

Ordinance”) to permit vehicle fueling stations as an accessory use to a convenience store and to permit retail stores in excess of 10,000 square feet. *Exhibit A-2*.

5. The Application proposes to develop the Property as a retail shopping center which includes an approximately 5,600 square foot Wawa convenience store with a gas fueling station, a 22,100 square foot ALDI Grocery store, an approximately 6,950 square foot multi-tenant retail building, as well as three retail out parcels, two of which are proposed to have drive-thru facilities. *Exhibits A-2, A-4*. (collectively, the “Proposed Development.”).

6. A hearing on the Application was held before the Board on July 30, 2024 (the “Hearing”). After conclusion of the testimony, the Board allowed for public comment before the record was closed.

7. Notice of the Hearing was duly posted, advertised, or provided on the record in accordance with the applicable provisions of the Pennsylvania Municipalities Planning Code (“MPC”), 53 P.S. § 10101, *et seq.*, and the Zoning Ordinance. The Hearing was held in the at the Township municipal offices.

8. Board members Gregory R. Hitz, Sr.; James E. Hershey; and Robert F. Newtown, Jr., alternative Board member Roni Clark, and the Board’s Solicitor, John P. Henry, Esquire, attended the Hearing.

9. At the Hearing, the Applicant was represented by its counsel Craig R. Lewis, Esquire of the law firm Kaplin Stewart.

10. The Township was represented by its counsel Josele Cleary, Esquire of Morgan, Hallgren, Crosswell & Kane P.C. The Board recognized the Township as a party.

11. The following pro-se persons appeared and were recognized as parties to the matter, without objection (hereinafter collectively, “Party Opponents”):

- a. Dale Hess and Carol Hess, husband and wife, 10 Ridge Run Road, Mount Joy, PA 17552.
- b. Jay Brubaker, 382 Ridge Run Road, Mount Joy, PA 17552.
- c. Donna Bucher, 680 Cloverleaf Road, Elizabethtown, PA 17022.

B. Witnesses; Experts

12. Testimony was offered on behalf of the Applicant by the following individuals: Todd E. Smeigh, PE, a civil engineer and President of DC Gohn Associates, Inc.; and Gregory E. Creasy, PE, a professional transportation engineer and President of Grove Miller Engineering, Inc. *Exhibits A-16, A-17.*

13. The Board accepted Mr. Smeigh as an expert in civil engineering. *Exhibit A-16.*

14. The Board accepted Mr. Creasy as an expert in traffic engineering. *Exhibit A-17.*

15. At the Hearing, Applicant presented a package of pre-marked exhibits A-1 through A-19, and, during testimony, introduced A-20, as follows:

- A-1 Deed to the Property.
- A-2 Application and Amended Addendum and Cover Letter.
- A-3 Aerial Photograph of Property.
- A-4 Site Plan, dated June 14, 2024.
- A-5 Lighting Plans.
- A-6 Landscape Plans.
- A-7 Mass Transit Consistency Transit Letter.
- A-8 Transportation Details and Design Incentives.

- A-9 Streetscape Details.
- A-10 Shopping Center Elevation.
- A-11 Wawa Elevation.
- A-12 Aldi Elevation.
- A-13 July 24, 2024 Letter Supplementing Application
- A-14 Settlement Agreement and Stipulated Conditions
- A-15 Traffic Impact Study (Updated March 2023)
- A-16 Todd Smeigh, PE C.V.
- A-17 Greg Creasy, PE, C.V.
- A-18 Sewer Service Agreement.
- A-19 Water Service Agreement.
- A-20 July 15, 2024 Review Letter from Township Engineer

16. The Township did not present testimony. Rather, the Township requested that if the Board granted the Application, that the conditions set forth in Applicant’s Exhibit A-14 be imposed upon such grant of relief.

17. The Party Opponents were given the opportunity to present testimony and evidence. The Party Opponents did not present any documentary evidence or expert testimony.

C. Characteristics of the Subject Property and Surrounding Neighborhood

18. Applicant or an affiliate entity has owned the Property since 1977. *Exhibit A-1.*

19. According to the Mt. Joy Township Zoning Ordinance and Mt. Joy Township Zoning Map, the Property is located in the Township’s C-2- General Commercial District (the “C-2 District”).

