

1 **DECISION OF THE BOARD OF SUPERVISORS**
2 **PARADISE TOWNSHIP, MONROE COUNTY, PENNSYLVANIA**

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4
5 **IN RE: CONDITIONAL USE APPLICATION OF JSPA REALTY, LLC FOR A**
6 **MASTER DEVELOPMENT PLAN IN A RESORT DEVELOPMENT AREA**
7 **OVERLAY DISTRICT PURSUANT TO §§160-71, 160-11.A(43.B), AND**
8 **160-12.A(43.B) OF THE PARADISE TOWNSHIP CODE OF ORDINANCES**

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10
11 **AND NOW**, this 27th day of September, 2023, the Paradise Board of Supervisors issues
12 this Conditional Use Decision and Order which matter came before the Paradise Township Board
13 of Supervisors (hereinafter the **“Board of Supervisors”** or **“Supervisors”** or **“Township”**) at
14 conditional use hearings held on nine separate hearing dates (January 30, 2023, February 23, 2023,
15 March 9, 2023, March 16, 2023, April 27, 2023, May 23, 2023, June 8, 2023, June 22, 2023, and
16 August 14, 2023), arising from a Conditional Use Application filed by JSPA Realty, LLC
17 (hereinafter **“JSPA”** or **“Applicant”**), for a Master Development Plan in a Resort Development
18 Area Overlay District (**“Resort Overlay”** or **“RDA”**) pursuant to §160-71, §160-11.A(43.B),
19 §160-12.A(43.B), Master Development, of the Paradise Township Code of Ordinances on seven
20 parcels of land situated off of State Route 611; four parcels being located in Paradise Township,
21 Monroe County, Pennsylvania (PINS: 1) 11636500219565; 2) 11636500221351; 3)
22 11636500403397; 4) 11636500100937) (hereinafter **“Paradise Township Parcels”**); two parcels
23 being located in Pocono Township, Monroe County, Pennsylvania (PINS: 1) 12636500001679;
24 and 2) 12636500108111) (hereinafter **“Pocono Township Parcels”**); and one parcel being located
25 in the Borough of Mount Pocono (PIN: 10636517016178) (hereinafter **“Mount Pocono Parcel”**)
26 for the purpose of developing a resort facility including a lodge, separate villas, pools and related
27 amenities, and a commercial shopping center to include a mix of uses of retail, office, and

1 restaurant uses, all of which the Paradise Township parcels are located in an R-2 Zoning District
2 and are included in a Resort Overlay (collectively, the “**Project**”). Paradise Township was
3 represented by John C. Prevoznik, Solicitor for the Paradise Township Board of Supervisors;
4 Shawn McGlynn, Zoning Officer; Charles H. Unangst, PE, PLS, Township Engineer; Jacob
5 Schray, Township Sewage Enforcement Officer; Jim Milot, Township Traffic Engineer; and
6 Attorney F. Andrew Wolf, counsel for Township Zoning Office (collectively, “**Township**
7 **Officials**”). JSPA was represented at all times by Attorney Donald G. Karpowich.

8 **I. PROCEDURAL HISTORY**

9 1. The Applicant first submitted its Application for Conditional Use Approval on
10 August 15, 2022. (N.T. 1/30/23; pp. 14, 37.)

11 2. The Applicant submitted a completed Application for Project on December 15,
12 2022. (N.T. 1/30/23 pp. 17-19, 46.)

13 3. The development for the Project is proposed to occur on the Paradise Township
14 Parcels of Applicant’s property with the minor exception for stormwater and drip irrigation fields.
15 (N.T. 1/30/23, pp. 14, 15, 44; Z0 Exhibit 8; Exhibit A-2.)

16 4. A total of nine hearings were held, all in 2023, on the Applicant’s Conditional Use
17 Application (January 30, 2023, February 23, 2023, March 9, 2023, March 16, 2023, April 27, 2023,
18 May 23, 2023, June 8, 2023, June 22, 2023, and August 14, 2023).

19 5. Six of the hearings were held at the Paradise Township Municipal Building, located
20 at 5912 Paradise Valley Road, Cresco, Monroe County, Pennsylvania.

21 6. Three hearings (February 23, 2023, March 9, 2023, and March 16, 2023) were held
22 at the Pocono Mountain High School East Auditorium.

1 7. All members of the Paradise Township Board of Supervisors, Peter Gonze, Chair;
2 Reda Briglia, Vice Chair; and Michael Stein, Supervisor, as well as the Township Solicitor,
3 John C. Prevoznik, Esquire, were present at all hearings.

4 8. Applicant’s counsel, Donald G. Karpowich, Esquire, was present at all hearings on
5 behalf of Applicant.

6 9. Attorney F. Andrew Wolf and various Township Officials were present for all
7 hearings except for those hearings held on June 8, 2023, June 22, 2023, and August 22, 2023.
8 Charles Unangst was present at the August 22, 2023 hearing.

9 10. The Applicant, by and through its counsel, stipulated throughout the hearing
10 process that the hearings were properly advertised and timely conducted under the Pennsylvania
11 Municipalities Planning Code and the Paradise Township Code of Ordinances. (N.T. 1/3/1/23,
12 p. 10; N.T. 2/23/23, p. 141; N.T. 4/27/23, p. 532; N.T. 5/23/23, p. 610; N.T. 6/8/23, p. 713;
13 N.T. 6/22/23, p. 736; N.T. 8/14/23, pp. 5, 6.)

14 11. The Borough of Mount Pocono and Pocono Township, both of Monroe County,
15 Pennsylvania, were timely notified of the pending Conditional Use Application and hearing.
16 (N.T. 3/9/23, pp. 284-286, Joint Exhibit 1.)

17 12. Pocono Township submitted a letter acknowledging 1) the Application; 2) that the
18 Pocono Township Parcels were planned to be designated as “Open Space”; and 3) requesting that
19 the Applicant submit all plans for compliance with the Pocono Township Storm Water Ordinance,
20 Subdivision and Land Development Ordinance, Zoning Ordinance, and any other applicable law,
21 rule, regulation, or ordinance. (N.T. 3/9/23, pp. 284-286; Joint Exhibit 1.)

1 13. The Applicant stipulated it would abide by the request of Pocono Township as a
2 condition if approval is granted. (N.T. 3/9/23, p. 285, lines 19-25.)

3 14. The Applicant's Application for Conditional Use Approval was timely submitted
4 to both the Monroe County Planning Commission and the Paradise Township Planning
5 Commission for review and comment prior to the hearings. (N.T. 1/30/23, pp. 11, 15; ZO
6 Exhibits 6, 7.)

7 15. Both Planning Commissions recommended approval of the Conditional Use
8 Application with conditions. (N.T. 1/30/23, pp. 13-14; ZO Exhibits 6, 7.)

9 16. Over the course of the first two hearings (1/30/23 and 2/23/23), multiple members
10 of the public requested party status and were *voir dire*d for standing. A total of twenty persons
11 were granted party status, as follows:

- 12 a. Paul Houle (N.T. 1/30/23, p. 29);
- 13 b. Anneliese Montgomery Taylor (N.T. 1/30/23, p. 29);
- 14 c. Jeff Ingrassia (N.T. 1/30/23, pp. 29-30);
- 15 d. Abigail Jones (N.T. 1/30/23, pp. 30-31);
- 16 e. Michael Bolton (N.T. 1/30/23, p. 31);
- 17 f. Rob Felicetti (N.T. 1/30/23, pp. 31-32);
- 18 g. A. D. Slutter (N.T. 1/30/23, p. 32);
- 19 h. Reverend Susan Treanor, Trinity Episcopal Church (N.T. 1/30/23, p. 32);
- 20 i. Michael Jackson (N.T. 1/30/23, pp. 32-33);
- 21 j. Nancy Tkacs (N.T. 1/30/23, p. 33);
- 22 k. Jan Anglemire (N.T. 1/30/23, p. 33);

- 1 l. Dana Garrett (N.T. 1/30/23, p. 33);
- 2 m. Michael Johnson (N.T. 1/30/23, pp. 25-26);
- 3 n. Meredith Montgomery (N.T. 1/30/23, pp. 26-27);
- 4 o. David Edinger (N.T. 1/30/23, pp. 128, 129);
- 5 p. Robbin Henley (N.T. 2/23/23, pp. 144);
- 6 q. Peter Salmon (N.T. 2/23/23, p. 147);
- 7 r. Dr. Alex Jackson (Brodhead Watershed Association) (N.T. 2/23/23, p. 152);
- 8 s. Eva Monsul (N.T. 2/23/23, pp. 157-158);
- 9 t. Jacquelynn LaScala (N.T. 2/23/23, pp. 158-159);

10 Joint Exhibit 1.

11 17. No party raised an objection to the hearing notice, timeliness, or process of any
12 hearing.

13 18. At the January 30, 2023 hearing, Mr. Shawn McGlynn testified on behalf of the
14 Township. The Applicant provided the testimony of Architect James Garrison who was accepted
15 as an expert in commercial resort architecture with an emphasis on interior design. (N.T.
16 01/30/23, p. 71.) The Township proffered ZO Exhibits 1-8. (N.T. 1/30/23, pp. 10-14.)
17 Applicant proffered Applicant's Exhibits 3 through 9. (N.T. 5/23/23, p. 703.) All exhibits were
18 entered into evidence without objection (a complete list of the exhibits is attached hereto as
19 **Appendix A**). Several non-party members of the public made statements at the end of the
20 hearing.

21 19. At the February 23, 2023 hearing, Attorney Wolf entered into evidence, on behalf
22 of the Township, ZO Exhibits 9 through 13 without objection. (N.T. 2/23/23, pp. 140-141.)

1 Michael Gable, PE testified on behalf of the Applicant. Mr. Gable was accepted as an expert
2 professional engineer in areas of land development and conditional use, with an emphasis in
3 commercial and recreational development. (N.T. 2/23/23, pp. 159-160.) Applicant entered into
4 evidence, on behalf of the Applicant, Exhibits 1, 2, 16, 17, 18, 19, and 20 without objection.
5 (N.T. 5/23/23, p. 703.)

