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IN RE: CONDITIONAL USE : **BEFORE THE CALN TOWNSHIP**
APPLICATION OF : **BOARD OF COMMISSIONERS**
H. MICHAEL COHEN FOR TOWNHOUSE
DEVELOPMENT AT 4109 LINCOLN HIGHWAY

DECISION AND ORDER

H. Michael Cohen (the “Applicant”), owns with Allan I. Cohen and Elise Straple a 29.02 acre parcel of property located at 4109 Lincoln Highway in Caln Township, Chester County, Pennsylvania, identified as Chester County Tax Parcel No. 39-4-115 (the “Property”). Applicant filed a conditional use application on or about May 24, 2024 (the “Application”) seeking conditional use approval from the Board of Commissioners of Caln Township (the “Board”) pursuant to Section 155-26.C(2) of the Caln Township Zoning Ordinance of 2005, as amended in Ordinance 2024-01 adopted on January 25, 2024 (the “Ordinance”) to develop a multifamily townhouse development with 103 dwelling units on the Property.

The Board scheduled a public hearing for October 31, 2024 and advertised the hearing in the *Daily Local News* on October 16, 2024 and October 23, 2024. See Exhibit B-5. The Township posted the property on October 15, 2024. See Exhibit B-6.

The hearing convened on October 31, 2024 and was continued on the record until November 12, 2024 at 6:30 p.m. At the request of the Applicant, the hearing was continued until January 9, 2025 when at the conclusion of the hearing, the evidentiary record was closed. Applicant agreed on the record to grant the Board an extension of four

days to render a decision on the Application at the February 27, 2025 Board meeting. The Board met at a duly advertised public meeting on February 27, 2025 and voted to approve this Decision and Order.

At the hearings, the Township was represented by its Solicitor, Kristin S. Camp, Esquire and Applicant was represented by Brian L. Nagle, Esquire. Joseph (Dan) Hagan and his wife, Denise Hagan, who own the property at 217 Park Drive requested party status and were granted same without any objection by Applicant.

From the testimony and exhibits presented at the hearings, the Board makes the following:

FINDINGS OF FACT

1. All facts set forth in the introductory paragraphs above are incorporated herein by reference and are deemed to be factual findings of the Board.
2. Applicant, Allan I. Cohen and Elise Straple are the owners of the Property pursuant to a Deed dated March 7, 2016. See Exhibit A-5.
3. The Property is located on the north side of Lincoln Highway, to the east of Park Drive. See Exhibit B-3.
4. The Property is currently used as a truck repair and parts business.
5. The Property is located to the west of the Wedgewood residential development; to the east of the Wedgewood shopping center; to the south of Beaver Creek and open space and to the north of Lincoln Highway and other commercial businesses across the street.

6. The Property is located in the TV-1 Thorndale Village Zoning District and the Lincoln Highway Overlay District, Zone 2.

7. The Property includes areas of floodplain and wetlands and is located within the Carbonate Geology District.

8. Prior to filing the Application, Applicant filed a petition with the Board of Commissioners (the "Board") seeking approval of an amendment to the Ordinance to rezone a portion of the Property from R-4 to TV-1 and to amend certain regulations for multifamily townhouse development in Section 155-54 of the Ordinance.

9. The Board desired to see the Property redeveloped with residential uses and thus adopted Ordinance 2024-01 on January 25, 2024. See Ex. A-3.

10. Applicant presented the testimony of David W. Gibbons, P.E., a professional civil engineer from Howell Engineering who designed the plans that were filed with the Application.

11. Mr. Gibbons was recognized as an expert in civil engineering and land development based on the credentials in his curriculum vitae which was admitted as Exhibit A-7.

12. Applicant submitted a conditional use/preliminary plan prepared by Howell Engineering dated April 1, 2024, containing 27 sheets with the Application (the "Plans"). See Exhibit B-2 and A-2.

