 2022; and
- F. Caernarvon Township Police Department memorandum dated November 15, 2022.

2. In Section II, the Township Planning Commission discusses the legal framework within which the Board of Supervisors should review the PRD Application.
3. In Section III, the Township Planning Commission offers a non-exhaustive analysis of the reasons for its recommendation that the Board of Supervisors deny the PRD Application.

### **Section I. The PRD Application.**

The Applicant submitted the PRD Application on October 24, 2022. On December 6, 2022, the Applicant submitted a revised version of the plan upon which the PRD Application is based, along with supplemental Twin Valley School District Enrollment Data and notes from a meeting between the Applicant's representatives and representatives of PennDOT. That revised plan by Stackhouse Bensinger, Inc. is entitled *Planned Residential Development*, is dated October 20, 2022, and is last revised December 6, 2022 (the "Revised Plan").<sup>3</sup> <sup>4</sup>On December 20, 2022, the Applicant submitted to the Township Planning Commission a list of waivers and modifications which the Applicant seeks in order to facilitate the Planned Residential Development (together with the list of waivers and modifications which the Applicant submitted when it originally filed the PRD Application, the "Waivers/Modifications Request List").

Pursuant to the PRD Application, and as more fully depicted on the Revised Plan, the Applicant proposes to redevelop the Property in three (3) phases as a residential development with some commercial component, together with an internal road network, open space, active recreational space, stormwater management facilities, and landscaping (the "Planned Residential Development"). The residential portion of the Planned Residential Development would consist of eighty-six (86) townhomes and 135 single-family dwellings. The commercial portion of the Planned Residential Development would consist of six (6) commercial lots. All of those commercial lots would be served by a single drive-aisle to the north of the commercial buildings and none would have direct access to Main Street.

The Applicant did not provide sufficient information regarding open space or active recreational space at the Planned Residential Development to allow the Township Planning Commission to intelligently consider whether the Planned Residential Development will be adequately served by such facilities. From the Revised Plan, though, the Township Planning Commission observes that the Applicant proposes the following:

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<sup>3</sup> Though the Applicant may submit a further revised version of the Revised Plan at or prior to the Board of Supervisors' Hearing on the PRD Application, the Applicant denied the Township Planning Commission any opportunity to review any such plan.

<sup>4</sup> The Revised Plan does not account for what the Township Planning Commission believes are the most recent plans which Pennsylvania Turnpike Commission prepared for improvements in the vicinity of the Property. Accordingly, the Township Planning Commission is unable to conclude that the Planned Residential Development, as depicted on the Revised Plan, is feasible.

- a walking trail along the southern portion of the single-family dwelling component of the Planned Residential Development which would “wrap-around” three (3) sides of the townhouse component and provide means of access to a playground which would be located in the middle of the townhouse component;
- that playground, which the Applicant identified as an “active recreation” area;
- another playground on the northwestern edge of the Planned Residential Development; and
- various pockets of space which the Applicant identified as “open space,” some of which are located in areas which the Applicant also identified as “stormwater management area” and most of which measure less than one acre in area.

The Applicant also did not provide sufficient information to allow the Township Planning Commission to consider in any meaningful way traffic impacts from the Planned Residential Development. in any meaningful way. This is especially the case with regard to the commercial component of the Planned Residential Development which, as noted above, would be served by a single drive aisle without direct access to Main Street.

Though the Applicant labeled certain areas of the Property on the Revised Plan as “Stormwater Management Area,” the Applicant did not provide any information which would allow the Township Engineer to determine the feasibility of those areas to serve that purpose. The Applicant did state its intention to conduct infiltration testing at the Property but, to date, did not submit to the Township any information in that regard.

Furthermore, and notwithstanding Section 598.M.2. of the Zoning Ordinance and Section 598.N.2. of the Zoning Ordinance, the Applicant did not submit to the Township an open space management plan or a landscape plan.

## **Section II. The Legal Framework.**

The PRD Application and the Township’s review of it are governed by Article VII of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10701 *et seq.*, Section 628 of the Zoning Ordinance, and Ordinance No. 313 (pursuant to which the Board of Supervisors amended Section 628 of the Zoning Ordinance in part and enacted Section 598 of the Zoning Ordinance). The Property is situated within the IOP Mixed Use Housing Residential Overlay District (the “Zoning District”). With Ordinance No. 313, the Board of Supervisors amended the Zoning Ordinance to permit a planned residential development within the Zoning District and enacted certain criteria which are applicable to such planned residential developments.

As defined in the Zoning Ordinance, a planned residential development is

a continuous area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units, or combination of residential and nonresidential uses, the development plan for which does not correspond in lot size, bulk, type of dwelling or use, density or intensity, lot coverage and required open air space to the intensity, lot coverage and required open space to the regulations established in any one district created, from time to time, under the provisions of [the Zoning] Ordinance.

TOWNSHIP OF CAERNARVON, PA., ZONING ORDINANCE § 300 (2007).

A planned residential development “offer[s] an alternative to traditional, cookie-cutter zoning. A PRD is a larger, integrated planned residential development which does not meet standards of the usual zoning districts and offers municipalities flexibility.” *Gouwens v. Ind. Twp. Bd. of Supervisors, et al.*, 260 A.3d 1029 (Pa. Commw. Ct. 2021) (*quoting Kang v. Supervisors of Twp. of Spring*, 776 A.2d 334, 328 (Pa. Commw. Ct. 2001)). **“Given the unique nature of a PRD and its character as a departure from traditional zoning requirements, [the Board of Supervisors] must ensure, prior to granting approval, that the planned PRD does, in fact, meet the specific requirements in the” Zoning Ordinance.** *Id.* (*citing Gouwens v. Ind. Twp. Bd. of Supervisors*, 215 A.3d 95, slip op. at 9-10 (Pa. Commw. Ct. 2019) (*emphasis added*)). “This is because a PRD ‘overrides traditional zoning controls’ and, upon tentative approval, effectively amends the zoning map.” *Id.*

Following the Board of Supervisors’ Hearing on the PRD Application, the Board of Supervisors must (A) grant tentative approval of the Revised Plan, as submitted, **or** (B) grant tentative approval subject to specified conditions which are not included in the Revised Plan, as submitted, **or** (C) deny the PRD Application. The written decision of the Board of Supervisors must “include not only conclusions but also findings of fact related to the [PRD Application] and shall set forth the reasons for the grant, with or without conditions, or for the denial . . . .” TOWNSHIP OF CAERNARVON, PA., ZONING ORDINANCE § 628.5. (2007). In that, the Board of Supervisors must “set forth with peculiarity in what respect the [Revised Plan] would or would not be in the public interest, including, but not limited to, findings of fact and conclusions on” the criteria which the Board of Supervisors established at Section 628.5. of the Zoning Ordinance. *Id.*

Finally, the Board of Supervisors’ review of the Waiver/Modification Request List is governed by Section 628.2.b. of the Zoning Ordinance. Pursuant to that Section, the Applicant must “detail the reason that it is believed that the regulations [from which waivers are sought] would cause undue hardship or shall demonstrate an alternative standard if such alternative standard can be demonstrated to provide equal or better results.” TOWNSHIP OF CAERNARVON, PA., ZONING ORDINANCE § 628.2.b. (2007). The Applicant bears the burden of proving its entitlement to any waivers or modifications. TOWNSHIP OF CAERNARVON, PA., ZONING ORDINANCE § 628.2.b. (2007).



### **Section III. The Township Planning Commission's Recommendation.**

As noted above, the Township Planning Commission recommends that the Board of Supervisors deny the PRD Application and offers the following bases for that recommendation.

1. Though it submitted the Waiver/Modification Request List, the Applicant did not submit information which "detail[s] the reason . . . that the regulations [from which waivers are sought] would cause undue hardship . . . ." Likewise, the Applicant did not demonstrate alternative standards which would provide equal or better results. Rather, the Applicant seemingly seeks waivers and modifications simply so that it can construct within the Planned Residential Development as depicted on the Revised Plan. Maximization of the number of building lots which the Applicant can market and sell, however, is not a valid reason for the Board of Supervisors to approve waivers or modifications. In any event, the Applicant's financial interest is not a sound basis for the Board of Supervisors to determine that the waivers or modifications which the Applicant seeks would or would not be in the public interest.
2. The Township Planning Commission notes Section 628.21.a.(1) of the Zoning Ordinance pursuant to which "[a]ll design standards and requirements contained in the Township Subdivision and Land Development Ordinance and elsewhere in the Zoning Ordinance shall apply" to the PRD Application. The only exception to that rule is for those design standards and requirements which are modified by Section 628 of the Zoning Ordinance. Assuming that the Board of Supervisors does not (or, based on the information which the Applicant provided, cannot) approve all of the waivers and modifications which the Applicant requested, the Board of Supervisors cannot conclude that the PRD Application meets the specific requirements in the Zoning Ordinance and, as applicable, the Township Subdivision and Land Development Ordinance.
3. At Section 300 of the Zoning Ordinance, the Board of Supervisors defined the term "Common Open Space" as  
  
[a] parcel or parcels of land or a combination of land and water within a Planned Residential Development . . . and designed and intended for the use or enjoyment of residents of the Planned Residential Development . . . not including streets, off-street parking areas, wetlands, flood plains, permanent drainage easements, area having slopes in excess of twenty-five (25) percent and areas set aside for public facilities. Common Open Space shall be substantially free of structures but may contain such improvements as are in the development plan as finally approved and as are appropriate for recreational use by residents. The buildings, structures,

and improvements which are permitted in the Common Open Space must be appropriate to the uses which are authorized for the Common Open Space and must conserve and enhance the amenities of the Common Open Space.