6 20. At the March 9, 2023 hearing, Attorney Wolf, on behalf of the Township, entered
7 into evidence ZO Exhibits 14 and 15. (N.T. 3/9/23, p. 283.) Mike Gable continued his testimony
8 on behalf of Applicant. Bruce Oram, Professional Geologist, Soil Scientist in the areas of earth,
9 environmental science, was accepted as an expert in the areas of land-based wastewater
10 management, groundwater, water supply, development, and hydrology, also started his testimony
11 at this hearing. (N.T. 3/9/23, p. 345.) Applicant entered Applicant's Exhibits 1, 2, 10, 11a, 13a,
12 14, 16, 17, 18, and 19. (N.T. 5/23/23, p. 703.) Two exhibits were entered, Pocono Township
13 letter dated 3-9-23 and List of Parties, as Joint Exhibits 1 and 2, respectively. (N.T. 3/9/23,
14 p. 286.)

15 21. At the March 16, 2023 hearing, Attorney Wolf entered into evidence ZO Exhibits
16 16 and 17. The Applicant continued the testimony of Brian Oram. The Applicant also provided
17 three other witnesses. Erik Hetzel was accepted as an expert in the field of community impacts
18 including economic and financial aspects of the Project. (N.T. 3/16/23, p. 457.) Alan Rosen was
19 accepted as an expert in the field of real estate evaluation. (N.T. 3/16/23, p. 483.) Charles
20 Leonard, Executive Director of the Pocono Mountains Economic Development Corporation,
21 provided testimony in his capacity of Executive Director. (N.T. 3/16/23, p. 503.) The Applicant
22 entered into evidence Applicant's Exhibits 26, 27, 28, and 29. (N.T. 5/23/23, p. 703.)

1 22. At the April 27, 2023 hearing, Attorney Wolf entered into evidence ZO Exhibits 18
2 and 19. (N.T. 4/27/23, p. 533.) The Applicant provided the expert testimony of David Horner,
3 PE who was accepted as an expert in the field of traffic engineering. (N.T. 4/27/23, p. 535.) The
4 Applicant also offered Applicant's Exhibits 30, 31, 32, 33, and 34 into evidence without objection.
5 (N.T. 05/23/23, p. 703.)

6 23. At the May 23, 2023 hearing, Attorney Wolf entered into evidence ZO Exhibits 20
7 and 21. (N.T. 05/23/23, p. 612.) The Applicant continued with the expert testimony of David
8 Horner, PE and present John R. Varaly, AICP, as an expert in the field of land use planning and
9 zoning. Michael Gable also provided sporadic testimony during the hearing. Applicant entered
10 all its Exhibits A-1 through A-34 into evidence. An additional exhibit was entered into evidence
11 as Joint Exhibit 2 (sic) really Joint Exhibit 3 (letter of James A. Milot, of Hanover Engineering,
12 dated 5-15-2023.) (N.T. 5/23/23, p. 613.)

13 24. The Applicant closed its case in chief at the end of the May 23, 2023 hearing.

14 25. At the June 8, 2023 hearing, Solicitor Prevoznik entered into evidence ZO Exhibits
15 22 and 23. (N.T. 6/8/23, p. 712.) Mr. Paul Houle provided testimony as a party and entered
16 Houle Exhibit 1 into evidence in support thereof. (N.T. 6/8/23, p. 719.) All other parties in
17 attendance were provided the opportunity to present evidence. Each declined, preferring to
18 submit a brief. Mr. William Johnson requested a continuance to the existing hearing which was
19 granted. (N.T. 6/8/23, pp. 726, 727.)

20 26. At the June 22, 2023 hearing, Mr. Prevoznik entered into evidence ZO Exhibits 24,
21 25, and 26. (N.T. 6/22/23, p. 746.) Mr. Johnson was sworn in to present testimony.
22 Mr. Johnson declined to present evidence, requesting to file a brief. (N.T. 6/22/23, pp. 732-738.)

1 He made a statement on behalf of the Swiftwater Preserve. Solicitor Prevoznik presented ZO
2 Exhibit 26 which discusses contents of briefs and issues the Supervisors requested be briefed.

3 27. The hearing was left open until August 14, 2023. All parties were told that all
4 briefs were due at the Township by 4:00 p.m. on July 28, 2023. Postmarked dates and FedEx slip
5 dates would not be considered. Anything received after 4:00 p.m. would not be considered.

6 28. On August 14, 2023, the hearing was reopened. Attorney Prevoznik entered
7 Exhibits 27 and 28 as Zoning Officer Notice Exhibits. A petition filed by Ms. Meredith
8 Montgomery was entered into evidence as ZO Exhibit 29. The petition requested that the Board
9 of Supervisors open the record for additional evidence. After discussion, the petition was denied.
10 (N.T. 8/14/23, pp. 6-9.) Attorney Prevoznik entered the briefs which were submitted into the
11 record as ZO Exhibits 30 through 35 after which the record was closed. (N.T. 8/14/23, pp. 9-10.)
12 Nonparties were given the opportunity to make statements off the record regarding the
13 Application.

14 29. The Board of Supervisors voted to grant the Conditional Use Application of JSPA
15 Realty, LLC with conditions as set forth in the transcript, subject to issuance of a Conditional Use
16 Decision and Order within forty-five days at which time the conditional use hearing was closed.
17 (N.T. 8/14/23, pp. 12-42.)

18 30. All hearings after the initial January 30, 2023 hearing were continued to a time and
19 date certain and were held at the respective times and dates.

1 31. The attached **Appendix A** (list of exhibits entered into evidence) is incorporated
2 herein by reference.

3 32. The attached Paradise Township Ordinances are those which are used in making
4 this determination.

5 **II. FINDINGS OF FACTS**

6 **A. Property**

7 1. The Applicant proposes to use seven parcels of land situated off of State Route
8 611; four parcels being located in Paradise Township, Monroe County, Pennsylvania (PINS: 1)
9 11636500219565; 2) 11636500221351; 3) 11636500403397; 4) 11636500100937) (Paradise
10 Township Parcels); two parcels being located in Pocono Township, Monroe County, Pennsylvania
11 (PINS: 1) 12636500001679; and 2) 12636500108111); and one parcel being located in the
12 Borough of Mount Pocono (PIN: 10636517016178) for its Master Development. (N.T. 1/30/23,
13 pp. 39, 45 [McGlynn]; N.T. 2/23/23, pp. 160-161, 194-195 [Gable], Exhibit A-2.)

14 2. The Property is comprised of 240.81 acres which is located in three different
15 municipalities, Paradise Township, Mt. Pocono Borough, and Pocono Township, and is included
16 on the conditional use plans. (N.T. 2/23/23, pp. 196-198 [Gable]; N.T. 3/9/23, p. 349 [Oram];
17 Exhibit A-20, sheet 3 of 11.)

18 3. The Property has 530 feet of frontage along Route 611 in Paradise Township.
19 (N.T. 5/23/23, p. 614 [Horner].)

20 4. The Application provides that the Property will have two components, a resort
21 area (“Resort”) and a commercial area (“Commercial”). (N.T. 1/30/23; p. 42 [McGlynn];
22 N.T. 3/9/23, p. 349 [Oram].)

1 5. The Resort is to be located on the former Hawthorne Resort property which
2 entranceway is on Trinity Hill Road and borders Mount Pocono Borough. The Commercial area
3 is to be located on the former Strickland's golf course. (N.T. 1/30/23; pp. 42, 44 [McGlynn];
4 N.T. 3/9/23, p. 349 [Oram].)

5 6. The Property contains a net 151.98 acres of land, of which the Resort area
6 contains 117.78 acres and the Commercial area contains 34.20 acres, all located within Paradise
7 Township. (Exhibit A-20, sheet 3 of 11.)

8 7. The Resort is proposing 151 villas, a rental house, and 94 hotel rooms when
9 built out as well as an area for parking and pools, all located in Paradise Township. (N.T. 1/30/23;
10 pp. 43-44 [McGlynn]; N.T. 4/27/23, p. 550 [Horner]; Exhibit A-20.)

11 8. The Commercial and Resort areas are divided by a residential neighborhood
12 owned by others. (N.T. 1/30/23; p. 44 [McGlynn].)

13 9. The properties are physically connected in the southwest corner along the
14 Swiftwater stream corridor in Pocono Township. (N.T. 1/30/23; pp. 44, 45 [McGlynn];
15 N.T. 2/23/23, pp. 160, 195-196 [Gable], Exhibits A-3, A-20.)

16 10. The Property is in the Delaware River Basin. The bulk of the Project is in the
17 headwaters of Indian Run and Upper Swiftwater Creek. (N.T. 3/9/23, p. 349 [Oram].)

18 11. Indian Run and Swiftwater streams are classified as EV streams, migratory
19 fishery. (N.T. 2/23/23, p. 187 [Gable]; N.T. 3/9/23, p. 350 [Oram]; Exhibit A-15, p. 1.)

20 12. The Property has two predominant draining patterns, the top of the hill where
21 Montanesca House is located down through Trinity Hill Road, flowed through channels, streams,
22 and culverts to Swiftwater Creek. (N.T. 2/23/23, p. 162 [Gable].)

1 13. The second draining pattern is from the lower portion of the site sheet flows to
2 Indian Run then to Swiftwater Creek. (N.T. 2/23/23, pp. 162-163 [Gable].)

3 14. The Resort and Commercial areas will require 44 acres to be timbered out of
4 the 188 acres of woodland. The Resort will timber 40 acres and the Commercial will timber
5 approximately four, all including stormwater basins which are expected to be approximately eight
6 to ten acres. (N.T. 3/9/23, pp. 309-310, 312 [Oram].)

7 15. The Resort, like the old resort, will be located on a dramatically south-facing
8 slope and it is forested. (N.T. 1/30/23; pp. 73, 74 [Garrison].)

9 16. The Property currently contains approximately 24 to 26 dilapidated structures
10 and old logging roads. The structures are to be torn down immediately. (N.T. 1/30/23; p. 74
11 [Garrison]; N.T. 2/23/23, pp. 184-185 [Gable].)