13. Three sheets in the Plans were the landscaping plans labeled LP-1, LP-2 and LP-3 which were admitted into the record as Exhibit A-13.

14. The Plans that were submitted with the Application proposed 103 townhomes, 260 off-street parking spaces and 20.871 acres of common open space.

15. The townhomes were arranged in two different pods on the Plans with a stream corridor bisecting the two pods.

16. The southern pod originally contained 58 townhouses and was accessed from a full movement boulevard entrance off of Lincoln Highway.

17. The northern pod originally contained 45 townhouses and was accessed by a loop road with two full movement intersections on Park Drive.

18. After the October 31, 2024 hearing, Applicant revised the Plans and submitted revised plans with a last revision date of November 26, 2024 (the “Revised Plans”). See Exhibit A-15.

19. The Revised Plans reduced the total number of proposed townhouses to 97- with 53 townhouses and 133 off-street parking spaces in the southern pod and 44 townhouses and 110 off-street parking spaces in the northern pod (the “Proposed Development”).

20. Mr. Gibbons explained that the Plans were revised to increase the depth of some of the townhouse footprints from 29 feet to 39 feet and to allow all townhouses to have a deck area.

21. Mr. Gibbons explained that the proposed decks would be built beyond the building footprint depicted on the Revised Plans and may be installed using impervious cover.

22. Mr. Gibbons prepared two plans to illustrate the differences between the Plans and Revised Plans that were admitted as Exhibits A-16 and A-17. These plans superimposed the new townhouse dwellings in red over the old layout of the townhouse dwellings in green.

23. The Ordinance requires 243 parking spaces for 97 townhouse dwelling units and the Revised Plan proposes 243 parking spaces.

24. Based on Section 155-54.B(5) of the Ordinance, 50% of the gross area of the multifamily townhouse unit development (or 14.511 acres) must be maintained as common open space.

25. The Revised Plans provide 71.78% of the gross lot area or 20.833 acres as common open space with 1.455 acres of the open space designated and available for active recreation as required by Section 155-54.C(2)(9) of the Ordinance.

26. Mr. Gibbons testified that the Revised Plans comply with the applicable area and bulk requirements and design requirements in Section 155-54.B and 155-54.C(2) of the Ordinance as depicted on the zoning data tabulation on the Revised Plans.

27. Mr. Gibbons testified that a significant area of the proposed common open space is floodplain or wetland areas. Applicant proposes to restore areas that are currently gravel and impervious to a meadow condition or grassy area that can be used for active recreation.

28. The Revised Plans depict a 10 foot wide shared access trail along the eastern side of Park Drive where Park Drive abuts the Property, a pedestrian crossing

with ramps from the proposed trail to the existing sidewalk on Park Drive and a 4 foot wide sidewalk extension to connect to existing sidewalk north of the site on Park Drive.

29. The width of the proposed roads on the Revised Plans are 24 feet wide which requires a waiver from Section 137-39.A of the Subdivision and Land Development Ordinance (“SALDO”).

30. If the waiver is granted, the Board will prohibit parking on the internal streets to allow safe access by emergency vehicles.

31. Mr. Gibbons testified that Applicant assumed that the internal streets would remain private and not be dedicated to the Township

32. Mr. Gibbons testified that Applicant intends to reduce the existing impervious cover on the Property by restoring gravel and paved areas to a meadow condition.

33. Mr. Gibbons also testified that there are no stormwater management controls on the Property today and that the Proposed Development will offer significant landscape restoration which will aid in managing stormwater runoff and flooding.

34. The Property is encumbered by an 80 foot wide easement to allow the extension of G.O. Carlson Blvd. from its existing terminus at the intersection of Park Drive on the west to the terminus of G.O. Carlson Blvd. at its eastern boundary of the Property.

35. Applicant included on the Plans in General Note 18 the grant of a blanket easement through the proposed open space to the Township for the future installation of

a 10 foot wide public trail. Upon completion of the trail, the parties would enter an easement agreement for a 20 foot wide trail easement.