TOWNSHIP OF CAERNARVON, PA., ZONING ORDINANCE § 300 (2007).

In *Gouwens*, the Commonwealth Court considered application of a similarly defined requirement for common open space within a planned residential development. *See Gouwens*, 260 A.3d at 1029. The Court held that, in order to warrant a grant to tentative approval, the record of a planned residential development hearing must include evidence that common open spaces is “designed and intended for the use or enjoyment of” the residents of the planned residential development. *Id.* Here, however, the Applicant did not present to the Township Planning Commission any evidence that the areas which are identified on the Revised Plan as “Open Space” are so designed and intended. Accordingly, the Township Planning Commission concludes that the siting of those areas is an afterthought relative to the layout of the residential dwelling units within the Planned Residential Development. Furthermore, the Township Planning Commission cannot conclude that the Common Open Space or the Active Recreational Space which are depicted on the Revised Plan will be “appropriate for recreational use by residents” of the Planned Residential Development.<sup>5</sup>

4. The Applicant posits that areas where it would construct stormwater management facilities may also be counted as Common Open Space. To be sure, Section 598.G.3.(c) of the Zoning Ordinance allows for up to twenty-five percent (25%) of Common Open Space to “be comprised of stormwater management retention or detention basins.” As the Township Engineer noted, however, the Revised Plan “appears to provide more than 25% of the Common Open Space as stormwater management facilities . . . .”

In response, the Applicant stated that it may utilize underground stormwater management facilities and count as Common Open Space the ground surface area under which those facilities would be constructed. The Township Planning Commission observes, though, that no Township Ordinance of which it is aware makes any distinction between above-ground stormwater management facilities and underground stormwater management facilities. Accordingly, the twenty-five percent (25%) limitation set forth at Section 598.G.3.(c) of the Zoning Ordinance applies to both.

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<sup>5</sup> Though the Applicant suggested that it would consider paying a fee-in-lieu of open space, the off-site open space which would be funded by that fee would, by definition, not be within the Planned Residential Development, designed and intended for the use or enjoyment of the residents of the Planned Residential Development, or be appropriate for recreational use by residents of that development.

Moreover, in *Gouwens*, the Commonwealth Court considered (not for the first time)

whether a proposed [planned residential development] that attempted to include stormwater management areas in its common open space satisfied a township's requirements where the township's definition of 'common open space' . . . excluded 'public facilities' from the calculation of common open space.

*Gouwens*, 260 A.3d at 1029 (citing *Harvin v. Bd. of Comm'rs. of Upper Chichester Twp.*, 33 A.3d 709, 714 (Pa. Commw. Ct. 2011)).

The Commonwealth Court concluded that "the proposal's stormwater treatment facilities were indeed public facilities [and] therefore, that land could not be included in the common open space calculation[.]" *Id.*

The Board of Supervisors should ensure that the Applicant is not including areas where the Applicant would construct stormwater management facilities within any more than twenty-five percent (25%) of areas which would be classified as Common Open Space.

5. Pursuant to Section 628.13.C.1. of the Zoning Ordinance, "[n]o individual Common Open Space shall be less than one (1) acre in size, or less than fifty (50) feet in width." Notwithstanding that requirement, and as depicted on the Revised Plan, the Applicant proposes not less than ten (10) separate areas which would measure less than one acre.

The Applicant suggests that, pursuant to Ordinance No. 313, the Board of Supervisors repealed Section 628.13.C.1. of the Zoning Ordinance. Specifically, the Applicant points to Section 598.G.3. of the Zoning Ordinance which includes certain requirements regarding Common Open Space at planned residential developments within the Zoning District. Those requirements differ to some extent from those which are applicable to planned residential developments in other zoning districts. The Applicant posits that, since the one acre requirement at Section 628.13.C.1 of the Zoning Ordinance does not appear in Ordinance No. 313, the Board of Supervisors repealed that requirement for planned residential developments within the Zoning District. The Township Planning Commission disagrees.

Pursuant to Section 4 of Ordinance No. 313, the Board of Supervisors repealed "[a]ll Ordinances or parts of Ordinances conflicting with any provisions of" Ordinance No. 313. Section 628.13.C.1. of the Zoning Ordinance, however, does not conflict with Section 598.G.3. or any other part of Ordinance No. 313. The Repealer language in Ordinance No. 313, therefore, is inapplicable to Section 628.13.C.1. of the Zoning Ordinance.

The Rules of Statutory Construction also mandate that result.<sup>6</sup> As stated there, “[w]henever a section or part of a statute is amended, the amendment shall be construed as merging into the original statute . . . and the remainder of the original statute and the amendment shall be read together and viewed as one statute passed at one time.” 1 Pa.C.S. § 1953.

There is nothing in Section 628.13.C.1 of the Zoning Ordinance or Ordinance No. 313 which suggests that, for planned residential developments within the Zoning District, the Board of Supervisors intended to repeal the requirement that “[n]o individual Common Open Space shall be less than one (1) acre in size, or less than fifty (50) feet in width.” The Township Planning Commission recommends that the Board of Supervisors reject the Applicant’s invitation to read that repeal into the Zoning Ordinance.

6. Pursuant to Section 598.G.3.(a) of the Zoning Ordinance, “[n]o less than 25% nor more than 35% of the minimum required Common Open Space shall be improved for active recreational facilities . . . .” The Township Engineer, however, determined that the amount of active recreational space depicted on the Revised Plan constitutes “approximately 16% of the Common Open Space.”
7. Pursuant to Section 598.M. of the Zoning Ordinance, the Applicant was required to submit an open space management plan together with the PRD Application. That plan is necessary to “provide for the long-term management and maintenance of any stormwater management, recreation, or any other common facilities which may be located within areas of common open space or common areas.” TOWNSHIP OF CAERNARVON, PA., ZONING ORDINANCE § 598.M.2. (2022). The Applicant, however, did not submit to the Township any open space management plan.
8. Pursuant to Section 598.N. of the Zoning Ordinance, the Applicant was required to submit a landscape plan at the time when the Applicant submitted the PRD Application. TOWNSHIP OF CAERNARVON, PA., ZONING ORDINANCE § 598.N.2. (2022). The Applicant, however, did not submit to the Township any landscape plan.
9. Pursuant to Section 628.10.f. of the Zoning Ordinance, the Applicant was required to include on the Revised Plan information regarding “[t]he feasibility of proposals for water supply and the disposition of sanitary waste and storm water[.]” TOWNSHIP OF CAERNARVON, PA., ZONING ORDINANCE § 628.10.f. (2007). The only information which the Applicant submitted in those regards are (A) a statement by the Applicant’s engineer that “[u]tility plans and engineered designs for water and sewer will be sent to the Township Authorities for review and comment. Serviceability letters will be forwarded upon receipt[.]”

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<sup>6</sup> “[W]hen construing the terms of [the Zoning Ordinance, the Board of Supervisors is] guided by the principles of statutory construction set forth in the Statutory Construction Act of 1972.” *See Borough of Fleetwood v. Zoning Hearing Bd.*, 649 A.2d 651, 656 (Pa. 1994).

and (B) the Applicant's statement to the Township Planning Commission that the Applicant will soon complete infiltration testing at the Property.

The information which the Applicant submitted to the Township regarding water, sewer, and stormwater management amounts to nothing more than a promise to comply with applicable regulations. Especially with regard to stormwater management, there is no basis for the Board of Supervisors to conclude that the Applicant's future plans to comply with the Township's (and applicable Commonwealth) regulations will be feasible.