20. The Property contains approximately 22.12 acres of undeveloped land located at the northeast quadrant of the intersection of Cloverleaf Road and State Route 230 in Mount Joy Township, Lancaster County, Pennsylvania. *Exhibit A-3.*

21. The Property abuts the Penn Medicine Lancaster General Hospital medical complex to the north, the Tyson Foods hatchery to the northeast, agricultural lands owned by Applicant to the east, West Main Street to the south, and Cloverleaf Road to the west. *Exhibit A-3.*

22. Mr. Smeigh testified that stormwater on the Property flows downward from the northeast corner to the southwest corner, and various stormwater management facilities will be designed and constructed so as to control and minimize runoff.

D. The Application and Proposed Development

23. Applicant proposes, consistent with the official Township map, to construct an extension of Norlanco Drive on a portion of the Property as well as on the adjacent property owned by Applicant. The Norlanco Drive extension will intersect State Route 230 to form a signalized intersection. *Exhibit A-4.*

24. Applicant will offer the Norlanco Drive extension for dedication to the Township, but unless and until the Township accepts dedication thereof, Pennmark will maintain the Norlanco Drive extension as well as the proposed signal. *Exhibit A-4*

25. Access to the Proposed Development is proposed by way of several driveways, including a right-in right-out driveway along Cloverleaf Road, a right-in only access to Cloverleaf Road, three (3) access drives along proposed Norlanco Extension Road, and one right-in right-out only driveway along State Route 230. *Exhibit A-4.*

26. The Applicant, through expert testimony, addressed the requirements applicable to retail stores and shopping centers containing a gross floor area in excess of 10,000

square feet set forth in Section 256 of the Zoning Ordinance, which Section of the Ordinance is incorporated herein as if fully set forth, as follows:

- a. As to Section 135-256.A(1), this subsection is not applicable, as it relates to properties located in the C-1 zoning district.
- b. As to Section 135-256.A(2) of the Zoning Ordinance, the Proposed Development provides a building coverage of 12%, less than the 15% maximum. *Exhibit A-4.*
- c. As to Section 135-256.A(3) of the Zoning Ordinance, the Proposed Development will contain individual uses located in detached and attached structures and includes only uses permitted by right or by special exception within the zoning district. Moreover, Applicant's expert testified that adult-oriented businesses, nightclubs, and/or manufactured home parks are not proposed as part of the Proposed Development. *Exhibit A-4.*
- d. As to Section 135-256.A(4), the closest point of any two buildings or groups of units of attached buildings in the Proposed Development is not less than 20 feet. *Exhibit A-4.*
- e. As to Section 135-256.A(5), the Proposed Development provides designated shopping cart storage facilities which are not counted toward the required minimum off-street parking facilities. *Exhibit A-4.*
- f. As to Section 135-256.A(6), the Proposed Development will be served by public sewer and public water. *Exhibits A-18 and A-19.*
- g. As to Section 135-256.A(7), the Proposed Development includes drive-through facilities which will comply with the requirements of drive-through facilities set forth in Section 135-255 of the Zoning Ordinance. Applicant's expert, Mr. Smeigh, credibly testified to these facts.

h. As to Section 135-256.A(8), the Proposed Development contains lighting facilities for the proposed buildings, signs, accessways, and parking areas in a manner which will protect the highway and neighboring properties from glare or hazardous interference of any kind, as detailed on the Lighting Plans. *Exhibit A-5.*

i. As to Section 135-256.B(1) the side and rear yards of the Property do not abut a residential district and therefore these regulations do not apply. Nonetheless, the Proposed Development includes substantial landscaping proposals which are detailed on Landscape Plans. *Exhibit A-6.*

j. As to Sections 135-256.B(2), 135-256.B(3), and 135-256.B(4) the Proposed Development does not include parking areas located within the side or rear buffer yards. Applicant's Landscape Plan (Exhibit A-6) depicts that landscaping strips and screening will be located, maintained, and contain such materials as required by Section 135-299 of the Zoning Ordinance. *Exhibits A-4, A-6.*

k. As to Section 135-256.C(1), the Proposed Development provides more than two (2) points of ingress and egress, and the Property fronts on an arterial or collector street. *Exhibit A-4.*