36. The Revised Plans contemplate that the southern pod of townhomes will be connected to the northern pod of townhomes through pedestrian trails. There is no vehicular connection proposed between the two pods of townhomes due to the presence of a stream.

37. There is an existing bridge on the Property that is constructed of the bottom flat portion of a rail car and has been used by vehicles to cross the stream.

38. Applicant retained Salvatore DiGenova, P.E., a structural engineer to perform a structural assessment of the existing bridge on the Property.

39. Mr. DiGenova confirmed that the bridge structure appears to be structurally sound and suitable to be used in the future as a pedestrian bridge. See Exhibit A-10.

40. The three sheets of the landscaping plans which were admitted as Exhibit A-13 attempt to demonstrate compliance with the applicable landscaping standards in the Ordinance and SALDO. The Board will approve the landscaping for the Proposed Development as part of land development.

41. The landscaping plans depict the installation of a mowed path throughout the open space in both the northern and southern pods, as well as a 1.451 acre maintained lawn area on the southern pod which can be utilized for active recreation.

42. At the request of the Township, Applicant designed an improvement to the 90 degree turning radius of G.O. Carlson Blvd at Park Drive. The new design is reflected on the Revised Plans and is a more sweeping 200 foot center-line radius curve.

43. Applicant submitted a will serve letter from Pennsylvania American Water Company (“PAWC”) which confirmed that the Property is located in the certificated franchise area of PAWC. See Exhibit A-11.

44. Applicant proposes to provide public sewer service to the Proposed Development provided by the Caln Township Municipal Authority (“CTMA”). The CTMA engineer, Gilmore & Associates, Inc. reviewed the Plans and issued a review letter dated September 20, 2024.

45. Applicant will be required to obtain all necessary permits from the PaDEP and the CTMA to provide public sewer service to the Proposed Development prior to approval of the final subdivision and land development plans.

46. Applicant proposes to install streetscape improvements as depicted on Exhibit A-14 along the frontage of the Property where it abuts Lincoln Highway. These improvements include decorative streetlights, a sidewalk along Lincoln Highway, stamped concrete entrance and architectural brick walls along the frontage of the southern pod where it abuts Lincoln Highway. The details of these streetscape improvements shall be approved by the Board as part of the subdivision and land development plan approval process.

47. Applicant has also requested a waiver from Section 137-44.1.A(2) and (3) of the SALDO to allow grading and the installation of utilities in the Riparian Buffer Zone 2 and to allow the stormwater level spreader to be installed in Riparian Buffer Zone 3.

48. There are no buildings or roads that are proposed to be built in the Riparian Buffer Zones.

49. The existing condition of the Property does not conform to Section 137-44.1 as certain areas in the Riparian Buffers are not in a natural state and have been disturbed.

50. Mr. Gibbons testified that the Property cannot be redeveloped and remediated without disturbing Riparian Buffer Zone 3 given the significant amount of floodplain on the property.

51. Mr. Gibbons testified that the Revised Plans remove a significant amount of impervious cover in Riparian Buffer Zone 1 and Zone 2.

52. Mr. Gibbons testified that the Revised Plans comply with the criteria set forth in Section 155-172.F of the Ordinance that apply to all conditional uses.

53. The Township civil engineer, ARRO Consulting, Inc., reviewed the Plans and the Revised Plans and issued review letters dated September 27, 2024 (Exhibit B-8) and January 3, 2025 (Exhibit B-13).

54. The Township traffic engineer, Pennoni, reviewed the Plans and issued a review letter dated September 27, 2024 (Exhibit B-9).

55. Applicant presented the testimony of Braden Garrison, P.E., a traffic engineer from Bowman Consulting Group.

56. Mr. Garrison testified as an expert in traffic engineering based on the credentials in his curriculum vitae which was admitted as Exhibit A-8.