10. Pursuant to Section 598.L.1.(g) of the Zoning Ordinance, "[n]o parking shall be permitted on any street within a Planned Residential Development within the" Zoning District [and w]here no on-street parking is provided, in addition to required off-street parking, the [A]pplicant shall provide additional off-street parking consistent with Section 597.O." of the Zoning Ordinance. The Applicant stated that it would not permit off-street parking on certain streets within the Planned Residential Development and the Township Planning Commission is unable to determine whether there is sufficient off-street parking for residents and guests.
11. Pursuant to Section 628.5.d. of the Zoning Ordinance, the Board of Supervisors' decision regarding the PRD Application must include findings of fact and conclusions of law on "[t]he physical design of the development plan and the manner in which said design does or does not . . . provide adequate control over vehicular traffic . . . ." The Application, though, provided to the Township Planning Commission only (A) a comparison between the peak-hour traffic which would be generated at the Planned Residential Development and the traffic which would be generated by other uses which are permitted within the Zoning District and (B) the notes of a meeting with PennDOT. The Township Planning Commission, therefore, cannot conclude that the Planned Residential Development will "provide adequate control over vehicular traffic[.]" This is particularly the case at the commercial component of the Planned Residential Development, for which the Applicant provided little to no traffic-related information whatsoever.
12. As noted above, and as depicted on the Revised Plan, the commercial component of the Planned Residential Development would not have direct access to Main Street. The Township Engineer noted that the Applicant did not provide adequate information to allow the Township Planning Commission to determine whether the Planned Residential Development complies with Section 608.4. of the Township Subdivision and Land Development Ordinance.
13. Though the Applicant did present a Narrative with information related to the capacity of the Twin Valley School District, the Township Planning Commission is unable to determine the accuracy of the Applicant's statement that school district buildings are underutilized by more than thirty percent (30%).

14. The foregoing is not intended to be, and is not, an exhaustive list of all of the manners in which the PRD Application and the Revised Plan do not comply with the Zoning Ordinance, the Township Subdivision and Land Development Ordinance, and other applicable Township Ordinances. In that regard, the Township Planning Commission incorporates herein by reference the Review Letters and directs the Board of Supervisors' attention to those points of non-compliance with the Township Engineer and other reviewers identified there.

The Township Planning Commission thanks the Board of Supervisors for this opportunity to submit this recommendation regarding the PRD Application. **As noted, the Township Planning Commission recommends that the Board of Supervisors deny the PRD Application and directs Special Counsel Michael S. Gill, Esquire, to enter his appearance at the Board of Supervisors' Hearing on this matter to advocate in favor of that position.**<sup>7</sup>

Very truly yours,



Michael S. Gill

/msg  
Attachments

cc: Sean Zerbey, Chairman (*via electronic mail, with attachments*)  
Roger Keith, Member (*via electronic mail, with attachments*)  
Allen Styer, Member (*via electronic mail, with attachments*)  
Joan A. Bair, Township Administrator (*via electronic mail, with attachments*)  
Scott C. Anderson, Township Engineer (*via electronic mail, with attachments*)  
Charles B. Haws, Esquire (*via electronic mail, with attachments*)  
Eric Brown, Esquire (*via electronic mail, with attachments*)  
Sheila O'Rourke, Esquire (*via electronic mail, with attachments*)

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<sup>7</sup> The Township Planning Commission reserves the right to supplement its recommendation based on any revisions or other information which the Applicant may submit to the Township or any other agency, board, or commission having jurisdiction over the Planned Residential Development.



December 20, 2022

Caernarvon Township Planning Commission  
c/o Joan Bair, Township Secretary  
3307 Main Street  
P.O. Box 294  
Morgantown, PA 19543-0294

Re: Magnolia Greene Development  
Tentative Plan Review  
Received: December 6, 2022  
Public Hearing: January 10, 2023  
KE File -Z 206

Dear Planning Commission Members:

We have reviewed the revised Tentative Plan for the Mangolia Greene Development. The Applicant and Developer is Greene Hills Land, LLC. The Plan was prepared by Stackhouse Bensinger, Inc., and includes two (2) plan sheets and dated October 20, 2022 (Revised December 6, 2022). Supplemental information and a response letter was provided in the submission package. The Applicant approved the extension of the hearing to January 10, 2023 by letter dated November 16, 2022.

The subject 56.674 acre parcel is located on Main Street (SR 0023) opposite the Lowes/Walmart shopping center. The proposal includes the construction of a 135 single family detached dwelling units, 86 Townhomes, and 332,670 square feet of potential IOP commercial space. The parcel is in the Industrial Office Park Mixed-Use Residential Housing Overlay District. Based upon our review, we offer the following comments for your consideration:

## ZONING ORDINANCE

1. Comment addressed.
2. The Caernarvon Township Planning Commission and the Berks County Planning Commission (BCPC) shall issue a review and recommendation of the Tentative Plan. (§628.4).

**The BCPC issued a letter on November 22, 2022. The following BCPC comments are not duplicates of our comments, and still remain after the December 6, 2022 Plan revisions:**

- A. *The road width is not recommended for on-street parking. If on-street parking is prohibited, adequate parking for visitors should be provided.*

**This comment is also relevant as discussions in previous Township meetings for this development expressed the need for visitor parking especially in the townhouse area. Previous versions of the Plan proposed several more parking areas other than driveways.**

- B. A single cluster of mailboxes may not be adequate for 86 townhome units. The mailbox cluster should be located on the same side of the street as the sidewalks.*
- C. Pedestrian crossings should be added across Road A from the townhouses and from the single-family houses to the commercial parcels.*

**This request was also posed by the Planning Commission. Internal Street I and Road D at the intersections of Road A would seem the most relevant spacing and locations for crossings to be considered. Stop control at these intersections should also be included in the consideration.**

- D. If a homeowner's association is proposed, the Township should review the Agreement and all necessary by-laws and covenants.*
- E. The subject property has been enrolled in Clean & Green since 2003. The owner will need to coordinate with the Berks County Assessment Office accordingly.*

- 3. **MODIFICATION REQUEST:** The first stage and all subsequent stages shall contain at least twenty (20) percent of the dwelling units given tentative approval. Each stage, to the extent possible, shall have the same ratio mix of dwelling unit as approved in the Tentative Plan. (§628.8.b)

Per the request letter, the ratio requested is due to economics and the efficiency of the construction. It should be noted the total of the percentages in the modification request is less than 100% and therefore needs slight modification.

**Modification request remains: The Applicant is proposing 60% of the residential development in Stage 1, 21% in Stage 2, and 19% in Stage 3. Additionally, 100% of the commercial development is proposed for Stage 1.**

- 4. **MODIFICATION REQUEST:** At least fifty (50) percent of all the dwelling units proposed shall be rented or sold prior to the construction of any commercial development. (§628.8.c)

Per the request letter, the commercial property is proposed for Stage 1 and developed simultaneously with the 60% of dwelling units proposed for the same stage.

**Modification request remains:** The Applicant has acknowledged the comment and states that it is their understanding that the Township supports developing the commercial portion of the project as early as possible.

5. **MODIFICATION REQUEST:** The gross stage residential density may be varied from stage to stage by a maximum of ten (10) percent of the gross residential density as the entire Planned Residential Development as approved. Where it is necessary to allocate Common Open Space to residential densities, the developer shall be required to grant Common Open Space easements or covenants to the Municipality, specifying the amount and location of such Common Open Space required to satisfy the density requirements of the plan. (§628.8.d)

Per the request letter, the Applicant is proposing greater than ten (10) percent but does not provide the percentages that are requested for any of the stages. This requirement includes the option of establishing the necessary percentage of Common Open Space with an easement or covenant in order to avoid the need for modification of this section.

**Modification request remains:** The Applicant is proposing 60% of the residential development in Stage 1, 21% in Stage 2, and 19% in Stage 3 for efficiency of construction. The Applicant has stated that the required Common Open Space for each Stage will be provided at each stage of the development and any required easements or covenants will be provided to ensure the required Common Open Space is provided.

6. A high-level schedule was submitted in the narrative. As stages progress, the detail of each stage shall be refined and updated accordingly. (§628.8.e)

**The Applicant has acknowledged the comment.**

7. **MODIFICATION REQUEST:** The landscaping for each approved stage must be eighty (80) percent completed before proceeding to the next stage. No more than two (2) stages may be incomplete at any time. (§628.8.f)

Although the Applicant is requesting a modification of this section, the intent also states the street trees will be installed along a street at once the dwellings are complete. It seems the intent complies with the section and modification is unnecessary. Clarification of the request may be necessary.

**Modification request withdrawn:** The Applicant has offered to install trees with each stage and has withdrawn their modification request.