l. As to Section 135-256.C(2), a traffic study for the Proposed Development was prepared by Grove Miller Engineering, Inc. and is dated February, 2023. A revised Traffic Study with a date of March, 2023 was submitted in support of the Application by letter dated July 24, 2024 (the "Traffic Study"). *Exhibit A-15 and Exhibit A-13.* As detailed in the testimony of Applicant's expert Greg Creasey, the Traffic Study complies with the requirements set forth in the Township's Subdivision and Land Development Ordinance as well as PennDOT regulations. *Exhibit A-15.*

m. As to Section 135-256.C(3), the Proposed Development provides an improved bus stop which is conveniently accessible for patrons who would travel to and from the site by bus. The proposed bus stop includes a shelter, seating, a waste receptacle, and at least one shade tree. The location of the required bus stop is acceptable to the Red Rose Transit Authority. *Exhibits A-4, A-8.*

n. As to Section 135-256.C(4), the Proposed Development integrates a portion of the required off-street parking for public use as a park-and-ride facility. The facility is readily identifiable and conveniently accessible to passing motorists. At least 3% of the parking spaces in the Proposed Development are for public use as a park-and-ride area. *Exhibits A-4, A-8.*

o. As to Section 135-256.C(5), the Proposed Use provides pedestrian walkways providing safe and convenient pedestrian linkages. *Exhibit A-9.*

p. As to Section 135-256.D(1), the Proposed Development is constructed in accordance with an overall plan (Exhibit A-4) and uses a single architectural style with appropriate landscaping. The Proposed Development contains an architectural style that is reminiscent of the residential and rural areas of the Township which are located in close proximity to the Property. Applicant submitted various detailed plans, identified as *Exhibit A-9, Exhibit A-10, Exhibit A-11 and Exhibit A-12*, which collectively, along with testimony presented at the hearing, demonstrate compliance with the requirements of Section 135-256.D(1).

q. The roofs and façades within the Proposed Development will be compliant with the specifications set forth in Section 135-256.D(2) of the Zoning Ordinance. *Exhibits A-4, A-10.*

r. As to Section 135-256.E, Applicant demonstrated through testimony and the various plans and exhibits that the Proposed Development will incorporate and is consistent with the purposes and goals of the optional design standards; provided however, that Applicant is not seeking the incentives offered by Sections 135-256.E(7) and 135-256.E(8). *Exhibits A-4, A-9, A-10.*

27. Section 135-268 of the Ordinance provides regulations applicable to all vehicular fueling stations, which Section is incorporated herein as if fully set forth; Applicant demonstrated as follows:

a. The Property greatly exceeds the minimum lot area of 1/2 acre.

Exhibit A-4.

b. The Proposed Development will be served by public water and public sewer. *Exhibit A-18 and Exhibit A-19.*

c. The Property greatly exceeds the minimum lot width of 125 feet at the minimum building setback line. *Exhibit A-4.*

d. Applicant's expert testified that all activities except those to be performed at the fuel pump in the Proposed Development will be performed in a completely enclosed building.

e. Fuel pumps and canopies are located more than 20 feet from the street right-of-way line. *Exhibit A-4.*

f. Applicant's expert testified that the Proposed Development will require all vehicle parts, equipment, lubricants, fuel and similar articles to be stored completely within an enclosed building.

g. Applicant's expert testified that all junk and refuse will be stored within a completely enclosed building or area; all discarded vehicle tires will be stored in a completely enclosed area in such a manner so as to prevent the accumulation of stagnant water and the breeding of insects; and such storage areas will be so designed as to permit the flow of air, but shall prevent the tires from being visible to passersby.

h. Applicant's expert testified that any lubrication, oil changes, tire changes and minor repairs will be performed entirely within an enclosed building, but that the Proposed Development does not contemplate providing such services.

i. Applicant's expert testified that motor vehicles will not be stored outdoors while awaiting repairs for more than seven days, but that the Proposed Development does not contemplate providing such services.

j. Applicant's expert testified that junked, abandoned or dismantled vehicles or vehicles that do not have current inspection and license stickers will not be stored or parked on the Property.

k. Applicant's expert testified that all applicable permits will be obtained for the underground storage of fuel.

l. The Proposed Development fronts upon and gains access from a collector road. *Exhibit A-4*.

II. CONCLUSIONS OF LAW

A. Procedural Conclusions

28. The Hearing was held pursuant to appropriate public notice provided in accordance with the terms of the Zoning Ordinance and the MPC and due process was afforded to all parties during those hearings.