57. Mr. Garrison prepared a Transportation Impact Assessment dated March 18, 2024, revised July 25, 2024, which was admitted as Exhibit A-9 (the "TIA").

58. The TIA evaluated the existing weekday morning, weekday afternoon and Saturday midday peak hours both with and without the development at the following key intersections:

- Bondsville Rd. and Meadow Drive;
- Bondsville Rd. and G.O. Carlson Blvd.;
- Bondsville Rd. and Lincoln Highway; and
- G.O. Carlson Blvd. and Meadowlake Drive.

59. Mr. Garrison concluded that the Proposed Development will generate a total of approximately 42 trips during weekday morning peak hour, 54 trips during weekday afternoon peak hour, and 78 trips during Saturday midday peak hour based on information contained in the ITE Trip Generation Manual, 11th Edition.

60. Mr. Garrison concluded in the TIA that the following traffic improvements are warranted to handle the traffic anticipated from the Proposed Development:

Proposed Local Road and Lincoln Highway (SR 3070)

- Provide one ingress lane and one egress lane for the local road.
- A 125-foot eastbound Lincoln Highway (SR 3070) left-turn lane is warranted per PennDOT criteria. The existing center left-turn lane satisfies this requirement.
- Provide stop control on the egress approach.
- Provide ADA compliant pedestrian facilities to cross the local road approach.

North Site Access and Park Drive

- Provide one ingress lane and one egress lane for the access.
- Provide stop control for the access approach.
- Provide ADA compliant pedestrian facilities to cross the access approach.

South Site Access and Park Drive

- Provide one ingress lane and one egress lane for the access.
- Provide stop control for the access approach.
- Provide ADA compliant pedestrian facilities to cross the access approach.

Park Drive and G. O. Carlson Boulevard

- Provide curve warning signage, including W1-1(L) with speed advisory plaque and W1-6R/L, along both approaches of Park Drive to the curve located to the south of the proposed Park Drive site accesses.

61. Mr. Garrison concluded in the TIA that if Applicant makes the improvements outlined in the TIA and Finding of Fact No. 57 above, there will be efficient access to and from the Proposed Development and all study intersections will satisfy both PennDOT and Township level of service criteria.

62. Mr. Nagle explained to the Board that Applicant has submitted a notice of intent to remediate to the Pennsylvania Department of Environmental Protection (“PaDEP”) in order to obtain Act 2 clearance. Applicant has already started to perform the remediation of the Property to eliminate the known contaminants and to obtain the Act 2 clearance.

63. The proposed townhouses will have sprinkler systems.

64. Mr. Hagan did not offer any testimony but expressed his concern to the Board that his property is often flooded during heavy rain events and he is concerned that the Proposed Development will increase storm water runoff and flooding of his property.

65. Shane Colburn who resides at 213 Meadow Drive attended the hearing on January 9, 2025 and expressed his concerns about the increased flooding and traffic congestion caused by the Proposed Development.

66. The Township Planning Commission reviewed the Application at its meetings on September 17, 2024 and October 7, 2024 and recommended that the Board approve the Application subject to the following conditions: (i) Applicant include in the HOA Declaration the ability and duty of the HOA to maintain landscaping, trails and meadow areas in the Proposed Development and to enforce parking restrictions on the private streets; (ii) Applicant consider increasing the width of the streets in the southern pod to be 26 feet in width; and (iii) Applicant conduct appropriate environmental investigations.