8. Completion of improvements, guarantees, and maintenance shall comply with §628.9.

**The Applicant has stated that completion of standard, required agreements will be executed upon final approval and prior to recording.**

9. Comment addressed.
10. The proposed Common Open Space is disjointed and appears secondary to the layout of the residential units and the layout of the street network. The exception is the walk/bike path, which is proposed within Stage 1. Access to each open space is undefined. Some areas appear accessible to just the few adjacent lots which abut them, e.g. Open Space A, K, O and L. The open space areas are spread throughout the development as opposed to a few larger centralized areas that could be accessed by all residents or accommodate permitted recreational facilities. (§628.10.d)

**The Applicant has revised the layout of the asphalt trail to provide access to the Common Open Space. The access to the Common Open Space is provided via a combination of sidewalk and the asphalt trail, but areas L and A are still not accessible to properties other than the adjacent parcels. It should be discussed whether access is necessary to all open areas.**

**Discussion at the November 15, 2022 Planning Commission meeting questioned the one (1) acre minimum for open space areas per §628.13.c.1. The Plans did not correct for this requirement as the Developer asserts Ordinance 313, §598.G, Site Requirements set out different requirements. Although §598.G, included Site Requirements, it also repealed and replaced subsections of §628, but not §628.13.c. Therefore, a modification would be required. The Solicitor should review this determination.**

11. The feasibility of the water supply, sanitary sewer disposal and storm water management must be included on the Plan. Service letters from the Caernarvon Township Municipal Sewer Authority and the Caernarvon Township Authority should be provided to demonstrate adequate capacity for water and sewer. The Plan does not demonstrate a preliminary utility layout similar to the water shown. (§628.10.f)

**The Applicant has stated that utility plans and engineering design for water and sewer will be sent to the Township Authorities for review and comment. Additionally, serviceability letters will be forwarded upon receipt.**

12. The covenants and easements included in the Declaration of Covenants and Structures shall include access provided to the Township as applicable for such facilities as stormwater and open space. (§628.10.g)

Also, the Pennsylvania Turnpike has revised drawings within the 2022 calendar year and provided those to the Applicant. The PRD Plan indicates design Plans from the Turnpike dated 2015. Clarification is needed as to the proposed layout

of Willow Glen Road, the Turnpike design including proposed right-of-way, current coordination and feasibility of the PRD Plan as shown.

**The Applicant has acknowledged the comment. However, the Turnpike Commission's drawings have identified additional land and right-of-way acquisitions on the subject property. The Plans should remove the old design/right-of-way provided by the Turnpike and consider incorporating the Turnpike's latest plans and impacts. Impacts may affect the property zoning calculations.**

13. The Plan does not clearly identify the intent of street parking or dedication of proposed streets. This clarification is necessary to determine certain minimum design requirements. (§628.10.h)

**The Applicant has stated that Roads A and B are anticipated to be dedicated and the Plans should reflect this. Additionally, parking is proposed on one side of Road B, in the event of a snow emergency on street parking will be prohibited and residents will be permitted to park in the commercial property pursuant to an easement agreement to be prepared to address such shared parking during snow emergencies. Some of the properties are ¼ mile from the nearest commercial property. The Township should determine if this accommodation is acceptable.**

**Note 1 under site notes on sheet one conflicts with what was stated in the response letter regarding on-street parking. Please clarify the discrepancy. Additionally, all easement agreements shall be provided to the Township for review.**

14. Any required modifications or waivers of the Municipal Land Use regulations (i.e. Zoning or SALDO) shall be shown on the Plan or submitted in writing. (628.2.b and §628.10.i)

**The Applicant has acknowledged the comment, however, the modification and/or waiver requests do not appear to be updated from the previous submission and/or provided on the plans.**

15. Common Open Space is shown on the Plan but there are no recreation facilities in accordance with §628.10.m. Sample recreational facilities listed in §598.G.3.a and §598.E.4 are mirrored on the Plan. The Common Open Space does not demonstrate whether any of the suggested recreation facilities could be accommodated by the area afforded. A discussion of what recreation facilities may be appropriate for the area or consistent with the Township's Parks and Recreation planning would be beneficial to both the Applicant and the Township.

**The Applicant has stated that they have had discussions with the Planning Commission and the Recreation Committee and have expressed willingness to contribute toward improvements on existing Township owned property to**

**allow for increased recreational activity to all Township residents. Additionally, the plan has been revised to depict the location of the anticipated recreational facilities. The Township should determine what recreation facilities and what areas are acceptable.**

16. The Applicant provided a narrative titled "Caernarvon Township Impact Evaluation" in accordance with §628.10.n. This should be identified as Exhibit N to be consistent with the Tentative Plan Submission Narrative. Comments are as follows:

- A. As required by §302.5 of the SALDO, the Township's Police, Fire and Roads Department may provide written comments relative to their specific interests regarding this narrative and the Plan. The same representatives may attend the Planning Commission to provide comments.

**The Applicant has acknowledged the comment. Comments from the Township's Police, Fire Marshal and Roads Department have been received and should be addressed by the Developer with the Planning Commission.**

- B. The Transportation and Circulation section of the narrative does not indicate whether an active bus program passes through the Township. If one exists, the Plan should demonstrate access is provided to the bus stop.

**The Applicant has stated that they are not aware of any active bus program.**

- C. Stormwater management areas are identified on the Plan with no anticipated design. An NPDES permit will be required by DEP and the development will be required to comply. As shown, stormwater compliance and impacts are indeterminate.

**The Applicant has acknowledged the comment. The Applicant has stated that a NPDES permit will be obtained and detailed E&S and Stormwater designs will be prepared as part of the Final Plan approval. The stormwater designated areas on the Plan are conceptual only as shown.**

- D. The Parks and Recreation narrative states the taxes generated from the PRD development can be allocated to provide recreation facilities to this development. The PRD development should include the recreation facilities as noted in §628.10.m.

Also, the narrative states the open space is to be dedicated. The Township is not required to accept dedication of open space generated by residential developments.



**The Applicant has stated that the Open Space is not intended to be dedicated to the Township. Additionally, the Applicant is willing to discuss funding improvements to the Township's nearby recreation facilities.**

- E. The Education section of the narrative calculates the projected students per housing unit on a national calculation and the number of projected students seems low. The School District or a regional study may have historical data that is more representative of the anticipated impact to the school system.

**The Applicant has provided supplemental data that states that the Twin Valley School District buildings are underutilized by 30.6% (1,281 students K-12). However, it should be clarified how the "Building Capacity" column was derived.**

17. All design standards and requirements contained in the Township's Subdivision and Land Development Ordinance and elsewhere in the Zoning Ordinance shall apply, except as may be modified by this section §628.21.

**The Applicant has acknowledged the comment.**

18. All structures on the IOP parcel shall demonstrate access. As shown, there is no access to the lot and therefore the lot is non-compliant. (§603)

**Access points have been included on the Plan. However, Section 603 further states access shall provide safe, convenient access for servicing, fire protection, and required off-street parking. The Fire Marshal has expressed concern with the limited detail of accessibility and maneuverability for the commercial lots. Demonstration of access to structures and off-street parking is not provided by this Plan.**

PennDOT issued comments on September 19, 2022 regarding the Scoping Application for the subject property. Those comments indicated necessary revisions to the access points, as well as restrictions to the access points onto Main Street (S.R. 0023). As shown, the access points of proposed Road A and Road H are not complaint with PennDOT requirements. Furthermore, the Scoping Application is inconsistent with the Tentative Plan specific to the access drive not shown on the Tentative Plan, but indicated to the west of the 4<sup>th</sup> leg of the Crossing Boulevard traffic signal.

**The driveway restrictions as discussed during the TIS scoping meeting shall be noted on the plan. For example, it was discussed that the western commercial access would be enter-only. Also, the commercial access along Road B appears to be 150' from the SR 0023 intersection as discussed with PennDOT. Lastly, the enter-only driveway would require the center turn lane on SR 0023 (Main Street) to be extended to the west for eastbound traffic entering. The existing bridge cannot provide the width necessary for an**

**additional lane, and there has been no correspondence provided indicating the Turnpike bridge design is including a center turn lane. Although this enter-only access at Lot 1 commercial is shown, supporting information does not demonstrate the design is feasible.**

19. Comment addressed.

20. Access and access points will be subject to requirements of §608. Again, no access to the parcels is shown, and therefore, the Plan cannot be verified for compliance.

**The plan has been revised to provide access points to the commercial development. However, the information provided is not adequate to determine compliance with §608.4 as there is no indication of pedestrian traffic within the commercial lots. Also, commercial lots 2, 3, 4, and 5 do not have access to a public street to which they have frontage. Therefore an access agreement across all properties involved will be required to ensure the access rights necessary for each of these separately subdivided parcels as proposed.**

21. The loading area and parking requirements associated with the IOP parcel cannot be verified for compliance with §612 and §613 since the parcel provides no geometric layout or improvements for the proposed uses or buildings.