29. Section 135-485 of the Zoning Ordinance and Section 908(9) of the MPC, 53 P.S. § 10908(9), require the Board to render a written decision within forty-five (45) days of the last hearing; the Board’s adoption of this Decision complies with said section of the MPC.

30. Section 912.1 of the MPC, 53 P.S. § 10912.1, provides that where a zoning ordinance identifies special exception uses pursuant to express standards and conditions, the zoning hearing board shall consider applications and decide requests for special exceptions in accordance with the standards and criteria set forth in the ordinance.

31. Section 135-32 of the Zoning Ordinance provides: “Uses permitted by special exception are specifically stated herein and shall be permitted only under the terms, procedures and conditions prescribed in [the Zoning Ordinance].”

32. Section 135-133.L of the Zoning Ordinance permits “[r]etail stores and shopping centers in excess of 10,000 square feet in accordance with §135-256” by special exception in the C-2 District.

33. Section 135-133.G of the Zoning Ordinance permits “[v]ehicular fueling stations, including those fueling stations that are provided as an accessory use to a retail establishment or convenience store, in accordance with §135-268” by special exception in the C-2 District.

34. The Application is properly within the jurisdiction of the Board as requests for special exception pursuant to Sections 135-133.(G) and (L) of the Zoning Ordinance.

B. Special Exception Requests

35. A special exception is not an exception to a zoning ordinance, but instead, is a use which is expressly permitted absent a showing of a detrimental effect on the community. *Greaton Props. v. Lower Merion Twp.*, 796 A.2d 1038, 1045 (Pa. Commw. Ct. 2002).

36. Uses permitted by special exception evidence a legislative decision that the particular type of use is consistent with the zoning plan and presumptively consistent with the health, safety and welfare of the community. *Northampton Area Sch. Dist. v. East Allen Twp. Bd. of Supervisors*, 824 A.2d 372, 376 (Pa. Cmwlth. 2003).

37. In a special exception hearing, the applicant bears the burden of demonstrating that the use satisfies the applicable objective requirements of the zoning ordinance. Once the applicant meets their burden, there is a presumption that the use is consistent with public health, safety and welfare, and the burden shifts to the opponents. *See Abbey*, 559 A.29 at 109.

38. Therefore, a special exception that satisfies the objective requirements of the zoning ordinance must be granted unless the opponents present sufficient evidence that the use will generate adverse impacts not normally generated by this type of use and that these impacts will pose a substantial threat to the health and safety of the community. *Greaton Props.*, 796 A.2d at 1045; *In re Cutler Group, Inc.*, 880 A.2d 39, 42 (Pa. Cmwlth. 2003). *bbey v. Zoning Hearing Bd. of East Stroudsburg*, 559 A.2d 107, 109 (Pa. Cmwlth. 1989).

39. To defeat a special exception request which meets the specific objective requirements of the ordinance, the opponent's evidence cannot consist of mere speculation, bald assertions, or personal opinions and perceptions of the effect of the use on the community. Rather, opponents must demonstrate that there is a high degree of probability that the use will cause a substantial harm that is not normally associated with the proposed use. *Id.*; *Ruddy v. Lower Southampton Twp. Zoning Hearing Bd.*, 669 A.2d 1051, 1057 (Pa. Cmwlth. 1995).

40. Article XXII of the Zoning Ordinance (Specific Use Regulations) provides objective use-specific regulations for "Retail stores and shopping centers in excess of 10,000

square feet of gross floor area” at Section 135-256. The entirety of Section 135-256 is incorporated herein as if fully set forth at length.

41. Article XXII of the Zoning Ordinance provides objective use-specific regulations for “Vehicular fueling stations” at Section 135-268. The entirety of Section 135-268 is incorporated herein as if fully set forth at length.

42. Article XIV of the Zoning Ordinance sets forth the requirements for all uses in the C-2 District and refers to other applicable articles of the Zoning Ordinance, including Article XXIII (General Regulations), Article XXIV (Sign Regulations), and Article XXV (Parking Regulations).

43. Section 135-383.B of the Zoning Ordinance sets forth the general standards that apply to all uses permitted by special exception.

44. As provided in detail in the Findings of Fact above, the Applicant, through its Application and uncontroverted demonstrative and oral testimony, including expert testimony, presented during the Hearing, met its burden of proof to establish that the Application and Proposed Use comply with the applicable objective requirements of the Zoning Ordinance, including among others, those provided in Articles XIV, XXII, XXIII, XXIV, XXV, and Section 135-383.B.