67. The following exhibits were admitted on behalf of the Board:

B-1: Conditional Use Application dated May 24, 2024

B-2: Conditional Use/Preliminary Land Development Plan prepared by Howell Engineering dated April 1, 2024

B-3: Aerial Tax Map of Property

B-4: Letter from Brian Nagle dated September 24, 2024 re: 3rd extension of MPC timeframe

B-5: Proof of Publication of hearing notice published in *Daily Local News* on October 16, 2024 and October 23, 2024

B-6: Affidavit of Posting on October 15, 2024

B-7: Chester County Planning Commission Review Letter dated July 1, 2024

B-8: Review letter from ARRO Consulting, Inc. dated September 27, 2024

B-9: Traffic Review Letter from Pennoni dated September 27, 2024

B-10: Caln Township Planning Commission Minutes from September 17, 2024 meeting

B-11: Caln Township Planning Commission Minutes from October 7, 2024 meeting

B-12: Letter from Brian Nagle dated November 12, 2024 re: continuance of hearing to January 9, 2024

B-13: Review letter from ARRO Consulting, Inc. dated January 3, 2025

68. The following exhibits were admitted on behalf of Applicant:

A-1 Conditional Use Application

A-2 Conditional Use/Preliminary Land Development Plan - Title Plan -- prepared by Howell Engineering

A-3 Ordinance No. 2024-01

A-4 Caln Township Planning Commission Meeting Minutes 10/07/24

A-5 Deed

A-6 Aerial Photo of Property

A-7 Resume of Dave Gibbons

A-8 Resume of Braden Garrison

A-9 Traffic Impact Study prepared by Bowman

- A-10 Letter regarding Pedestrian Bridge Structural Assessment (8/19/24)
- A-11 Letter from PA American Water regarding Water Serviceability
- A-12 Gilmore Sewer Review Letter dated 9/20/24
- A-13 Conditional Use/Preliminary Land Development Plan - Landscape Plan -- prepared by Howell Engineering
- A-14 Streetscape Improvements Plan - prepared by Howell Engineering; dated 11-14-2023
- A-15 Conditional Use/Preliminary Land Development Plan - Overall Title Plan
- A-16 Overlay South
- A-17 Overlay North

CONCLUSIONS OF LAW

1. Applicant, as owner of the Property, has standing to file the Application.
2. The conditional use hearing was duly advertised in accordance with the provisions of the Pennsylvania Municipalities Planning Code (“MPC”) and the Ordinance and the Property was posted in accordance with the requirements of the MPC.
3. The Property is zoned TV-1 Thorndale Village and is located in the Lincoln Highway Overlay District.
4. The proposed multifamily townhouse development is permitted by conditional use in the TV-1 District pursuant to Section 155–26.C(2) of the Ordinance.
5. The Board must approve the loop road as a means of access to the northern pod in lieu of a boulevard entrance pursuant to Section 155-54.D(3) of the Ordinance

which states that “[a] boulevard entrance shall be required unless otherwise approved by the Board of Commissioners as part of the conditional use application.”

6. Applicant must demonstrate compliance with the standards in Sections 155-54.B, 155-54.C(2) and 155-54.D of the Ordinance that apply to multifamily townhouse developments.

7. Applicant has demonstrated compliance with the objective criteria in Section 155-54.B, 155-54.C(2) and 155-54.D of the Ordinance for the Proposed Development.

8. Applicant has proven compliance with the subjective criteria in Section 155-172.F of the Ordinance which apply to all conditional use applications.

DISCUSSION

A conditional use is a permitted use, subject to an applicant’s proof of compliance with all applicable conditions and criteria imposed by the Ordinance and reasonable conditions of approval imposed by the Board. A conditional use is not a use which the Board has the unfettered discretion to approve or deny. Rather, the Board is governed by the objective criteria and standards enunciated in the Ordinance when determining whether to grant an application. If the applicant can prove that it complies with the terms of the Ordinance authorizing a conditional use, the Board must grant the conditional use unless substantial evidence indicates that the use will result in substantial injury to the public interest. Susquehanna Twp. Board of Commissioners v. Hardee’s Food Systems,

Inc., 59 Pa. Cmwlth. Ct. 479, 430 A.2d. 367 (1981; Appeal of Estate of Achey, 86 Pa. Cmwlth. Ct. 385, 484 A.2d. 874 (1984), aff'd 501 A.2d. 249 (Pa. 1985).