**The Applicant stated that the Layout Plan has sufficient information; however, the information provided (an access drive to each parcel) is not adequate to verify compliance with any loading or parking requirements of §612 and §613.**

22. Screen plantings shall be maintained permanently, and plant material which does not live shall be replaced within one year. (§609.3)

**A note has been added to the plan stating that screen plantings shall be maintained permanently and plant materials which do not live shall be replaced within one year. However, the note does not address who is responsible for the maintenance or replacement of such plantings. This item shall be addressed at Final Plan.**

23. Any portion of the site that is not used for buildings, other structures, loading or parking spaces and aisles, sidewalks, and designated storage areas, shall be planted with an all-season ground cover and shall be landscaped according to the overall plan. (§609.4)

**The Applicant has acknowledged the comment.**

24. 25% to 35% of the Common Open Space shall be improved for active recreational facilities. The areas identified as active recreation calculate to 34% of the Open

Space in the chart (the chart is the discrepancy noted in the previous comment). The active recreation areas identified include proposed and existing stormwater management facilities and do not appear to qualify as "improved for active recreational facilities." (§598.G.3.a)

**It appears the currently proposed active recreational area accounts for approximately 16% of the Common Open Space.**

25. The Plan shall demonstrate that no more than 25% of the Common Open Space shall be comprised of stormwater management facilities. A calculation should be provided to demonstrate this requirement is satisfied, as well as the other Common Open Space percentages required. (§598.G.3.c)

**The plan as presented appears to provide more than 25% of the Common Open Space as stormwater management facilities, although the response states it is less. The Plans do not specify if the pre-existing stormwater facilities on this property along Highcroft Drive and east of existing Willow Glen Road at Main Street are included in any calculations as may be necessary. The Applicant further states in the response these areas are preliminary in nature and the stormwater facilities will be less than 25% during the detailed engineering of the site. The Plans must demonstrate compliance. The Applicant also states by response that underground stormwater facilities are being considered, although not shown or in the calculations, to allow for additional recreation space. Overlapping open space and stormwater management facilities is limited to 25%.**

26. All design standards and requirements in the Township SALDO and elsewhere in the Zoning Ordinance shall apply, except as may be modified by Section §589.L.1.B

**The Applicant has acknowledged the comment.**

27. Comment addressed.

28. The Home Owners Association(s) (HOAs) shall maintain all private streets within the proposed development pursuant to a Declaration to be reviewed and approved by the Township Solicitor. (§598.L.1.f)

**The Applicant has acknowledged the comment and has stated that the Declaration will be provided to the Township Solicitor for review.**

29. The plan shall note if parking will be permitted on any streets within the proposed development. Additionally, if parking is restricted to one side of the street, then that shall be noted and signage added as required. As shown, no parking will be permitted on Roads C, D, E, F, G or Internal Street I since widths are less than the Township minimum. (§598.L.1.g)

**The note added to the plan states that parking will be permitted along one side of all streets except for Road B and H. This differs to responses provided in the response letter. Please clarify the discrepancy. Also, Road A (up to Road B) still is not labeled as “to be dedicated.”**

30. An open space management plan shall be submitted with an application for final subdivision and land development in accordance with §598.M.2.

**The Applicant has acknowledged the comment.**

31. Consideration should be given to screening common open spaces from the proposed dwelling lots as suggested in §598.N.1.

**The Applicant has acknowledged the comment.**

32. Additional screening shall be added to the three (3) properties just east of Road B. Only the rear of these properties proposes landscaping. The eastern property boundary is also lacking the required screening, specifically along the properties identified as Burkholder Ventures, LLC and Jamsky Holdings, LLC. (§598.N.3.b) Additional improvements such as berms or fences may be appropriate at these locations in consideration of the close proximity and the uses. (§598.N.7.b and c)

**The comment has been acknowledged. However, no additional screening has been provided on the Plan and therefore the Plan is non-complaint.**

33. The Plan does not include a reference to woodland disturbance and whether replacement plantings will be required in accordance with §598.N.6.a.

**The Applicant has stated that there are no woodlands on the property. A note shall be added to the plan stating this.**

34. The total linear footage of new and existing public and private road frontage on both sides is noted as 11,687 feet total. As scaled from the Plan, the total amount of linear foot frontage is closer to 18,000 feet total. The discrepancy could result in an additional 63 trees. Stationing on the Plan could help clarify the distances. (§598.N.6.a)

**It appears that the total linear footage of new and existing public and private road frontage on both sides is closer to 18,000 feet total. The linear footage of each roadway shall be noted on the plan for ease of reference. The Plan was not updated for the required trees based upon frontage.**

35. §598.N.6.a allows for required plantings to be dispersed throughout the tract to meet certain objectives. The positioning of evergreen trees to create a year-round buffer from adjacent properties should be considered when designating specific trees on the Landscape Plan.

**The Applicant has acknowledged the comment.**

36. As shown, the Plan does not demonstrate complaint yard, density and other zoning requirements for the potential IOP commercial space in accordance with §628.5.b. The residential areas also require additional verification of the density provided for open space.

**The commercial lots have added hypothetical uses, a common driveway and yard setbacks. The information provided for the IOP commercial space is not adequate to determine zoning compliance (e.g. lot coverage, parking, loading, circulation, open space, etc.) as detailed in previous comments. The succeeding SALDO comments identify sections to which the overall Tentative Plan does not demonstrate compliance. In accordance with §628.5., justification of why these deviations are in the favor of public interest should be provided.**

37. The purpose, location and amount of Common Open Space shall be further determined to meet the Zoning requirements and whether the areas identified are appropriate for the residential development in accordance with §628.5.c.

**Although the Tentative Plan has been revised with regards to the Common Open Space and active recreational areas, the Tentative Plan is not complaint with the specified requirements of §628 and §598 as specified in the previous comments.**

38. The Plan must provide a physical design in which it provides adequate control over vehicular traffic in accordance with §628.5.d. As presented, the trip generation evaluation and Plan do not present any control of vehicular traffic. A Traffic Impact Study will be required by SALDO §516 as well as by PennDOT. Anticipated vehicular impacts to the adjacent roadway network have not been evaluated and therefore have not identified the anticipated improvements, or in accordance with this section, adequate controls over vehicular traffic.

**The Applicant has expressed that they have an understanding of what will be required for the Traffic Impact Study; however, a Traffic Impact Study has not been provided to the Township for review to date. The information provided for review from a traffic perspective does not allow for a review of vehicular traffic or impacts due to the proposed development.**

39. The Plan provides for Common Open Space, but recreation facilities are not proposed in accordance with §628.5.d.

**Recreational areas have been identified and the offer of coordinating or providing sufficient facilities has been made. The minimum active recreational area has still not been satisfied per the Plan.**

40. The development proposes modifications to the staging requirements and, therefore, would not be consistent with the terms and conditions required by the Zoning Ordinance intended to protect the interests of the public and residents of the PRD. Unless the requested modifications are approved, compliance with §628.5.f cannot be verified.

**The Applicant has acknowledged the comment.**

41. **New Comment: A Tentative Plan approval is an approval of the concept and design as shown. Any "variation" from the Tentative Plan approval at the time of a Final Plan submission may be subject to a subsequent and additional hearing by the Board of Supervisors per §628.7.d.**

#### SUBDIVISION AND LAND DEVELOPMENT ORDINANCE

1. The proposed traffic signal and any stormwater facilities within PennDOT ROW will require Caernarvon Township to be the permittee during the submittal process. The Applicant will be expected to enter into a separate agreement with Caernarvon Township addressing the installation and maintenance of specific facilities associated with the HOP. The Applicant should contact the Township Solicitor for further details pertaining to said agreement.

**The Applicant has acknowledged the comment.**

2. Land proposed for Subdivision or development shall not be developed or changed by grading, excavating or by the removal or destruction of the natural topsoil, trees or other vegetative cover unless adequate provisions for minimizing Erosion and sediment are provided as per criteria contained in Title 25, Chapter 102, Rules and Regulations, Pennsylvania Department of Environmental Resources, and the requirements of the Caernarvon Township Ordinance. (§501.5)

**The Applicant has stated that the project will require NPDES permitting and will be submitted to the Berks County Conservation District for their review and approval.**

3. Prior to the Record Plan being endorsed by the Planning Commission and Governing Body, the Applicant shall submit a completed original copy of the Subdivisions and Land Development Improvements Agreement (Appendix G). (§501.7)

**The Applicant has acknowledged the comment.**

4. All improvements installed shall be constructed in accordance with the design specifications of the Municipality, including promulgated by the Municipal Water or Sewer Authority. (§501.8)

**The Applicant has acknowledged the comment.**



5. Supervision of the installation of the required improvements shall in all cases be the responsibility of the Municipality of the appropriate state regulatory agency. (§501.9)

**The Applicant has acknowledged the comment.**

6. Comment addressed.
7. The proposed roadway network shall comply with §502.5 (Street Grades).

**The Applicant has acknowledged the comment.**

8. The deflection of street lines should be provided in accordance with §502.8.a.

**The Applicant has acknowledged the comment. As shown, the Plan appears to require a waiver of this Section.**

9. The intersections of Road B and Road H with Main Street (S.R. 23) are separated by approximately 750 feet. Intersections with Major Streets shall be no less than 1,000 feet apart in accordance with §502.10.e.