12 17. The Master Development will have two primary access points. Access from
13 the Resort is through Township-owned Trinity Hill Road to S.R. 611. The Commercial area
14 access is from S.R. 611. (N.T. 2/23/23, pp. 162, 251; N.T. 3/9/23, p. 332 [Gable].)

15 18. Two emergency accesses are proposed, one along Wiscasset Road and the
16 second on Montanesca Road. Emergency use will be gated off and utilized for emergency
17 purposes. (N.T. 2/23/23, pp. 162, 231; N.T. 5/31/23, p. 697 [Gable].)

18 19. The Applicant is not planning to use Rock Ridge Road or Wiscasset Road for
19 access to the Property. (N.T. 5/23/23, p. 629 [Horner].)

20 20. Montanesca Road will also be used to maintain a well and possibly a walking
21 path. (N.T. 2/23/23, pp. 231-232, 262 [Gable].)

1 21. Goldfinch Place will not be utilized for any part of the Resort construction.
2 (N.T. 2/23/23, pp. 254, 256, 260-261 [Gable].)

3 22. Rock Ridge Road will be used for utilities and foot traffic by Resort and
4 Commercial users. Utilities are water and sewer lines. (N.T. 2/23/23, p. 245 [Gable].)

5 23. Rock Ridge Road will be affected by utility work for approximately one to two
6 weeks. (N.T. 2/23/23, pp. 247-248 [Gable].)

7 24. The only connection pathway between the Resort and Commercial areas is
8 pedestrian walkways. There are no vehicular connections between the two areas. (N.T. 4/27/23,
9 pp. 569, 590 [Horner]; Exhibit A-20, p. 2.)

10 25. JSPA asserts ownership of a 40-foot strip of land partially underlying Rock
11 Ridge Road as a point of connection to the Resort and Commercial areas. (N.T. 3/9/23, p. 327;
12 Exhibits A-2, A-20, p. 2 [Gable].)

13 26. Two thirds of the strip of land underlie Rock Ridge Road and Wiscasset Road.
14 (N.T. 3/9/23, p. 328 [Gable].)

15 27. The Applicant is counting Rock Ridge Road as a point of connection based
16 upon an easement to the Township and not fee simple. (N.T. 2/23/23, p. 223 [Gable].)

17 28. Rock Ridge Road is a two-lane residential Paradise Township street for which
18 Paradise Township receives liquid fuel funds and maintains.

19 29. Wiscasset Road is a two-lane residential Paradise Township street for which
20 Paradise Township receives liquid fuel funds and maintains.

21 30. Trinity Hill Road is a two-lane residential Paradise Township street for which
22 Paradise Township receives liquid fuel funds and maintains.

1 31. The slope of the proposed pathway from Rock Ridge Road to the Commercial
2 area is 25 percent or greater. (N.T. 2/23/23, pp. 232-233; N.T. 3/9/23, pp. 327, 328 [Gable];
3 Exhibit A-20.)

4 32. The Applicant testified that the link between the Commercial and Resort areas
5 is that they are physically connected in Pocono Township and that the Property will contain
6 pedestrian pathways and shuttle services to the Commercial area. (N.T. 5/23/23, pp. 694, 697
7 [Gable].)

8 33. The Applicant intends to use Rock Ridge Road, a residential street, without
9 sidewalks as a public right-of-way. (N.T. 5/23/23, p. 694 [Gable].)

10 34. Guests could take a walking path down Wiscasset Road and Rock Ridge Road
11 or walking paths along the stream corridor for the Commercial area. The Applicant would
12 construct a roadside sidewalk along Rock Ridge Road. (N.T. 5/23/23, p. 693 [Gable];
13 Exhibit A-3.)

14 35. Foot traffic will not be encouraged on Rock Ridge Road. A sidewalk /walking
15 paths will be constructed along Rock Ridge Road for pedestrians to use. (N.T. 2/23/23,
16 pp. 245-246, 254 [Gable].)

17 36. Rock Ridge Road does not lend itself to golf carts or shuttle buses or anything.
18 (N.T. 5/23/23, p. 696 [Gable].)

19 37. The strip of land between the Resort and Commercial areas is located along the
20 adjoining neighbor's boundary. (N.T. 3/9/23, p. 327 [Gable].)

21 38. The Applicant does not intend to develop the land between S.R. 611 and Trinity
22 Hill Road as the land provides a buffer to the Church. (N.T. 2/23/23, p. 239 [Gable].)

1 **B. Zoning**

2 1. Applicant’s Master Development Plan shows all development as being located
3 on parcels of land in Paradise Township in an R-2 Residential Zoning District within an RDA with
4 utility fields and stormwater basins in other municipalities (§160-71). (N.T. 1/30/23; pp. 39, 45
5 [McGlynn]; N.T. 2/23/23, p. 161 [Gable]; Exhibits A-4, A-20.)

6 2. The Project is to be located on Property which contains more than 60 contiguous
7 acres in Paradise Township. (Exhibit A-20, p. 3.)

8 3. The only proposed improvements in either Pocono Township or Mount Pocono
9 Borough are all or parts of both drip irrigation fields and stormwater basins. (N.T. 3/9/23,
10 pp. 337-339 [Gable]; Exhibits A-4, A-20.)

11 4. Article XII, Resort Development Area Overlay District, §160-71, of the
12 Paradise Township Code of Ordinances allows for resort overlays in R-2 Zones (Resort Overlay).
13 (N.T. 1/30/23; p. 39.)

14 5. Resort Overlay allows hotels, motels with amenities, restaurants, and shops.
15 Article XII, Resort Development Area Overlay District §160-71.B and E allows an identified
16 district to use master development plans which allow limited commercial development in the
17 Overlay Zone. (N.T. 1/30/23; pp. 40-41, 46 [McGlynn].)

18 6. Article III, §160-12.A (Special land use requirements), Subsection (43.B),
19 Master development, sets forth the requirements for a master development which in part requires:
20 i) a minimum of 60 contiguous acres; ii) greenway land design, ownership, and maintenance which
21 complies with §160-21-C(D), (E), and (F); iii) frontage along and direct access to a road or
22 highway controlled by the Pennsylvania Department of Transportation. (N.T. 1/30/23; p. 41.)

1 7. Section 160-12.A.(43.B)(h)[2] allows resorts, hotels, and resort amenities and
2 [4] allows for planned community, office parks, and shopping centers in compliance with
3 §160-12.A.(54.B). (N.T. 1/30/23; p. 41.)

4 8. The Commercial area is shown as being developed on a parcel of property
5 separated from the Resort area by an existing residential neighborhood. (N.T. 1/30/23; p. 42
6 [McGlynn]; Exhibits A-4, A-20.)

7 9. The Conditional Use Application lacks detail regarding the commercial retail
8 component. (N.T. 1/30/23; pp. 42, 43; Exhibits A-4, A-20 [McGlynn].)

9 10. The Paradise Township Parcels contain multiple slopes equal to or greater than
10 25 percent. (N.T. 2/23/23, p. 232; N.T. 3/6/23, pp. 327, 328 [Gable]; Exhibits A-21, p. 15, A-20,
11 p. 8.)

12 11. The Resort Overlay Ordinance §160-71.B(1)(2) requires integrated uses in the
13 Overlay District with various other code sections applying to what can be constructed in the Resort
14 Overlay. (N.T. 1/30/23; pp. 47, 50, 51, 64.)

15 12. A commercial center is only allowed in a Paradise Township R-2 Zone because
16 of the Resort Overlay Zone which allows the use of master development plans. (N.T. 2/23/23,
17 p. 197.)

18 13. As a result of the Resort Overlay District, the Applicant's proposed Resort and
19 Commercial uses are permitted as a conditional use in an R-2 Zone. (N.T. 2/23/23, p. 161.)

20 14. Joint Exhibit 1, letter from solicitor of Pocono Township was entered into
21 evidence. (N.T. 3/9/23, pp. 284-86.)

1 15. The Applicant stipulated if the conditional use is granted, Applicant will file for
2 and obtain all necessary approvals from Pocono Township as required by law and its ordinances.
3 (N.T. 3/9/23, p. 285.)

4 16. The Applicant stipulated that to the extent the facilities are located in Mount
5 Pocono Borough that it would do all required planning, obtain all required approvals, and permits.
6 (N.T. 3/9/23, p. 339 [Gable].)

7 17. The Applicant will not be seeking a variance or waiver from the Township
8 ordinance for water or sewer utilities. (N.T. 3/9/23, p. 375 [Oram].)

9 **C. Project**

10 1. The Applicant's goal in utilizing a landscape design for the Project is to touch
11 the land as lightly as possible as depicted in Exhibit A-4. (N.T. 1/30/23; p. 74 [Garrison];
12 N.T. 2/23/23, p. 161 [Gable].)

13 2. Landscape design/architecture purpose is to keep land disturbance to an
14 absolute minimum and give people a great natural experience when they walk the Property.
15 (N.T. 1/30/23; p. 76 [Garrison].)

16 3. The architect for the Project does not want to replicate the previous grand
17 Hawthorne hotel, as "It was built in an era when people just put whatever they wanted on the
18 landscape." (N.T. 1/30/23; p. 79, lines 4-6 [Garrison].)

19 4. The buildings are to be open in spring and fall to minimize air conditioning and
20 heating. The surrounding gardens are all landscaped. (N.T. 1/30/23; p. 90 [Garrison].)

1 5. Roadways throughout the Resort are to be kept at a minimum but will allow
2 emergency access through narrow looping roads. The goal of the design is not to have 30-foot
3 wide roads but rather walking paths. (N.T. 1/30/23; p. 76 [Garrison].)

4 6. The Applicant proposes that all walkways and buggy paths, including the
5 walkway connecting the commercial and resort areas which run along the streambank, will all be
6 constructed of mulch or gravel. (N.T. 1/30/23; pp. 90-91, 98, 99, 103, 106 [Garrison].)

7 7. No portion of the Project will include a timeshare community. (N.T. 3/9/23,
8 p. 301 [Gable].)