45. As provided in detail in the Findings of Fact above, the Applicant, through its Application and uncontroverted demonstrative and oral testimony, including expert testimony, presented during the Hearing, also established that the Application and Proposed Use comply with the applicable subjective requirements of the Zoning Ordinance, specifically including as to traffic and safety (e.g., Exhibits A-2, A-4, A-8, A-13, A-14, and A-15), site planning, screening and

landscaping (e.g., Exhibits A-2, A-4, A-6, A-8, A-9, A-10, A-11, and A-12), and neighborhood impact (e.g., Exhibits A-3, A-4, A-5, A-6, A-7, A-8, A-9 and A-15).

46. As the Applicant has demonstrated compliance with the objective requirements of the Zoning Ordinance, there is a presumption that the Proposed Use on the Property is consistent with public health, safety and welfare and the Board must approve the Application unless Party Opponents presented sufficient evidence that the Proposed Use will generate adverse impacts not normally generated by this type of use and that these impacts will pose a substantial threat to the health, safety and welfare of the community.

47. Party Opponents did not present sufficient evidence that the Proposed Use will generate adverse impacts not normally generated by (i) retail stores and shopping centers in excess of 10,000 square feet of gross floor area, or (ii) vehicular fueling stations.

48. Party Opponents did not present sufficient evidence that the potential adverse impacts generated by the Proposed Use, as eliminated or mitigated by the Proposed Conditions of Approval, proposed on-site improvements, and proposed traffic improvements, will pose a substantial threat to the health, safety, and welfare of the community.

49. Accordingly, the Party Opponents did not satisfy the well-settled legal burden to defeat the Applicant's special exception request.

50. Based on the Application and the testimony and evidence presented at the Hearings, the Board concludes that the Applicant is entitled to an approval of both special exception requests.

51. Pursuant to Section 135-383(B)(6) of the Zoning Ordinance and Section 912.1 of the MPC, 53 P.S. § 10912.1, the Board may impose reasonable conditions and safeguards as it deems necessary to implement the purposes of the Zoning Ordinance and the MPC.

C. Decision

52. The Board hereby grants the Applicant's special exception application for the Proposed Use pursuant to Sections 135-133.L and 135-133.G of the Zoning Ordinance, subject to the following reasonable conditions, which include those set forth in the proposed Conditions of Approval (Exhibit A-14):

a. As part of its land development plan for the Proposed Development as shown on the plan presented as Exhibit A-4 (the "Shopping Center"), Applicant Elizabethtown Mount Joy Associates, L.P. and record owner Elizabethtown Associates (collectively "Applicant") shall combine the two existing lots identified as Lancaster County Tax Account No. 461-82176-0-0000 and Lancaster County Tax Account No. 461-00468-0-0000 and the portions of Lancaster County Tax Account No. 461-41455-0-0000 and Lancaster County Tax Account No. 461-95417-0-0000 located to the west of the public street to be installed into a single lot (the "Property").

b. Applicant shall construct a street to be dedicated to the Township across the lands of Applicant from Route 230 (SR 0230) to the northern property line at its sole cost and expense at the approximate location shown on the Mount Joy Township Official Map as shown on the plan submitted as Exhibit A-4. Applicant shall also extend the street from its northern property line to the existing terminus of Norlanco Drive within the public street right-of-way described in the Agreement Providing for Grant of Public Right-of-way recorded at Document No. 5640946 in the Office of the Recorder of Deeds. The street within the Property and extending north of the Property to the existing terminus of Norlanco Drive shall hereafter to referred to as the "Norlanco Drive Extension". Applicant may credit the cost of installing the portion of the Norlanco Drive Extension from its northern property line to the existing terminus of Norlanco Drive toward the impact fees which would be assessed under Chapter 125 of the Code of Ordinances for the

development of the Property as shown on the plan presented as Exhibit A-4. The Township Engineer shall review and approve the cost of the portion of the Norlanco Drive Extension to the north of the Property and the amount of the impact fee credit. Applicant shall provide financial security to secure completion of the entire Norlanco Drive Extension. The Norlanco Drive Extension shall meet all of the following requirements:

i. The Norlanco Drive Extension shall have a right-of-way width of 50 feet with a wider right-of-way width for necessary turning radii at intersections.