**As discussed in the TIS Scoping Meeting with PennDOT, PennDOT will permit the referenced driveways conditional upon the discussed turning restrictions and review of the forthcoming Transportation Impact Study. As shown, the Plan would require a waiver of this Section.**

10. The Plan does not include available sight distance lines at intersections in accordance with §502.11. Absent of these items, the Plan does not demonstrate sight distance could be compliant. There is concern with, but not limited to, the location of the dwelling units, street trees/landscaping and driveways in relation to the line of sight.

**The revised plan provides sight triangles; however, the sight triangles are not unobstructed. Landscaping within the areas must be adjusted accordingly. Also, the mailbox clusters on Road D and both ends of Road C are very close to intersections. As cars will temporarily park in the area of these clusters, sight distance conflicts may occur. Consideration of moving these to avoid the conflict is recommended.**

11. The proposed roadway network shall comply with §502.13 (Street Names).

**The Applicant has acknowledged the comment.**

12. **WAIVER REQUEST:** Sidewalks having a minimum width of four feet (4') shall be installed in accordance with municipal requirements along both sides of existing or proposed streets. (§502.15)

Per the request letter, the Applicant is proposing sidewalk on one side of most streets. Sidewalk is excluded from Road A (west of Road B) and Road H. In consideration of the request, the Applicant is offering an asphalt walk/bike path. It should be noted that the path extends from the intersection of Highcroft Drive and Willow Glen Road to just beyond the intersection of Road A and Road B, all of which is within Stage 1.

The asphalt walk/bike path is only four feet (4') in width. This width is insufficient in accordance with typical shared bike/pedestrian facilities per PennDOT guidelines and is not compliant with the Township required concrete sidewalk. The width should be increased to better accommodate the intended use.

**Waiver Request Remains: The asphalt walk/bike path has been revised to be eight feet (8') in width.**

13. The proposed roadway network shall comply with §502.16 (Street Signs).

**The Applicant has acknowledged the comment.**

14. Street lights will be required for the proposed residential areas as well as the commercial lots. Agreements and a street lighting tax are expected for the development. (§502.17)

**The Applicant has acknowledged the comment.**

15. The proposed roadway network shall comply with Section 502.18 (Driveways). Lot 48 and 68 do not appear to comply with the corner lot offset of 40 feet. It should be noted the offset as shown is only 38 feet.

**The Applicant has acknowledged the comment and has stated that a waiver may be required.**

16. The proposed development shall comply with §503.3 for crosswalks. Detail is not provided for any crosswalk. Compliance with ADA standards is required as well.

**The Applicant has noted that the layout plan addressed the revisions to the crosswalks referenced in the comment, however, it does not appear that crosswalks are provided on the plan as submitted.**

17. The Applicant must demonstrate that adequate sanitary sewer improvements and submit to the Caernarvon Township Sewer Authority and received approval for the same as required by §505.

**No response was provided to address the comment. Furthermore, the Applicant has not demonstrated that adequate sanitary sewer improvements will be provided.**

18. The Applicant must demonstrate adequate water supply and improvements submit to the Caernarvon Township Authority and received approval for the same as required by §508.

**The Applicant has acknowledged the comment.**

19. The Plan shall be submitted to the Fire Chief and the Fire Commissioner for comment. (§509)

**The Applicant has acknowledged the comment. Comments provided by the Fire Marshal should be discussed with the Planning Commission.**

20. The proposed development shall comply with Section 510 (Storm Drainage).

**The Applicant has acknowledged the comment.**

21. The Applicant shall forward a copy of the Plan to the appropriate electric utility company for review. A letter from said utility company verifying the receipt of the Plan must be provided to the Township prior to Final Tentative Plan approval per §511.4(a)(1) and (2).

**The Applicant has acknowledged the comment.**

22. All review letters and the subsequent approval from the Berks County Conservation District for the Erosion and Sediment Control Plan and NPDES permit shall be provided to the Township per §512.1. A review by the District has not yet been provided at the time of this review.

**The Applicant has acknowledged the comment.**

23. The proposed development shall comply with Section 513 (Monuments).

**The Applicant has acknowledged the comment and stated that a waiver on monuments was discussed.**

24. The forthcoming Transportation Impact Study shall be submitted to the Township in order to understand if safe and efficient accesses and circulation can be provided to and from the proposed development. (§516)

**The Applicant has acknowledged the comment.**

25. **New Comment: Intersection shall be at 90-degree angles per §502.10.a. The access drive through the IOP commercial parcels proposes intersections with Road A and Road B that are not at 90-degree angles. Furthermore, §502.10.d. requires a straight flat approach to such an intersection to be fifty feet (50') in length beginning at the right-of-way line. As shown, the Plan**

requires a waiver of these Sections.

26. **New Comment:** Intersection spacing shall be at least 150 feet. Between the two (2) intersections of Road F and Road G is only 123 feet. As shown, the Plan requires a waiver of this Section. (§502.10.c)
27. **New Comment:** The minimum radii of a proposed street is 150 feet. Road F along open space N provides radii of only 34 feet. As shown, the Plan requires a waiver of this Section. (§502.8)
28. **New Comment:** The minimum required cartway width for minor streets is 33 feet with a 53-foot right-of-way. The Applicant's frontage from the beginning of the relocations of Willow Glen Road up to Highcroft Drive should demonstrate a roadway widening of approximately 6.5 feet and right-of-way dedication, as applicable. When discussed at the November 15, 2022 Planning Commission meeting, the Applicant indicated a waiver request would be submitted.
29. **New Comment:** The asphalt walk/bike path is shown at some of the proposed intersections as street crossings. The location of these will need to be adjusted closer to the intersection so the crosswalk can be legally in front of a vehicle stopping at the intersection. The crosswalks at Road A and Road B will need to include a combination path/sidewalk ADA compliant ramp.

#### STORMWATER ORDINANCE

1. At this time, no stormwater design or layout has been submitted. Therefore, a review of stormwater facilities could not be performed. It should be noted that the Tentative Plan outlines potential locations for stormwater facilities but provides no indication of feasibility.

**The Applicant has acknowledged the comment and stated that E&S and stormwater facilities and NPDES permitting will be prepared as part of the Final Plan submission. The stormwater designated areas on the Plan are conceptual only as shown.**

#### TRAFFIC

1. A Traffic Impact Study will be required by SALDO §516 as well as by PennDOT. The study has not been completed and the impacts by the mixed-use overlay traffic, nor the previously permitted IOP traffic, have not been evaluated. Therefore the Plan provides no indication of feasibility or improvements.

**The Applicant has acknowledged the comment and stated that they have a clear understanding of what will be required for the Traffic Impact Study and**

**the HOPs. However, the Township has not received a Traffic Impact Study to date outlining the traffic impacts to the roadway network.**

2. By email dated February 15, 2022 to the Township Solicitor, attorney Charles Haws, Esq. restated Berks Homes willingness to contribute \$70,000.00 to the Township to help the Township address traffic signal coordination along S.R. 23 in the event PennDOT does not require traffic signal coordination along S.R. 23 as part of the HOP process.

**The Applicant has acknowledged the comment.**

3. The Township shall be copied on all correspondence with PennDOT. Additionally, the Township requests to be added as an "Additional Engineer" within EPS to access documents. Kraft Engineering, LLC has the following BPID 016063. Please include the following emails: sanderson@kraftengr.com and zruppert@kraftengr.com.

**The Applicant has acknowledged the comment.**

4. It appears there are typos in the Trip Generation Comparison at the following locations:
  - a. Table 1 weekday PM total trips and Saturday total trips.
  - b. Table 3 PM exiting trips for the proposed use and Saturday total trips for the proposed use.
  - c. Please verify the total internal capture for the potential by-right plan PM peak hour.

**The Applicant has stated that the information was revised and resubmitted. However, our office did not receive a revised trip generation comparison for review.**

#### GENERAL COMMENT

1. The Declaration of Building Restrictions and Covenants, as well as all other details provided in Exhibit G, shall be reviewed by the Township Solicitor.