9 8. The Resort Property, not inclusive of the Commercial component, is designed
10 so that a guest coming to stay at the Resort will have everything they need at the Resort to function
11 and enjoy their time without leaving the Property, including a bathing suit or towel.
12 (N.T. 1/30/23; pp. 113, 114 [Garrison].)

13 a. **Project – Resort**

14 1. The Resort will use a landscape design for the buildings which will
15 allow guests to come out into the landscape, experience nature, walk, and not use their cars.
16 (N.T. 1/30/23; p. 75 [Garrison].)

17 2. The Resort will consist of a series of buildings built into the hill.
18 (N.T. 1/30/23; pp. 74, 75 [Garrison]; Exhibit A-3.)

19 3. The buildings will be oriented to optimize southern light exposure.
20 (N.T. 1/30/23; p. 88 [Garrison].)

1 4. Construction of a lodge is part of the Project. The lodge will be
2 made out of large pieces of glulam which are large segments of lumber glued together.
3 (N.T. 1/30/23; p. 88 [Garrison]; Exhibit A-8.)

4 5. The main entryway to the lodge will allow guests to see through the
5 building to the surrounding hills. (N.T. 1/30/23; p. 88 [Garrison]; Exhibit A-8.)

6 6. Upon arrival, guests will view architectural wood beams from the
7 entryway of the lodge. (N.T. 1/30/23; p. 88 [Garrison].)

8 7. The main lodge will have no living accommodations or rooms. The
9 lodge will contain, in addition to registration, a restaurant and banquet facilities. Additionally, a
10 second restaurant will also be located at or near the lodge. (N.T. 1/30/23; pp. 92, 103 [Garrison].)

11 8. The resort banquet and restaurant facilities are open to the general
12 public. (N.T. 1/30/23; p. 95 [Garrison].)

13 9. The lodge and all other buildings are designed to enhance the forest
14 and landscape views. The Resort will include a spa area and three pools areas to be situated on a
15 slope which are designed to terrace uphill. In addition, the Resort will have a tennis court facility
16 located near the Montanesca House. (N.T. 1/30/23; p. 89 [Garrison]; N.T. 2/23/23, p. 163
17 [Gable].)

18 10. The Resort will also be comprised of a cluster of stand-alone duplex
19 villas, stand-alone single floor villas with decks, deck villas in three clusters, which, when
20 combined, can support larger groups or when segregated, the units support smaller groups.
21 (N.T. 1/30/23; pp. 74, 75, 76, 83, 84, 86, 87 [Garrison]; Exhibits A-4, A-7, A-8.)

- 1 11. All villas will slope down the hill and look out into the forest and
2 will not allow for a view of other villas. The landscape design of each villa is to only see nature.
3 The guests will enter the spa area from the villas by a walkway that cascades up the hill.
4 (N.T. 1/30/23; pp. 88, 90, 107 [Garrison]; N.T. 2/23/23, p. 235 [Gable].)
- 5 12. The design for the inside of the villas is a wood finish.
6 (N.T. 1/30/23, p. 90 [Garrison].)
- 7 13. Each villa will have a kitchenette containing a small refrigerator,
8 sink, and coffee maker. There are no hotplates or cooking facilities including microwaves to be
9 used in the units. (N.T. 1/30/23; pp. 91-94, 98, 99 [Garrison].)
- 10 14. The villas are designed so that each cannot function as stand-alone
11 dwelling units. They will not have kitchens. (N.T. 1/30/23; pp. 93-94 [Garrison].)
- 12 15. The landscaped Resort provides for each unit to have self-contained
13 garbage disposal within the unit and not outside. (N.T. 1/30/23; p. 87 [Garrison].)
- 14 16. No cabins/villas or hotel rooms will have laundry facilities.
15 Laundry is intended to be handled off site. (N.T. 1/30/23; pp. 112, 113 [Garrison].)
- 16 17. There will be no parking at the villas. Guests will register, park
17 their car in the Resort's front parking lot and will not use their cars. (N.T. 1/30/23; p. 75
18 [Garrison]; N.T. 2/23/23, p. 163 [Gable].)
- 19 18. The Resort will require guests to park in one area, located in the
20 front of the Resort, and be shuttled via gas or propane golf carts to their lodgings and amenities.
21 The cabins have no parking spaces and there are to be no cars circulating at night. (N.T. 1/30/23;
22 p. 92 [Garrison]; N.T. 2/23/23, p. 163 [Gable]; N.T. 3/9/23, pp. 333-334 [Gable; Exhibit A-4.]

1 19. The parking lot near Wiscasset Road will have a 50-foot buffer
2 inclusive of the existing trees and landscaping comprising of Norway spruces, white pines, and
3 arborvitaes in order to create a visual barrier. (N.T. 1/30/23, p. 109 [Garrison]; N.T. 2/23/23,
4 p. 234 [Gable].)

5 20. The Resort intends to use the original entranceway of the Hawthorne
6 Hotel off Trinity Hill Road as the entranceway to the parking area. (N.T. 1/30/23, p. 101
7 [Garrison; Exhibits A-3, A-4, A-11.]

8 21. The Resort will also utilize the Montanesca House as a short-term
9 rental within the Resort. Montanesca House will have five or six bedrooms with kitchen facilities
10 and operate more like an Airbnb. The Montanesca House is currently habitable. (N.T. 1/30/23;
11 p. 93 [Garrison]; N.T. 2/23/23, pp. 163, 185; N.T. 3/9/23, pp. 303, 340 [Gable].)

12 22. Access to Montanesca House is through the main Resort area by the
13 spa. Montanesca Road will be for emergency access only and not a construction access.
14 (N.T. 2/23/23, p. 262; N.T. 3/9/23, p. 340 [Gable].)

15 23. The Resort will also construct, in the future, a 94-room hotel.
16 (N.T. 1/30/23; pp. 97, 104 [Garrison]; N.T. 2/23/23, p. 164 [Gable]; Exhibits A-15, A-20.)

17 24. The hotel is to be conventional with rooms off corridors, with a
18 pitched roof in character with the rest of the development, with a total square footage of 20,000
19 square feet with 94 rooms. (N.T. 1/30/23; pp. 97, 104 [Garrison].)

20 25. The hotel will only have rooms and no additional amenities.
21 (N.T. 1/30/23; p. 98 [Garrison].)

1 26. The hotel has not been designed but will retain the same character
2 of the Resort and will not exceed six stories or 80 feet in height. (N.T. 1/30/23; pp. 97, 98, 104
3 [Garrison].)

4 27. Once built out, the Resort will comprise a total of 244 rental units
5 plus the Montanesca House which will be used as a single large rental unit. (N.T. 2/23/23, p. 163
6 [Garrison].)

7 28. The Resort will be constructed in three phases. The phasing of the
8 Resort will occur over a period of 10 to 18 months as described in Exhibit A-15, p. 2.
9 (N.T. 3/9/23, p. 304 [Gable]; Exhibit A-20, p. 5.)

10 29. The initial phase will include the spa, lodge, and one half of the
11 cabins, the banquet facility, and two restaurants. (N.T. 3/9/23, p. 304 [Gable].)

12 30. In the second phase, additional villas will be constructed.
13 (N.T. 1/30/23; p. 96 [Garrison]; N.T. 3/9/23, p. 304 [Gable].)

14 31. The Commercial area is projected to be constructed during the
15 second phase. (Exhibit A-15, p. 2.)

16 32. Phase 3 will include construction of a 94-room hotel associated with
17 the resort. It has not been designed and is not anticipated in any immediate part of the plans.
18 (N.T. 1/30/23; p. 96 [Garrison]; N.T. 3/9/23, p. 304 [Gable].)

19 33. The Applicant's Exhibit 15 has calculations which include the
20 Montanesca House rental unit. (N.T. 3/9/23, p. 304 [Gable].)

21 34. The Resort will not house fuel tanks or conduct vehicle maintenance
22 on the Property. (N.T. 3/9/23, p. 333 [Gable].)

1 35. There is no vehicular connection between the Resort area and the
2 Commercial area. (N.T. 4/27/23, p. 569 [Horner]; Exhibit A-20, p. 2.)

3 36. A pedestrian pathway is proposed utilizing Rock Ridge and
4 Wiscasset Roads (public roads) through a residential neighborhood up steep slopes exceeding 25
5 percent. This pathway is the only means of traversing between the Resort and Commercial areas
6 without leaving the Property in Paradise Township. (N.T. 4/27/23, p. 569 [Horner]; Exhibit A-20,
7 p. 2.)

8 37. The pedestrian walkways will not all be ADA compliant.
9 (N.T. 3/9/23, p. 328 [Gable].)

10 **b. Project – Commercial**

11 1. The Commercial area is proposed to consist of a mixed use of
12 professional, medical, retail, and recreational uses. The Commercial area will contain a two-story
13 mixed-use building totaling 87,000 square feet, an 85,000 square foot retail building, a 10,000
14 square foot building, and a 250-seat restaurant. (N.T. 2/23/23, pp. 163-164 [Gable]; Exhibits A-2,
15 A-3.)

16 2. The commercial site, the old Strickland’s golf course, has not been
17 designed, and only preliminary concepts are shown on exhibits. (N.T. 1/30/23; p. 115 [Garrison].)

18 3. The Applicant has no idea what the Commercial space will look like
19 as the Commercial Area is still very conceptual. (N.T. 2/23/23, pp. 203, 250 [Gable].)

20 4. The Applicant has not yet identified tenants for the Commercial
21 area. (N.T. 3/9/23, p. 329 [Gable].)

1 5. There is no proposed height of Commercial development yet.
2 (N.T. 3/9/23, p. 332 [Gable].)

3 6. There was no testimony regarding the phase in which construction
4 of the Commercial area is to be built, but Applicant's Exhibits indicate that it will be constructed
5 in Phase 2. (Exhibits A-20, p. 5, A-15, p. 2.)

6 7. The Commercial area is considered a shopping center of
7 approximately 182,000 square feet for traffic purposes and it does not matter if the specific
8 components are not identified. (N.T. 4/27/23, p. 550 [Horner].)