In granting a conditional use, the Board has the authority to impose reasonable conditions and safeguards in addition to those expressed in the Ordinance if such conditions are necessary to implement the purposes of the Ordinance and to protect the health, safety and welfare of the surrounding property owners. See Pennsylvania Municipalities Planning Code, Section 603(c)(2).

This development project started in 2023 when Applicant approached the Board with a desire to remediate the existing condition of the Property which is essentially used as a junk yard storage area and to redevelop it as a residential townhouse community. Because the Property is a gateway to the Township from the east, the Board supported amendments to the Ordinance to allow the redevelopment as proposed by Applicant. The Board understands that the Proposed Development will offer improvements by remediating contaminated soils, restoring areas of existing impervious cover to meadow and grass and installation of stormwater facilities. The Board also sees as a benefit the creation of trail easements across the Property and along the western boundary of the Property which will provide a pedestrian connection to the existing sidewalk system on Park Drive. The Board will require Applicant to grant easements to allow future trail construction and to construct sidewalks along its frontage.

One of the Commissioners requested that Applicant consider revising the design of the Proposed Development to have the townhouses be closer to Lincoln Highway.

Applicant's engineer explained that this was not feasible given the existence of significant areas of floodplains, wetlands and Riparian Buffer Zones on the Property.

The Board recognizes that obtaining conditional use approval is the first step in the planning process and that there will be further revisions to the Revised Plans as Applicant seeks the Board's approval of the final subdivision and land development plans. As part of that revision process Applicant will be required to add privacy measures or significant landscaping where the rear yards of the townhomes face Park Drive or Lincoln Highway.

The Board will work with Applicant during land development to further refine the Revised Plans to assure compliance with applicable Codes.

ORDER

AND NOW, this 27th day of February, 2025, the Board approves a conditional use pursuant to Section 155-26.C(2) of the Ordinance to allow the Property to be subdivided and developed with a multifamily townhouse development with a maximum of 97 dwelling units substantially in conformance with the Revised Plans as such plans are revised to comply with the conditions set forth hereinbelow and in order to obtain final subdivision and land development approval. In accordance with Section 155-54.D(3) of the Ordinance, the Board also approves the loop road access to the northern pod of townhomes as opposed to a boulevard entrance. The Board also understands that in order to implement the Revised Plans, Applicant has requested a waiver from Section 137-44.1.A of the SALDO to allow grading and installation of utilities in Riparian Buffer

Zone 2 and the installation of a level spreader in Riparian Buffer Zone 3. These waivers will be addressed as part of the subdivision and land development review process.

The approval is conditioned on Applicant complying with the following conditions:

CONDITIONS OF APPROVAL

1. The Proposed Development shall be designed substantially in accordance with the testimony and evidence presented at the conditional use hearings and the Revised Plans, as such plans are further revised to comply with the conditions of approval imposed herein and any conditions imposed by the Board as part of the final subdivision and land development approval.

2. The Revised Plans shall be revised to comply with all outstanding comments from the following Township consultants' review letters:

- Letters dated September 27, 2024 and January 3, 2025 from ARRO;
- Letter dated September 27, 2024 from Pennoni;
- Letter dated September 20, 2024 from Gilmore & Associates.

Applicant shall demonstrate compliance with these letters to the satisfaction of the respective Township consultants prior to approval of the final subdivision and land development plans.

3. The Revised Plans shall be revised to add additional dense landscaping, low walls or other measures to increase privacy for the rear yard areas of the townhomes that directly face Lincoln Highway or Park Drive. The details of these privacy measures shall be approved by the Board as part of the final subdivision and land development.