**The Applicant has acknowledged the comment.**

2. Comment addressed.
3. The sidewalk termination at Highcroft Drive does not align with the existing sidewalk network on the North Side of the Highcroft Drive and Willow Glen Road intersections. Additionally, the Plan should specify that all sidewalks, crosswalks and curb ramps will be ADA compliant.

**The Plans do not state all sidewalks, crosswalks, and curb ramps will be ADA compliant. The response letter notes that the layout plan was updated, but the Plans must include a statement.**

4. Comment addressed.
5. The information provided did not address storm sewer, signage, lighting, or traffic impacts to the adjacent roadway network. These will need to be reviewed prior to final plan approval.

**The Applicant has acknowledged the comment.**

6. Please provide the density for each stage of the development on the plan.

**The Applicant has provided the density for each stage in the response letter; however, this information is requested to be presented on the plan.**

7. Detailed calculations and supporting documentation are requested to support the statements made in the Caernarvon Township Impact Evaluation.

**The Applicant has provided supporting documentation; however, it should be clarified how the building capacity was derived for the school district.**

8. The linear footage of street shown in the landscape table does not appear to be reflective of the linear feet provided in the county referral. Please clarify the discrepancy.

**The Applicant has acknowledged the comment however no clarification has been provided.**

9. The Planning Commission may consider requesting traffic counts after each stage of the development to confirm the trip generation utilized in the forthcoming Transportation Impact Study.

**The Applicant has acknowledged the comment.**

10. The Planning Commission may want to discuss the extension of the proposed trail network along Highcroft Drive. Furthermore, the proposed width of the trail shall be denoted on the plan.

**The Applicant has acknowledged the comment.**

11. The Applicant will be subject to the installation of fire hydrants and any other improvement necessary for the proposed water line upon review by the Fire Chief and Commissioner as well as the Township Municipal Authority.

**The Applicant has acknowledged the comment.**



12. Comment addressed.

13. The Planning Commission may want to consider sidewalk along the property frontage of Main Street (S.R 0023) as well as sidewalk along Road H to Main Street (S.R. 0023).

**The Applicant has acknowledged the comment. And the Planning Commission generally concurred with excluding sidewalk at these locations.**

14. Street trees exist within the street right-of-way (ROW) on the side of the street where sidewalk is provided. It may be the preference of the Township to move these trees outside of the ROW for consistency and less conflict with infrastructure.

**The Applicant has acknowledged the comment.**

15. The Plan shall include a note in reference to the HOA Agreement, covenants or other document including the appropriate recording information. The note on the Plan regarding maintenance by the HOA should be revised accordingly.

**The Applicant has acknowledged the comment.**

16. **NEW COMMENT:** The termination of the sidewalk in front of Lot 90 appears to be in the center of the intersection. The termination shall better align with the radii on the west side of Road B. Diagonal crosswalks are not safe or desired, perpendicular crosswalks are conventional. It is noted that the layout of the home or driveway on Lot 90 may require to be modified to accommodate the crossing.

17. **NEW COMMENT:** The sidewalk along the northern portion of Road B is anticipated to impact the shed on the Sharon Brown property. As the project progresses, correspondence with the property owner shall be provided to the Township.

This review letter presented herein should be considered preliminary. Caernarvon Township and Kraft Engineering reserve the right to present additional comments as a result of future design and plan revisions, including outside agency comments. If you have any questions about this review, please contact me.

Sincerely,



SCOTT C. ANDERSON  
Senior Project Engineer

cc: Gary McEwen, Berks Homes (via email); Aristides Otero, Stackhouse Bensinger (via email); Terry Naugle, Zoning Officer (via email); Michael S. Gill, Esquire (via email)



## *Twin Valley Fire Department*

*P.O. Box 181*

*Elverson, PA 19520*

*Ph.: 610-286-TVFD Fax: 610-286-1009*

Planning Commission

December 19, 2022

I have looked over the plans that were submitted for Magnolia Greene from Berks Homes. At this time, I can't comment on anything. There is no fire hydrant placement, fire department connection if needed on buildings or size of buildings.

Tom Hornberger

Fire Chief

Twin Valley Fire Department

*Serving with pride... three counties wide.*



TECHNICON

Enterprises Inc., II

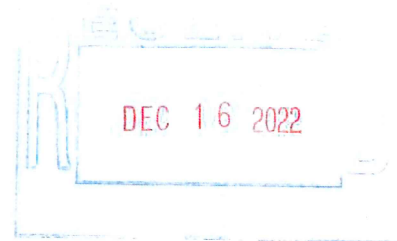
200 Bethlehem Drive  
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Fax (610) 286-1679

December 14, 2022

Caernarvon Township  
Planning Commission  
P.O. Box 294  
Morgantown, PA 19543



Planning Commission:

As the Consulting Fire Marshall for Caernarvon Township, TEI-II has reviewed the revised Tentative Plan for a Planned Residential Development titled Magnolia Greene. The property proposed for development is currently used as an airport and is situated on the North side of SR 23 in the vicinity of the intersection of Crossings Boulevard. The total tract area is 56.7 acres and is proposing 86 townhouse dwelling units, 135 single family detached dwellings and 6 commercial building lots. The PRD Tentative plan was prepared by Stackhouse Bensinger with a plan date of October 20, 2022 revised December 6, 2022. We offer the following comments for your consideration:

#### **Compliance with Caernarvon Subdivision and Land Development Ordinance**

1. *"Where public water is provided, fire hydrants suitable for the coupling of the equipment serving the municipality, shall be installed within 600 feet of all existing and proposed structures as measured by way of accessible streets."* The current plans do not reflect the location of any hydrants at this time. **Section 509.(a)**
2. *"All fire protection plans shall be submitted to the Township Fire Marshall for review and approval of the plan."* The applicant should submit a Turning Movement analysis for the longest wheelbase fire truck organic to the local fire department. The TVFD Chief has informed me that the largest truck has a wheelbase of 268 inches. A plan depicting the wheel and swept path of a vehicle of this size navigating all new proposed streets shall be submitted for review. **Section 509.(c)**

#### **Recommendations: (2015 IFC)**

1. There is insufficient detail provided for the proposed commercial building lots to offer any comments at this time related to fire protection plans. **Section 503.1.1**



2. We recommend the installation of a key vault or "Knox Box" for use of the local Fire Department during hours of non-operation for all commercial buildings  
**Section 506.1**

**Note:** The Townhouse units will be sprinklered in accordance with the Uniform Construction Code. The determination for sprinklers in the Commercial Structures must be deferred until such time that sufficient detail is provided for the intended uses and size of structures. The Water Authority should determine if adequate flows and residual pressures are available to serve the domestic and fire flow needs of the proposed Planned Residential Development.

If you have any questions or comments regarding the above, please contact the undersigned at 610-286-1622.

Sincerely,

Eric Fuhrman  
Technicon Enterprises, Inc., II  
Caernarvon Township  
Code Enforcement Officer

cc: Stackhouse Bensinger Inc.  
TEIFile/Munic/Caernarvon/Magnolia Greene PRD / Fire Marshall Review/ 12-15-22

## Joan Bair

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**From:** Keith McGowan  
**Sent:** Tuesday, December 13, 2022 8:29 AM  
**To:** Joan Bair  
**Subject:** Magnolia green

Joan ,

I have given the Magnolia Green plans a brief review and would like to offer the following ideas .

This plan indicates there will be new roadways constructed moving north in the general direction of the Twin Valley school property . The school is currently only accessed from Clymer Hill Road , a dead-end road . The Caernarvon township Board of Supervisors have recognized this restricted access as a safety concern . There is a desire of the Board to create Connect Clymer Hill to a future improvement to create a thru street . The Magnolia Green improvements do not connect to Clymer Hill Road however they are the first improvements being made moving in that general direction . We are reviewing these plans at a planning stage and the possibility that a street could become more arterial in use . Please consider lot size , road widths and elevated traffic counts and speed when considering the plan .

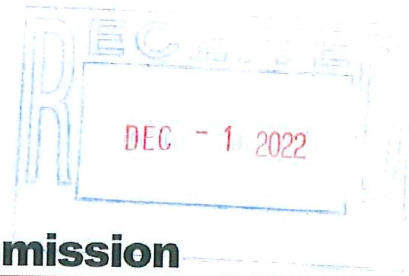
The additional residents this project could bring to the Township will stress the current recreational facilities within Caernarvon Township . The plan shows areas designated as public recreation . Will they in fact be public or only for the use of the residents within HOA community . The Board of Supervisors have recently received recommendation to remove the Highcroft baseball field to construct a skate park facility . I would advise against this as the new residential community will create a new need for the baseball facility . The skate park could be constructed in another area possibly the new PRD area.