9 8. All numbers for water and sewage usage by the Commercial center
10 are "general estimates" and actual needs will be addressed during land development.
11 (N.T. 2/23/23, pp. 209-210.)

12 9. The Commercial area needs 24,000 to 25,000 gallons per day which
13 is not included in Resort number. (N.T. 3/9/23, p. 369 [Oram].)

14 10. The Commercial area will have its own drip irrigation system as
15 there is sufficient acreage. (N.T. 2/23/23, pp. 165-166 [Gable]; Exhibit A-15.)

16 11. Mr. Oram testified that the Applicant had not yet determined if
17 Commercial sewage is staying in the Commercial area or to be applied in the Resort area.
18 (N.T. 3/9/23, p. 387 [Oram].)

19 12. The Applicant agreed that sewage flow for the Commercial center
20 is very conceptual and not detailed by Applicant for this portion of the Project. (N.T. 2/23/23,
21 p. 202 [Gable].)

1 13. The septic system for the Commercial area has not been designed
2 yet. (N.T. 3/9/23, pp. 404-405 [Oram].)

3 14. Testing has not been done on drip fields for Commercial area.
4 (N.T. 3/9/23, p. 317 [Gable].)

5 15. The Resort drip irrigation facilities are designed to be able to handle
6 both the Resort and Commercial sewage flows. (N.T. 2/23/23, pp. 167-169 [Gable]; N.T. 3/9/23,
7 p. 347 [Oram]; Exhibit A-15, p. 1.)

8 16. Water for the Commercial area will be supplied by the wells installed in the
9 Resort area. (N.T. 2/23/23, pp. 209-210, 222 [Gable].)

10 **D. Stormwater**

11 1. The Township adopts the proposed Findings of Fact set forth in PennFuture’s
12 Brief (ZO Exhibit 30, pp. 15-16), as follows:

13 a. The Applicant proposes a network of stormwater collection and control
14 systems, including stormwater management facilities at various locations and depths throughout
15 the Property. (Exhibit A-15, p. 2; Exhibit A-22, p. 2.)

16 b. The Applicant’s proposed stormwater management system includes 15
17 stormwater basins, identified as Basins A through O. (Exhibit A-20, p. 9.)

18 c. Basin K collects outflow from several other stormwater basins and
19 discharges to Indian Run, an exceptional value stream. (Exhibit A-20, p. 9.)

20 d. Basin K is located primarily in Pocono Township. (Exhibit A-20, p. 9.)

1 e. The discharge from Basin K to Indian Run will require a National
2 Pollutant Discharge Elimination System (NPDES) from the Pennsylvania Department of
3 Environmental Protection (PaDEP or DEP). (N.T. 2/23/23, pp. 14-18, 218 [Gable].)

4 f. The Applicant's geotechnical engineer, Midlantic Engineering, dug 12
5 test pits to conduct infiltration testing in proposed Basins A, K, M, N, and O. (Exhibit A-22,
6 Enclosure (4), Figure 4-1.)

7 g. The Applicant did not conduct infiltration testing in the remaining
8 basins.

9 h. Based on the depth to the limiting zone and soil permeability, proposed
10 infiltration facilities at the proposed depths at Basins M and K are "generally considered feasible."
11 (Exhibit A-22, pp, 5, 8.)

12 i. Infiltration facilities at the remaining tested basin locations "may be
13 considered feasible" but may require revised depths due to depth to the limiting zone and/or soil
14 permeability. (Exhibit A-22, pp. 5, 8.)

15 j. In addition, based on soil permeability, Applicant's geotechnical
16 engineer proposed specific design parameters for Basins A, M, and K. (Exhibit A-22, p. 9.)

17 k. In particular, due to materials having an excessive infiltration rate (>10
18 in./hr.) in one of the three test pits in Basin K, Applicant's geotechnical engineer recommends that
19 this material be over excavated a minimum of 24 inches and replaced with an engineered soils

1 buffer layer to develop a subgrade infiltration rate to within a range of 2 to 6 inches per hour.
2 (Exhibit A-22, p. 10, Enclosure (6), Figure 6-1.)

3 2. The Swiftwater preserve stream corridor is not going to be disturbed except for
4 one stormwater basin to be located out of 150 foot buffer required by NPDES. (N.T. 2/23/23,
5 p. 163 [Gable].)

6 3. The infiltration facilities will be designed in strict accordance with the most
7 recent editions of the Pennsylvania Stormwater Best Management Practices to include
8 Exhibits A-23, A-24, and A-25 as offered into evidence. (N.T. 5/23/23, p. 704.) (See also
9 Exhibit A-22, p. 9.)

10 4. Stormwater discharge will be through naturalized swale to control discharge
11 and will match the existing environment. (N.T. 2/23/23, p. 163 [Gable].)

12 5. A stormwater basin is proposed to be located at the top of the hill along
13 Goldfinch Place. (N.T. 2/23/23, p. 256 [Gable]; Exhibits A-14, A-20.)

14 6. Some trees around the stormwater basin will be removed on Goldfinch Place.
15 All other trees will remain in that area. (N.T. 2/23/23, pp. 272, 273-274 [Gable].)

16 7. The Applicant will provide buffering and screening along the Monsul property
17 to accommodate tree loss from the construction of the stormwater basin. (N.T. 2/23/23, p. 272
18 [Gable].)

19 8. The Applicant has not yet determined how it will prevent guests from accessing
20 the stormwater basin. (N.T. 3/9/23, pp. 313-314, Exhibit A-22, p. 9.)

21 9. The Applicant has indicated that the stormwater for the Commercial area will
22 be handled differently. The Commercial Area will be utilizing stormwater inlets. Two basins

1 are planned, one partly in Paradise Township and partly in Pocono Township, and the other basin
2 will be located entirely in Pocono Township. (N.T. 3/9/23, pp. 330-331 [Gable]; Exhibit A-20,
3 pp. 4, 8.)

4 10. The stormwater facilities for the Commercial area will require oil and water
5 separators and will require solids to settle to the bottom of the basin. (N.T. 3/9/23, pp. 330-331
6 [Gable].)

7 11. Stormwater and drip irrigation systems are hydraulically disconnected.
8 (N.T. 3/9/23, p. 327 [Gable].)

9 **E. Water and Sewer**

10 1. The Applicant reviewed availability of connecting to public water and sewer
11 and determined it was not available through the Mount Pocono Borough Sewer Authority or
12 through Pocono Township and the Brodhead Creek Regional Authority. (N.T. 2/23/23,
13 pp. 198-199 [Gable]; Exhibit A-15, p. 2.)

14 2. Both proposed water and sewage systems must be reviewed, approved, and
15 permitted by PaDEP. (N.T. 3/9/23, p. 296 [Gable].)

16 3. The Applicant does not know if the DRBC will be involved in sewage review.
17 This decision is made by PaDEP. (N.T. 3/9/23, p. 379 [Oram].)

18 4. Both PaDEP and the Township SEO are involved in the septic permitting
19 process. (N.T. 2/23/23, p. 204 [Gable].)

20 5. The proposed sewage system including the advanced pretreatment component
21 will require confirmation testing and approvals from PaDEP and the Paradise Township SEO.
22 (N.T. 2/23/23, pp. 170, 174 [Gable]; N.T. 3/9/23, pp. 367, 399 [Oram].)

1 6. Use of both proposed water and sewer systems will also require coordination
2 and approval by Paradise Township officials. (*See* Chapter 110, Sewage) (N.T. 2/23/23, p. 204
3 [Gable].)

4 7. The proposed sewer system will also require a PaDEP Part 2 permit to be
5 constructed. (N.T. 2/23/23, pp. 190-191 [Gable].)

6 8. PaDEP will require properly licensed operators to operate and oversee both the
7 water and sewer systems. (N.T. 2/23/23, p. 170 [Gable]; N.T. 3/9/23, p. 380 [Oram].)

8 9. The sewage disposal system will require a DEP licensed operator.
9 (N.T. 2/23/23, pp. 170, 174, 190; N.T. 3/9/23, p. 318 [Gable].)

10 10. Residents will not be allowed to connect into the Project water and sewer
11 systems. (N.T. 3/16/23, p. 447 [Oram].)

12 11. The water supply will be considered a public water supply. As such, a DEP
13 permit is required to construct and operate. (N.T. 3/9/23, pp. 348-349 [Oram].)

14 **a. Water**

15 1. Daily water usage for the Resort and Commercial areas is
16 predicted to be 39,757 gallons per day with a peak usage of 60,500 gallons per day. (N.T. 3/9/23,
17 p. 324 [Gable], p. 347 [Oram]; Exhibit A-11, pp. 1, 12.)

18 2. Peak daily flows of water for the Project are expected to exceed
19 historic permitting levels (40,000 gallons per day) but the average daily flows are predicted to be
20 lower than historic permitted levels. (N.T. 3/9/23, pp. 389-390 [Oram].)

21 3. The Applicant's proposed water system will be designed and
22 utilized under the following criteria:

- 1 a. Not transporting water off site;
- 2 b. Non-consumptive use – water used and disposed of on
- 3 site;
- 4
- 5 c. System is designed to pull water out of the ground and
- 6 put back into ground.
- 7

8 (N.T. 3/9/23, pp. 350-352, 378 [Oram].)

9 4. Nonconsumptive use is withdrawing water from one aquifer and

10 recharging that aquifer with the same water. The Resort and Commercial areas are in the same

11 aquifer. (N.T. 3/9/23, p. 391 [Oram].)

12 5. There will be well over 15 service connections required for 94

13 hotel rooms, three restaurants, 150 cabins, and some Commercial uses. (N.T. 3/9/23, p. 347

14 [Oram].)

15 6. The water supply is considered a non-transient, non-community

16 water supply as there will be more than 25 people (same people) working on a daily basis on the

17 Property. (N.T. 3/9/23, pp. 348-349 [Oram].)

18 7. On-site water is proposed for the Project through the use of two

19 wells and a water storage tank on the site. (N.T. 2/23/23, p. 165 [Gable]; N.T. 3/9/23, p. 323

20 [Gable].)