4. Applicant shall obtain all necessary permits from the Township and all applicable governmental agencies in order to subdivide and develop the Property with the Proposed Development, including but not limited to a highway occupancy permit from PennDOT for the boulevard entrance onto Lincoln Highway, planning module approval from PaDEP and the CTMA and an NPDES permit from PaDEP.

5. If required by the PaDEP, Applicant shall obtain Act 2 clearance from the PaDEP for any known contaminants on the Property. Applicant shall provide the Township with copies of correspondence with the PaDEP on any proposed remediation plan for the Property that is required prior to development of the Proposed Development and the final Act 2 clearance from the PaDEP.

6. The maximum number of dwelling units shall be 97 townhouses.

7. Applicant shall install streetscape improvements depicted on Exhibit A-14 and otherwise approved by the Board, which shall include benches, street trees, decorative lighting, brick architectural walls, sidewalks and a stamped concrete entrance. The details of these streetscape improvements shall be approved by the Board as part of the final subdivision and land development. The streetlights shall be LED and similar in style to the streetlights that were installed along Lincoln Highway for the Willows Apartment development which are identified as Washington #16 LED Luminaire (see attached specification sheet.) The lights shall have an outlet that allows the installation of holiday decorations. Applicant shall allow the Township to install holiday decorations on such lights. The streetlight specifications shall be approved by the Board as part of the

land development approval process. If any exterior lighting fixtures are proposed, they shall be energy efficient lighting fixtures that meet the Illuminating Engineering Society illumination standards for commercial uses. The IES standard in effect at the time of building permit application shall apply.

8. Applicant shall install a dusk to dawn lamp post in front of the townhouse units at intervals approved by the Board as part of the land development plans. The details of these lamp posts shall be approved by the Board as part of the final subdivision and land development.

9. The proposed internal roads shall be private roads that are owned and maintained by a homeowners association that is formed for the development.

10. The internal roads in the northern pod shall be a minimum of 28 feet wide and in the southern pod a minimum of 24 feet in width. The homeowners association declaration shall prohibit all parking on the streets where the width of the road is less than 28 feet and shall include an enforcement mechanism for the homeowners association to impose fines.

11. Applicant shall provide on the Revised Plans a perpetual blanket easement in the common open space to allow the Township (or any governmental entity or conservation organization who routinely owns and maintains recreational trails) to install and maintain a 10-12 foot wide shared use public trail. Once the precise location of the trail is determined, Applicant or the homeowners association, as successor to the

Declarant, shall dedicate a 20 foot wide perpetual easement across the common open space for construction and use of a future public trail.

12. Applicant shall plant a denser planting of native trees and woody vegetation within the riparian buffer corridor, particularly in areas closest to the stream to protect water quality, mitigate water temperature and promote stream bank stability. The details of these landscaping improvements shall be approved by the Board as part of the final subdivision and land development.

13. Applicant shall revise the Revised Plans to assume that every townhouse unit shall be granted in the HOA Declaration a limited common element or lot area wherein the unit owner may build accessory structures, including but not limited to decks and patios. The Revised Plans shall include a zoning table which indicates the applicable impervious coverage for each townhouse unit plus the limited common element or additional lot area for such unit. The stormwater management design for the Proposed Development shall include the maximum impervious cover that may be built in the building footprint of the townhouse unit plus the area identified as the limited common element or additional lot area assigned to that unit.

14. Applicant and its successors and assigns in interest to the Property shall be strictly bound by:

- a. All the representations, warranties and commitments made by or on behalf of the Applicant and the testimony, plans or other exhibits that were introduced into the record on these proceedings whether or not

express reference is made to said representations, warranties and commitments in this Decision; and

- b. All of the foregoing conditions of approval.

ATTEST:

**CALN TOWNSHIP
BOARD OF COMMISSIONERS**

Don Vymazal, Secretary

Paul Mullin, President

Joshua Young, Vice President

Jane Kennedy, Commissioner

Lorraine M. Tindaro, Commissioner

Mark Evans, Commissioner