Keith McGowan  
Public Works Foreman  
Office 610-286-1016  
Cell 484-335-7139





**BERKS COUNTY  
Planning Commission**



Berks County Services Center | 633 Court Street, 14<sup>th</sup> Floor Reading, PA 19601- 4309  
Phone: 610.478.6300 | Fax: 610.478.6316 | Email: [planning@countyofberks.com](mailto:planning@countyofberks.com)

*Jodi L. Gauker, Chairwoman | James A. Adams, Vice-Chair | Christopher J. Spohn, Secretary  
Glenn R. Knoblauch | James C. McCarthy, P.E. | Thomas C. McKeon, AICP, CECd, |  
Lee C. Olsen, AIA, NCARB | David H. Turner | Lisa Weaver  
David N. Hunter, Sr., AICP, Executive Director | David N. Peris, Assistant County Solicitor*

November 22, 2022

Joan Bair  
Caernarvon Township  
P.O. Box 294  
Morgantown, PA 19543

Re: Magnolia Greene Development  
File #: 13-13697  
Plan #: 2022-184 (2 Sheets of 2)  
Dated: 10/20/2022  
Prop ID #: 35-5320-02-55-2777  
35-5320-01-45-3650

Dear Mrs. Bair,

The Berks County Planning Commission staff has reviewed the **Tentative** Plan for Planned Residential Development (PRD) as submitted for the above captioned subdivision. The tract is located along the north corner of Willow Glenn Road and the northeastern side of Main Street (S.R. 23).

This plan is reviewed by the Berks County Planning Commission pursuant to Section 502 of the Pennsylvania Municipalities Planning Code. The Commission staff has not evaluated the plan for compliance with local ordinances, unless so noted. The municipality must ensure that the plan meets local zoning, subdivision and land development requirements, and any other regulations. The following comments are added for consideration:

A. Conformity of the plan with the Berks County Comprehensive Plan:

The site is located within the Existing Development area. The proposed subdivision for the 135 Single Family, 86 Townhouses, and 1 Commercial Lot is consistent with the Berks County Comprehensive Plan 2030.

B. General Planning Comments:

1. The Berks County Planning Commission recommends that you call ahead for subdivision/land development plan endorsements. Please review the Plan Endorsement Checklist at <http://www.co.berks.pa.us/dept/Planning/Pages/default.aspx> prior to coming to the office. If you have any questions, please contact the office at (610) 478-6300.
2. The township should consider requesting a tentative layout of the proposed commercial space for planning purposes. The BCPC application indicated 8 commercial units, will there be 8 individual lots, 1 building with 8 units, 8 leased buildings, etc.? This is

- particularly important for determining reservation for vehicular access based on site conditions.
3. The project will need a PennDOT highway occupancy permit to terminate the Willow Glen Road connection at SR 23.
  4. The township should ensure that the proper procedure(s) are followed for the vacating of land(s) associated with the elimination of the section of Willow Glen Road within the project site.
  5. The township should coordinate with the Pennsylvania Turnpike Commission regarding the bridge replacement on SR 23.
  6. The plan identifies Roads B and H as new access streets on to SR 23, PennDOT HOP's are needed for both access streets prior to final plan approval.
  7. Due to road size, staff recommends no on-street parking. If on-street parking is prohibited the project should provide for adequate visitor parking.
  8. The plan is missing internal traffic controls, staff recommends having the traffic controls added to the plan prior to final approval.
  9. Will the one mailbox in the townhouse section be adequate for the number of units being proposed?
  10. The plan identifies mailboxes are proposed on the opposite side of the sidewalk, staff recommends having each mailbox placed on the curbed side.
  11. The plan identifies having a trail ending opposite of the middle of a resident's driveway on (Road F), staff recommends relocating the ending of the trail, to a point with access to the sidewalk system.
  12. Staff recommends that sidewalks be extended from both the townhouses and single family lots along Road A, if trail is not ADA compliant. Please provide for future connections across Road A to the proposed Commercial parcel.
  13. The plan notes "Active Recreation", staff recommends identifying what type of recreation will be placed on the plan prior to final approval.
  14. If there is a homeowner's association that will be created with the townhouse portion of the subdivision, the Township should review the by-laws and covenants of the proposed association to ensure for the appropriateness and adequacy of all provisions. The Township should make sure that these documents adequately discuss maintenance issues, operational/ management process, long-term capital maintenance, how police coverage will be handled, enforcement of speed limits on private roads, etc.
  15. The plan should contain complete erosion and sediment control provisions.
  16. The project site is in the Caernarvon Township Authority's **ground** water protection area. With any future development on the site, the developer should contact the Caernarvon Township Authority for additional information.
  17. According to our assessment information, this property has been enrolled in the Clean & Green Program since 2003. We recommend that the owner contact the Berks County



Assessment Office (610) 478-6262 for clarification of the Clean & Green requirements for the proposed subdivision.

18. Erosion and sediment control measures where required under Title 25, Pennsylvania Code, Chapter 102, Rules and Regulations of the Pennsylvania Department of Environmental Protection, shall meet standards and specifications of the Berks County Conservation District. The Berks County Conservation District should approve the erosion and sediment control plan prior to final plan approval.
19. The local fire official(s) and EMS should review the plan relative to fire protection and emergency issues.
20. The developer should be sure that applicable Americans with Disabilities Act (ADA) requirements are met including trail crossings of streets.
21. The township should be satisfied with the proposed stormwater management design prior to plan approval. The proposal should meet applicable regulations of the township's Stormwater Management Ordinance.
22. The plan references the PIN (12-digit number). The County will solely use the UPI/PROPID (14-18 digit number) in all internal land record systems and use of any other identifiers will no longer occur. Map PIN numbers and Account numbers will no longer be created or maintained. The County encourages any public or private entity currently using any legacy property identifiers to make efforts to convert any existing documentation to the UPI/PROPID. Please contact Brad Shirey [bshirey@countyofberks.com](mailto:bshirey@countyofberks.com) with any questions/concerns.

The Berks County Planning Commission will review any additional submission of this plan at the request of the municipality. After municipal approval of the plan for recording, **a minimum of one print should be delivered to the Berks County Planning Commission for signature that will be retained by this office.**

Any additional copies for the municipality and the Subdivider or Developer will be stamped. The Berks County Recorder of Deeds Office should be contacted at (610) 478-3380 relative to any questions regarding recording requirements. The applicant has 90 days to record the plan after the governing body approves the plan at a public meeting.

PennDEP should consider this review as the Berks County Planning Commission's review of the Planning Module required under Act 537. Those persons responsible for preparing the Planning Module submission for PennDEP should include a copy of this review with the module submission. Municipalities are advised that subdivision and/or land development plans must be consistent with a DEP-approved planning module or official plan revisions or have been granted an exemption from planning by DEP prior to plan recording.

If there are any questions regarding this review, please contact me at [sellison@countyofberks.com](mailto:sellison@countyofberks.com) by email or (610) 478-6300 ext. 6307.

Sincerely,

*Shanice E. Ellison*

Shanice E. Ellison  
Planner I  
Berks County Planning Commission

cc: Caernarvon Township Planning Commission  
Caernarvon Township Engineer



November 22, 2022

Magnolia Greene Development

Green Hills Land, LLC  
Veron & Betty Beiler  
Stackhouse Bensinger  
PennDEP  
Berks County Assessment Office  
Caernarvon Township Authority



Paul R. Stolz, Jr.  
Chief of Police

## CAERNARVON TOWNSHIP POLICE DEPARTMENT

3307 Main Street

P. O. Box 52

Morgantown, PA 19543

Phone: (610) 286-1012 Fax: (610) 286-1002

[www.caernarvon.org](http://www.caernarvon.org)

Date: November 15, 2022

To: Caernarvon Township Planning Commission

Cc: Township Administrator Joan Bair

From: Chief Paull Stolz, Jr.

Re: Development Concerns

### MORGANTOWN ROAD COMMERCIAL DEVELOPMENT:

- Truck Access Route being allowed to turn south on Morgantown Rd
- Would prefer all southbound traffic to have to come out at the traffic light

### MAGNOLIA GREENE:

- ROAD A – road width, parking only on sidewalk side
- ROAD B - road width, parking only on sidewalk side
- ROAD B - between Rt 23 and Road A – road width and no parking on either side
- ROAD H - between Rt 23 and Road G – road width and no parking on either side
- ROAD A and B any type of traffic calming devices.
- Internal Streets – road width, parking on sidewalk side only.
- Whole Development – Overflow parking areas?

At this time the above issues come to mind