ii. The Norlanco Drive Extension shall be completed (other than the final wearing course) prior to the issuance of an occupancy permit for first of the proposed convenience store or supermarket shown on the plan presented as Exhibit A-4 (the "First Building"). The final wearing course for the Norlanco Drive Extension shall be installed within one year after the issuance of an occupancy certificate for the First Building.

iii. The Norlanco Drive Extension shall be constructed to the standards of a collector road.

iv. Applicant shall reimburse the Township for all costs associated with approvals from the Pennsylvania Department of Transportation ("PennDOT") for the intersection of the Norlanco Drive Extension and Route 230; acceptance of the Norlanco Drive Extension, and imposition of traffic regulations on the Norlanco Drive Extension.

c. Applicant shall dedicate additional right-of-way along the frontage of Route 230 and Cloverleaf Road to PennDOT or to the Township, as directed by PennDOT. This dedication of addition right-of-way for Route 230 shall be the greater of 50 feet from the centerline

between the intersection of Route 230 and Cloverleaf Road and the intersection of Route 230 and Norlanco Drive Extension or the width of additional right-of-way mandated by PennDOT, or the width of the right-of-way necessary to include all improvements required by the Subdivision and Land Development Ordinance which shall include the width necessary to provide a second westbound through lane with a width of 11 feet, a northbound right turn lane with a width of 11 feet, shoulder with a width of eight feet, concrete curb, four feet wide grass strip, and ten feet wide trail. The dedication of additional right-of-way along Cloverleaf Road shall be the greater of 30 feet from the centerline between the intersection with Route 230 and the northern property line or the width of additional right-of-way mandated by PennDOT or the width of the right-of-way necessary to include all improvements required by the Subdivision and Land Development Ordinance. Notwithstanding the foregoing, the ten feet wide trail may be included in an easement or right-of-way in favor of the Township in a form substantially identical to the Agreement Providing for Grant of Pedestrian Easement among GRH-1, LLC, Duane Hernley and the Township recorded at Document No. 6725846 in lieu of being included in the public street right-of-way. Applicant shall install all improvements to Route 230 and to Cloverleaf Road required by PennDOT or required by the Subdivision and Land Development Ordinance, if allowed by PennDOT. It is the intent of this condition that Applicant install at a minimum all improvements required by the Subdivision and Land Development Ordinance unless PennDOT prohibits such work within its right-of-way. Applicant shall not be entitled to any impact fee credit for such work.

d. The northern access point from Cloverleaf Road into the Property shall be right turn in, right turn out only, and the southern access point into the convenience store shall be right turn in only.

e. The access point from Route 230 into the convenience store shall be right turn in only.

f. Applicant shall, at its sole cost and expense, install all turning lanes, pavement widening, tapering, pavement markings, signage, and other improvements which PennDOT may require as a condition of any highway occupancy permit or traffic signal permit issued to Applicant or to the Township relating to the Property or traffic signals identified in these conditions. Applicant shall not be entitled to any impact fee credit for such work.

g. Applicant, at its sole cost and expense, shall prepare all necessary plans and legal descriptions for the dedication of additional right-of-way for Route 230 and Cloverleaf Road.

h. Applicant shall obtain all necessary highway occupancy permits from PennDOT for access from the Property to Cloverleaf Road, for the intersection of the Norlanco Drive Extension and Route 230. Applicant shall obtain all necessary permits for any storm water management facilities to be installed within the right-of-way of Cloverleaf Road or Route 230 for which the Township must be the permittee before a final plan for the Property is released for recording. Applicant shall submit all applications to PennDOT to the Township for review and comment before submission to PennDOT.

i. Applicant shall, at its sole cost and expense, prepare all plans, specifications, and application for a traffic signal at the intersection of Norlanco Drive Extension and Route 230 (the "New Traffic Signal"). Applicant, at its sole cost and expense, shall install the New Traffic Signal. Applicant shall not be entitled to any impact fee credit for the design, permitting, or installation of the New Traffic Signal.

j. Applicant at its sole cost and expense shall prepare all applications necessary for and complete all traffic signal retiming for the traffic signals at the intersection of

Route 230 and Cloverleaf Road and at the intersection of Cloverleaf Road and Schwanger Road recommended by its traffic study if such changes are approved by PennDOT. Applicant shall not be entitled to any impact fee credit for such work.