21 8. A water storage tank of indetermined height will be located at

22 the rear property line parallel to the Mount Pocono Municipal Authority sewage disposal spray

23 fields. (N.T. 2/23/23, pp. 181, 264 [Gable].)

24 9. The approximate location of well one is just north of the

25 Montanesca House, the northern portion of the Property. (N.T. 3/9/23, p. 354 [Oram].)

- 1 10. Private wells along Rock Ridge Road and Wiscasset are part of
2 the same aquifer rock unit as the proposed well sites. (N.T. 3/9/23, p. 389 [Oram].)
- 3 11. The second well is located in the southern portion of the
4 Property where an existing 40,000 gallon per day permitted well is located. (N.T. 3/9/23, p. 354
5 [Oram].)
- 6 12. Two wells are necessary for backup purposes and also allows
7 cycling of wells to minimize impacts to neighbors. (N.T. 3/9/23, p. 357 [Oram].)
- 8 13. It is unlikely that wells will be permitted to run together.
9 (N.T. 3/9/23, p. 357 [Oram].)
- 10 14. Both wells would have a capture zone of 580 feet for 40,000
11 gallons per day per well. (N.T. 3/9/23, p. 356; N.T. 3/16/23, p. 421 [Oram].)
- 12 15. The wells must comply with §160-21 regarding wellhead
13 protection zone. (N.T. 3/9/23, p. 373 [Oram].)
- 14 16. Wellhead protection requirements apply for both the Resort
15 wells and adjoining wells. (N.T. 3/9/23, p. 373 [Oram].)
- 16 17. Well area 1 – no wells within 400 feet. (N.T. 3/9/23, p. 373
17 [Oram]; Exhibit A-12.)
- 18 18. Well area 2 may have private well within 400 feet.
19 (N.T. 3/9/23, pp. 374, 421 [Oram]; Exhibit A-12.)
- 20 19. It is believed that DRBC approval is not required as use is
21 nonconsumptive, not more than 100,000 gallons per day usage, and not a special protection ground
22 water area. (N.T. 3/9/23, pp. 350-352, 400 [Oram].)

1 20. The Applicant had one discussion with Pa. DRBC related to well
2 water withdrawal. (N.T. 2/23/23, pp. 208-209 [Gable].)

3 21. There are approximately 14 wells within a half mile of the radius
4 of the Resort. (N.T. 2/23/23, p. 227.)

5 22. The Applicant will be testing the aquifer to ensure no
6 contaminants in the water including MTBE. (N.T. 3/9/23, p. 325.)

7 23. The water budget is based on 244.6 acres with a natural recharge
8 rate of 187,258 gallons per day. This is the daily natural recharge of the acreage. (N.T. 3/9/23,
9 p. 351 [Oram].)

10 24. The Applicant is not planning to pull more water out than the
11 recharge rate. The Applicant intends to pull out less than 60 percent of the recharge rate.
12 Accordingly, the analysis finds no adverse impact. Exhibit A-11. (N.T. 3/9/23, pp. 352, 355
13 [Oram].)

14 25. The Applicant must provide an aquifer testing and assessment
15 plan to confirm all preliminary conclusion. (Exhibit A-11a, pp. 1-2, 10, 22.)

16 26. The Applicant does not anticipate any impact to adjoining
17 property wells but will test to ensure there is no impact. (N.T. 3/9/23, p. 355 [Oram].)

18 **b. Sewer**

19 1. The Applicant proposes that sewer will be provided through a
20 series of advanced pretreatment units discharged through and a series of drip irrigation fields.
21 (N.T. 2/23/23, p. 190 [Gable]; Exhibits A-14, A-15, A-20.)

1 2. Out of the alternatives reviewed below, the forested drip
2 irrigation approach is the preferred method of sewage application to protected watersheds and EV
3 streams. (N.T. 3/9/23, pp. 363, 385 [Oram].)

4 3. Alternative analysis for Act 537 planning purposes of other
5 types of sewage systems were reviewed and discarded, as follows:

- 6 a. Traditional spray fields – do not work in the wintertime;
- 7
- 8 b. Large sand mounds – require clear cutting trees;
- 9
- 10 c. Discharge to stream – not viable;
- 11
- 12 d. Mount Pocono Borough’s system – not able to
13 accommodate;
- 14
- 15 e. Pocono Township may be available but complex issue
16 not part of conditional use.
- 17

18 (N.T. 3/9/23, p. 315 [Gable]; N.T. 3/9/23, p. 360 [Oram].)

19 4. The Applicant’s Exhibit 14 provides plans for drip irrigation
20 areas. The first area is in the northern boundary of the Property which is shared with Mount
21 Pocono. This area is adjacent to the existing Mount Pocono Sewer Authority spray area. This
22 area was not suitable for drip irrigation without further testing. It is suitable for a sand mound.

23 (N.T. 3/9/23, pp. 362, 382, 383, 396 [Oram].)

24 5. Area 2, which is located south of Area 1, had similar soil
25 conditions to Area 1 and is also suitable for a sand mound. (N.T. 3/9/23, pp. 362, 382, 296
26 [Oram].)

1 6. Area 3 is located at the western boundary of the Property
2 bordering both Mount Pocono Borough and Pocono Township. This area was suitable for drip
3 irrigation, elevated sandmounds, or spray. (N.T. 3/9/23, p. 362 [Oram].)

4 7. Area 4 is located in the core of the Property on the eastern side
5 of the Property. This area was suitable for drip irrigation, elevated sandmounds, or spray.
6 (N.T. 3/9/23, p. 363 [Oram].)

7 8. Four zones could handle both the Resort and Commercial flows.
8 Mr. Oram was not sure how Commercial center sewage will be applied. (N.T. 3/9/23, p. 371
9 [Oram].)

10 9. Two drip fields are located in Paradise Township. The others
11 will be partially constructed in Mount Pocono Borough and Pocono Township. (N.T. 2/23/23,
12 pp. 165, 200-201 [Gable]; Exhibits A-15, A-20.)

13 10. All drip irrigation fields will not be constructed at one time. If
14 capacity increases, fields will be built. (N.T. 2/23/23, p. 213 [Gable].)

15 11. The drip system is to be a forested irrigation system.
16 (N.T. 3/16/23, p. 444 [Oram].) Trees will not be removed for drip irrigation fields. (N.T. 3/9/23,
17 p. 316 [Gable].)

18 12. Mr. Gable testified that on-lot drip systems are typically
19 installed 12 to 18 inches below ground while Mr. Oram testified that the typical depth of tubing is
20 6 to 12 inches.. (N.T. 3/9/23, p. 295 [Gable]; N.T. 3/9/23, p. 397 [Oram].)

21 13. The shallow areas for tube placement will have additional
22 material placed on top (top dress). (N.T. 3/9/23, p. 398 [Oram].)

- 1 14. A drip irrigation site would be maintained woodland or with
2 current vegetation. (N.T. 3/9/23, p. 381 [Oram].)
- 3 15. Any trees to be removed for the drip system are dead or dying
4 trees or if there is a special issue with trees. (N.T. 3/9/23, pp. 381-382 [Oram].)
- 5 16. Guests must not be permitted to walk in drip irrigation areas.
6 (N.T. 3/16/23, p. 441 [Oram].) The Applicant has not yet determined how it will prevent guests
7 from accessing drip fields. (N.T. 3/9/23, p. 317 [Gable].)
- 8 17. Anticipated peak flow is 60,500 gallons per day of sewage
9 effluent from both the Resort and Commercial areas and a 30-day average flow is 39,000 gallons
10 per day. (N.T. 2/23/23, pp. 167-168 [Gable].)
- 11 18. Sewage usage of 60,500 gallons per day does not include pool
12 water. (N.T. 3/16/23, p. 440 [Oram].)
- 13 19. The pool water will not be discharged into the septic system or
14 water drains. French drains do not go into the septic system. (N.T. 3/9/23, pp. 377, 402 [Oram].)
- 15 20. Chlorinated water is regulated under Chapter 73. It is not
16 allowed in the system. (N.T. 3/9/23, p. 378 [Oram].)
- 17 21. The Resort will discharge variable flows based on season and
18 occupancy. If flows are reduced, fields can be taken off line and winterized. The drip field use
19 will be cycled. (N.T. 3/9/23, pp. 320, 322 [Gable].)
- 20 22. Drip field capacity for the resort is 63,743 gallons per day and
21 in the Commercial area it is 25,000 gallons per day. (N.T. 2/23/23, p. 169 [Gable]; N.T. 3/9/23,
22 p. 330 [Gable].)

1 23. If there is an extended power outage, the septic system will run
2 off generators. (N.T. 3/9/23, p. 322 [Gable].)

3 24. Groundwater monitoring wells downslope of the spray fields
4 will be required and sampled at a rate set by PaDEP. (N.T. 2/23/23, pp. 170, 190; N.T. 3/9/23,
5 p. 318 [Gable].)

6 25. If disinfection is necessary, the intent would be to use UV
7 disinfection with no chemical residue. (N.T. 3/9/23, p. 387 [Oram].)

8 26. Exhibit A-13, total nitrogen below 30 milligrams per liter would
9 be obtained by using proposed system. (N.T. 3/9/23, pp. 394-395 [Oram]; Exhibit A-13, p. 10.)

10 27. The wastewater collection system is pressurized.
11 (N.T. 3/16/23, p. 432 [Oram].)

12 28. The drip irrigation system is designed not to have any runoff or
13 discharge into the stream. (N.T. 3/9/23, p. 370; N.T. 3/16/23, p. 451 [Oram].)

14 **c. Sewer Design**

15 1. The design engineer will design the system to the standards for
16 such systems as set forth in Exhibits A-16, A-17, A-18. (N.T. 2/23/23, pp. 170-173 [Gable].)

17 2. Pretreatment is to be provided through use of ECOFLO cocoa
18 filters installed in an enclosed unit installed in each unit. This type of advanced pretreatment has
19 been approved by DEP for some level of denitrification. (N.T. 3/16/23, pp. 416-417 [Oram].)

20 3. Each cabin will have its own pretreatment unit which is a sealed
21 unit and treats the water and then pumped into the collection system. (N.T. 3/16/23, p. 431
22 [Oram].)

- 1 4. The system must be designed to meet nitrate and nitrite levels.
2 (N.T. 3/16/23, p. 418 [Oram].)
- 3 5. The design goal of the system is to limit total suspended solids
4 (BOD loading) to the disposal fields to 10 milligrams per liter with the ability to hit 8 milligrams
5 per liter or lower. (N.T. 2/23/23, p. 173 [Gable].)
- 6 6. Mr. Oram recommends that a 15 percent Ksp factor be used
7 which if used would require EMAC pretreatment. (N.T. 3/16/23, p. 415 [Oram]; Exhibit A-13a.)
- 8 7. DEP will approve a 15 percent ksp with higher level of
9 pretreatment. (N.T. 3/16/23, p. 415 [Oram].)
- 10 8. Mr. Oram is not sure if the proposed pretreatment design is
11 sufficient as he does not know the level of denitrification which will be required. (N.T. 3/16/23,
12 p. 417 [Oram].)
- 13 9. The design for the septic presented by Applicant did not include
14 the requirements of the Paradise Township Code of Ordinances, Chapter 110 as Mr. Gable did not
15 review it prior to designing it. (N.T. 2/23/23, pp. 206-207 [Gable].)
- 16 10. The design and construction of the proposed drip irrigation
17 system has not been reviewed or approved and therefore requires coordination with PaDEP and
18 Township officials. (N.T. 2/23/23, p. 218 [Gable]; N.T. 3/9/23, p. 379 [Oram].)
- 19 11. Applicant's Exhibit 14 shows test areas Applicant believes
20 PaDEP will approve. DEP has not yet reviewed or approved the test sites. (N.T. 2/23/23,
21 pp. 207-208 [Gable].)

- 1 12. The Applicant performed 73 test pits and 31 hydroconnectivity
2 tests in July and November of 2022 and in January of 2023. (N.T. 3/9/23, pp. 360-361 [Oram].)
- 3 13. Thirty-one hydroconnectivity tests were performed to determine
4 the limiting horizon for underground water movement. (N.T. 3/9/23, p. 364 [Oram].)
- 5 14. There was no third-party witness to the testifying of the 73 test
6 pits. (N.T. 3/9/23, p. 294 [Gable].)
- 7 15. Neither PaDEP nor the Paradise SEO where on site for the
8 testing performed by Mr. Oram. (N.T. 3/9/23, pp. 361-363 [Oram].)
- 9 16. Test pits and hydroconnectivity pits for sewerage were only
10 conducted in the Resort area; see Exhibit A-14. (N.T. 3/9/23, p. 395 [Oram].)
- 11 17. All initial sewage testing has not accepted or rejected by PaDEP
12 – only discussion of what was performed. (N.T. 3/9/23, pp. 398-399 [Oram].)
- 13 18. The testimony and exhibits presented at hearing are based only
14 upon preliminary discussions regarding septic system with the DEP representative who is no
15 longer with DEP. (N.T. 3/9/23, pp. 361, 367, 368 [Oram].)
- 16 19. PaDEP has not approved the proposed approach to sewer
17 treatment for drip irrigation systems. (N.T. 3/9/23, p. 394 [Oram].)
- 18 20. All numbers to which Applicant either testified to or presented
19 through exhibits need to be vetted by the Paradise Township SEO and PaDEP. (N.T. 2/23/23,
20 p. 208, lines 10-13 [Gable].)
- 21 21. The design engineer has developed only one similar sewage
22 system as is proposed for the Project – a much smaller version at his house. He designed another

1 similar system based on modular systems handling less than 2,000 gallons per day. (N.T. 2/23/23,
2 p. 220 [Gable].)

3 22. The engineer's only experience with working with the proposed
4 septic design is on his own residential property. (N.T. 3/9/23, p. 288 [Gable].)

5 23. The design engineer is not aware of any similar systems working
6 within 400 feet of an exceptional value watershed. (N.T. 2/23/23, p. 221 [Gable].)

7 24. The engineer has no personal experience with design or
8 operation of sewage facilities and treatment train in an exceptional value watershed. (N.T. 3/9/23,
9 pp. 288-289 [Gable].)

10 25. No second option is available if the drip irrigation system is not
11 approved for use by PaDEP and/or Paradise Township. (N.T. 3/9/23, p. 294 [Gable]; N.T. 3/9/23,
12 p. 393 [Oram].)

13 26. DEP has approved this type of drip system for the Bear Creek
14 Charter School which did not have the same treatment train (ECOFLO cocoa filter). (N.T. 3/9/23,
15 p. 393 [Oram].)

16 27. The Bear Creek site used a similar drip irrigation system (but not
17 treatment) at a much smaller rate. (N.T. 3/16/23, p. 420 [Oram].)

18 28. Sanofi used a similar system for a limited two-year period of
19 time. (N.T. 3/16/23, p. 419 [Oram].)

1 **F. Lighting**

2 1. Pathways will be lit by utilizing ground lights with very low levels of lighting.
3 (N.T. 1/30/23; p. 103 [Garrison]; N.T. 3/9/23, p. 335 [Gable].)

4 2. The Applicant proposes more lights but will reduce the height of the lights.
5 Lighting will be downward facing lamps and LED lighting. (N.T. 2/23/23, pp. 176-177 [Gable].)

6 3. The Applicant's goal for lighting is for no light visibility from the property line
7 during summer. There will be minor lighting visibility during the winter. There will be no light
8 spillage across property lines. (N.T. 2/23/23, p. 177 [Gable].)

9 4. Lighting plan will have zero spillage on neighboring property lines.
10 (N.T. 2/23/23, p. 243 [Gable].)

11 5. No visibility impact from lighting will be held for both the Resort and
12 Commercial center. (N.T. 3/9/23, p. 306 [Gable].)

13 6. The purpose of lighting the parking lot is for safety. LED focuses light in a
14 cone of influence thereby allowing for lower lights and light level while preserving safety. The
15 Applicant will be utilizing 15 to 18-foot mounting heights for parking lot lighting. The Applicant
16 is not seeking a variance for lights. (N.T. 2/23/23, pp. 229-231, 241-243 [Gable]; N.T. 3/9/23,
17 p. 336 [Gable].)

18 7. There will be no lighting on the strip of land alongside Rock Ridge Road.
19 (N.T. 3/9/23, p. 328 [Gable].)

20 8. The lighting is designed to exceed the Paradise Township Ordinance
21 requirements. (N.T. 3/9/23, pp. 306, 336 [Gable].)

1 **G. Traffic**

2 1. The design of the Resort is to allow traffic flow and parking to accommodate
3 guests and the public. (N.T. 1/30/23; p. 95 [Garrison].)

4 2. One day prior to hearing, the Applicant presented Exhibit No. 31 is the Traffic
5 Impact Assessment, dated April 26, 2023 (“TIA”), citing compliance with the Paradise Township
6 Code of Ordinances, §160-20, Traffic impact analysis, and PennDOT Publication No. 46.
7 (N.T. 4/27/23, p. 535 [Horner].)

8 3. The TIA assumes a roundabout at the intersection will be constructed and
9 utilized as a traffic control for the Project. (N.T. 4/27/23, p. 555; N.T. 5/23/23, p. 624 [Horner].)

10 4. The final configuration of the roundabout involves the Township because
11 Trinity Hill Road is a Township road. (N.T. 5/23/23, p. 666, lines 8-9 [Horner].)

12 5. The Applicant did not seek input from or coordinate with the Township Traffic
13 Engineer as to the scope of the TIA. Applicant will amend its figures and parameters in the agreed
14 upon expanded traffic study. (*See* §160-20(B).) (N.T. 5/23/23, p. 623 [Horner].)

15 6. The conditional use requirements for traffic, parking, loading, and access are
16 set forth in Chapter 160, §160-10.A(5)(6)(7). (N.T. 4/27/23, p. 537 [Horner].)

17 7. The study period was conducted in February/March and did not include a
18 holiday weekend. (N.T. 4/27/23, p. 576 [Horner]; Exhibit A-31, p. 4.)

19 8. The TIA did not include:

- 20 a. A study of the affect of U-turns. The expanded traffic study will provide
21 an alternate analysis of the effect of different options on Wiscasset Road.
22 (N.T. 4/27/23, p. 564; N.T. 5/23/23, p. 633 [Horner].)
23

- 1 b. A review of impacts of actual developments in the Project area. The
2 study only used background data. The Applicant is willing to expand the
3 study. (N.T. 4/27/23, p. 574; N.T. 5/23/23, p. 622 [Horner].)
4
5 c. A study based upon a year of opening as required by the Ordinance. The
6 Applicant committed to an expanded study with confirmed years of
7 reviews. (N.T. 5/23/23, pp. 619-620 [Horner].)
8
9 d. The more conservative method to calculate trip generation rates.
10 (N.T. 5/23/23, p. 621 [Horner].)
11
12 e. The effects of Event planning. (N.T. 5/23/23, p. 621 [Horner].)
13
14 f. A comparative analysis for the Trinity Hill Road intersection under stop
15 control and signal control in the event the roundabout is infeasible. The
16 Applicant will include this in the expanded traffic study. (N.T. 5/23/23,
17 p. 625 [Horner].)
18
19 g. An adequate narrative regarding pedestrian facilities particularly to the
20 Commercial area. (N.T. 5/23/23, pp. 625-626 [Horner].)
21
22 h. A sight distance analysis of the intersection of Route 611 and Wiscasset
23 Road. (N.T. 5/23/23, p. 635 [Horner].)
24
25 i. An evaluation of the Intersection of Rock Ridge Road and Route 611.
26 (N.T. 5/23/23, p. 649 [Horner].)
27
28 j. A 24-hour distribution of trips analysis for the Commercial site.
29 (N.T. 5/23/23, p. 664 [Horner]; Exhibit A-31.)
30
31

32 9. In his review letter, dated May 15, 2023, Jim Milot, Township Traffic Engineer,

33 requested six additional study areas. The Applicant stipulated that it would study the intersections

34 requested by Mr. Milot. (N.T. 5/23/23, pp. 610-611, 618 [Horner]; Joint Exhibit 3, letter from

35 Milot, dated May 15, 2023; Joint Exhibit 3.)

1 10. The Applicant agreed that the expanded scope of the TIA to include a proper
2 study area and parameters including any additional intersections required by the Board of
3 Supervisors as a condition. (N.T. 4/27/23, p. 540; N.T. 5/23/23, pp. 649-650 [Horner].)