k. The portion of the Property within the Agricultural District may be used only for the front yard setback, the portions of no more than three access drives extending westward from Norlanco Drive Extension into the Property, buffers, and storm water management facilities. No off-street parking facilities or structures may be located in the Agricultural District.

l. All exterior mechanical and/or HVAC equipment shall be roof mounted. Applicant shall design the buildings to limit the visibility of any roof top mechanical equipment from the properties to the east. This may include architectural treatments which screen such equipment. Applicant shall review the screening design with the Planning Commission as part of the land development approval process.

m. Applicant shall construct the Shopping Center in general conformity with the architectural elevations presented as Exhibits A-10, A-11, and A-12 at the Hearing on July 30, 2024.

n. The Shopping Center will be provided with public water service and public sewer service.

o. The Shopping Center shall be provided with an automatic fire suppression system.

p. Applicant shall record a final plan to enable development under this decision no later than two years after the date of this Decision. All construction authorized by this Decision shall be completed no later than four years after the date of this Decision. If any person

files an appeal from this Decision, the two-year period and the four-year period shall commence when such appeal is finally decided.

q. Applicant shall obtain all other necessary permits and approvals for the proposed development including, but not limited to, land development approval from the Township, storm water management plan approval from the Township, erosion and sedimentation control approval from the Lancaster County Conservation District and an NPDES permit. Applicant shall demonstrate that Applicant has obtained all required permits prior to the issuance of a zoning permit and Uniform Construction Code permit for the Shopping Center.

r. If PennDOT requires that the Township be the applicant or co-applicant for any permit or approval, Applicant shall enter into an agreement with the Township pursuant to which Applicant shall be responsible for all costs associated with such permit application, completion of all improvements required by such PennDOT approval, and compliance with all conditions on the PennDOT approval. Such agreement shall be recorded and shall bind the Applicant and all future owners of the Property.

s. Applicant shall reimburse the Township for reasonable costs of reviews by the Township Engineer and Township Solicitor of the special exception application and attendance at the Hearing before the Zoning Hearing Board, and for reasonable costs of review of plans and documents and, if necessary, costs of preparation and recording of the Storm Water Management Agreement, co-applicant agreements, or other documents by the Township Solicitor and for other reasonable fees and costs associated with the special exception application, and Subdivision and Land Development Ordinance, Storm Water Management Ordinance and PennDOT applications and plans and inspection of improvements, within 30 days after receipt of an invoice for such fees.

t. Any electric vehicle charging stations located within the Proposed Development shall be designed and installed in accordance with all applicable laws, regulations and codes.

u. Applicant shall at all times comply with and adhere to the evidence presented to the Zoning Hearing Board at the Hearing on July 30, 2024, except as modified by these conditions. This shall include, but not be limited to, each finding of fact set forth in this Decision.

v. Any violation of the conditions contained in this Decision shall be considered a violation of the Zoning Ordinance and shall be subject to the penalties and remedies contained in the Pennsylvania Municipalities Planning Code.

w. The foregoing conditions shall be binding upon the Applicant Elizabethtown Mount Joy Associates, L.P., record owner Elizabethtown Associates and their respective personal representatives, heirs, successors and assigns.

Decision made this 4th day of September, 2024.

ZONING HEARING BOARD FOR THE TOWNSHIP OF MOUNT JOY

Attest:

 _____

By:  _____
Gregory Hitz, Sr., Chairman

The undersigned certifies that a copy of this Decision has been personally or by First Class Mail, postage prepaid, served upon:

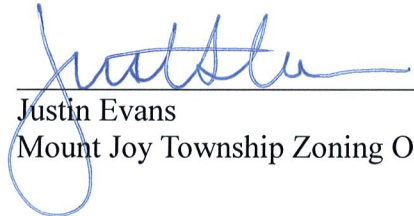
Applicant c/o Craig Lewis, Esquire
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Blue Ball, PA 19422

Josele Cleary, Esquire
Morgan, Hallgren, Crosswell & Kane P.C.
700 N Duke Street,
Lancaster, PA 17602

Dale and Carol Hess
10 Ridge Run Road
Mount Joy, PA 17552

Jay Brubaker
382 Ridge Run Road
Mount Joy, PA 17552

Donna Bucher
680 Cloverleaf Road
Elizabethtown, PA 17022



Justin Evans
Mount Joy Township Zoning Officer