4 11. The TIA did study three intersections at: i) Route 611, Trinity Hill Road, and
5 Meadowside Road; ii) Route 611 and Woodland Road; iii) Route 611, Wiscasset Road, and
6 Stricklands Road. (N.T. 4/27/23, pp. 539-540 [Horner]; Exhibit A-31.)

7 12. The TIA found that the current existing levels of service of every studied
8 intersection is C or better except for the left turn lane onto Woodland Road which is a D in the
9 morning due to traffic light timing. (N.T. 4/27/23, pp. 546-549 [Horner].)

10 13. Table 3 of Exhibit A-31, Traffic Impact Study, uses ITE data for peak hours
11 projections. (N.T. 5/23/23, p. 663 [Horner].)

12 14. The TIA estimated trips generated by the Resort is approximately 3,000 trips or
13 1,500 vehicles in and out of the Resort a day. Approximately 6,736 trips will be generated at the
14 Commercial center. (N.T. 5/23/23, pp. 658, 659 [Horner]; Exhibit A-31, Table 3.)

15 15. After build-out, the TIA projected that Wiscasset will experience a drop of level
16 of service to level D for afternoon peak hours and the left turn at Woodland will continue at a level
17 D for morning left turn movements. (N.T. 4/27/23, p. 554; N.T. 5/23/23, pp. 625, 651-653
18 [Horner]; Exhibit A-31.)

19 16. The Commercial area will be right turn in/right turn out only driveway as a left
20 turn movement cannot be easily accomplished since a vehicle would need to traverse two lanes of
21 traffic. (N.T. 4/27/23, p. 554 [Horner].)

1 17. The expert opines that in the Commercial area, right turn in, right turn out
2 driveway can accommodate site-generated traffic subject to PennDOT providing final approval
3 for final design, configuration, and traffic control. (N.T. 4/27/23, p. 565 [Horner].)

4 18. As a result of the right turn in and right turn out, it is expected that left turns
5 will increase at Woodland Road from S.R. 611 so that U-turns could be made as well as left turns
6 at the intersection. (N.T. 4/27/23, p. 555 [Horner].)

7 19. An expanded study would address left turns out of Wiscasset Road and U-turn
8 restrictions. (N.T. 5/23/23, p. 662 [Horner].)

9 20. The expanded traffic study needs to review new options for configuration of the
10 access including for U-turn application if a roundabout is not approved. (N.T. 5/23/23, p. 630
11 [Horner].)

12 21. The intersection of Woodland Road and Route 611 is able to accommodate site-
13 generated traffic without improvements. (N.T. 4/27/23, p. 565 [Horner].)

14 22. Mr. Horner testified that the intersection of Route 611/Wiscasset/Stricklands
15 Road, after build-out, can safely accommodate development site-generated traffic with no
16 improvements as traffic will remain at a passing level at those intersections. (N.T. 4/27/23, p. 564
17 [Horner].)

18 23. Route 611 is controlled by PennDOT. (N.T. 5/23/23, p. 615 [Horner].)

19 24. Mr. Horner cited PennDOT Publication 282 of the Highway Occupancy Permit
20 Application to establish that PennDOT has the authority to issue a highway occupancy permit and
21 require off-site improvements and therefore has control over Trinity Hill Road, a Township road.
22 (N.T. 5/23/23, pp. 614-616, 628 [Horner].)

1 25. Section 160-12(43.B)(e), Master development tracts, requires that there shall
2 be frontage along and direct access to a road or highway controlled by PennDOT. (N.T. 5/23/23,
3 pp. 613-614 [Horner].)

4 26. Access to the Resort area from S.R. 611 is limited to the Trinity Hill
5 intersection. (N.T. 5/23/23, p. 629 [Horner]; Exhibits A-20, A-31.)

6 27. Trinity Hill Road will be impacted but could accept traffic at the intersection
7 subject to final design configuration and traffic control approval by PennDOT. Applicant is
8 unsure how Resort will tie into Trinity Hill Road but the TIA assumes a roundabout at the
9 intersection. (N.T. 4/27/23, pp. 555, 563; N.T. 5/23/23, p. 624 [Horner].)

10 28. Mr. Horner concluded that the TIA demonstrated:

11 a. The conditional use plan has provided sufficient off-street parking,
12 loading, and access in accordance with the Paradise Township Code of
13 Ordinances. It is Mr. Horner's opinion that it embodies the level of
14 service of operation, parking, and loading. (N.T. 4/27/23, p. 570
15 [Horner].)

16 b. The vehicular and pedestrian traffic does not create undue congestion or
17 hazard prejudicial to the general areas. (N.T. 4/27/23, p. 570 [Horner].)

18 c. The traffic will not have an adverse impact upon the public, health,
19 safety, and welfare. Traffic can be accommodated at the intersections
20 of studied areas without detrimental service, undue delays, or safety
21 hazards. (N.T. 4/27/23, p. 571 [Horner].)

22 d. Access intersections for S.R. 611 are controlled by PennDOT which has
23 to sign off design configurations, and traffic control. (N.T. 4/27/23, p.
24 571 [Horner].)

25 29. Trinity Hill Road is not a road owned or controlled by PennDOT.
26

27 30. Page 43 of Exhibit 33 shows pedestrian access. A pedestrian crossing at
28 Wiscasset Road is shown on the plan.
29
30
31

1 **H. Roundabout**

2 1. The Applicant shows a roundabout on Route 611 as preferred recommendation
3 as traffic configuration would allow a Level of Service of A at each intersection. (N.T. 4/27/23,
4 p. 556 [Horner]; Exhibit A-34.)

5 2. The plan shows five roadway entrances and exists at the roundabout: Trinity
6 Hill Road; Route 611 (north and south); the Resort Property; and Meadowside Road.
7 (N.T. 4/27/23, pp. 558-559 [Horner]; Exhibit A-34.)

8 3. The roundabout as shown on Exhibit A-34 provides direct access from the
9 Resort to S.R. 611 as required by §160-12(43.B)(e).

10 4. The roundabout is proposed to be a two-lane roundabout using a PennDOT
11 roundabout design. (N.T. 4/27/23, p. 560 [Horner].)

12 5. The proposed roundabout is within PennDOT's right-of-way, Applicant's
13 Property, and the Township's right-of-way for Trinity Hill Road. (N.T. 4/27/23, p. 561 [Horner].)

14 6. The roundabout keeps flow of Route 611 perpendicular north and south.
15 (N.T. 4/27/23, p. 561 [Horner].)

16 7. The roundabout would reduce U-turn traffic from the south to get to the Resort
17 or going north to leave the Resort. (N.T. 4/27/23, p. 562 [Horner].)

18 8. The circumference of the roundabout would extend beyond Trinity Hill Road.
19 (N.T. 5/23/23, p. 631 [Horner].)

20 9. The right-of-way will be adjusted to make maintenance of the roundabout
21 PennDOT's responsibility. (N.T. 5/23/23, p. 632 [Horner].)

1 10. The roundabout would assist with speeding on Route 611 approaching
2 Wiscasset Road. (N.T. 5/23/23, p. 636 [Horner].)

3 11. Route 611, Trinity Hill Road, and Meadowside Road operate at a Level C or
4 better currently under no-build conditions. (N.T. 4/27/23, p. 563 [Horner].)

5 12. Mr. Horner stated that a proposed roundabout is only one option but no other
6 testimony or report on how access can be granted or the effects of traffic on design configurations
7 was provided. (N.T. 5/23/23, p. 616 [Horner].)

8 13. Mr. Horner stated he could not demonstrate constructability of a roundabout or
9 that PennDOT would approve the roundabout. (N.T. 5/23/23, pp. 616-617 [Horner].)

10 14. The Applicant suggested a condition of approval is that Applicant must obtain
11 a highway occupancy permit for access to a particular use. (N.T. 5/23/23, p. 617 [Horner].)

12 15. The expanded traffic study would review new options for traffic configuration
13 for the access including for U-turn application if a roundabout is not approved. (N.T. 5/23/23,
14 p. 630 [Horner].)

15 **I. Parking**

16 1. The Applicant must provide sufficient off-street parking for loading and access
17 to minimize interference with traffic on all streets. (N.T. 4/27/23, p. 566 [Horner].)

18 2. The ITE parking manual requires 288 peak demand spaces. (N.T. 4/27/23,
19 p. 566 [Horner].)

20 3. The Resort will require 333 parking spaces at full build-out. (N.T. 4/27/23,
21 p. 566 [Horner].)

1 4. The Commercial space of 182,000 square feet would require 530 parking spaces
2 per ITE requirements. The Applicant proposed 761 spaces. (N.T. 4/27/23, p. 567 [Horner].)

3 5. Loading and unloading in the Commercial area can be accommodated per the
4 Township ordinance. No truck traffic backing up Route 611. All loading will be fully contained.
5 (N.T. 4/27/23, p. 568 [Horner].)

6 6. Internal circulation of Resort as proposed will not cause pedestrian flow issues
7 on any roadways. (N.T. 4/27/23, p. 569 [Horner].)

8 7. The parking analysis did not include parking demand analysis but only trip
9 generation analysis. (N.T. 5/23/23, p. 634.)

10 8. Parking has been designed to keep the existing buffer set up and greenway
11 placed between parking layers. There will be lots of stepdown landscaping. Residents do not
12 want to see a field of automobiles. (N.T. 1/30/23; pp. 108, 109 [Garrison].)

13 9. The nearest point from the parking lot adjoining Wiscasset Road is
14 approximately 75 feet. The original design was 50 feet but moved after neighbor input requesting
15 more buffer. (N.T. 1/30/23; p. 109 [Garrison]; N.T. 2/23/23, pp. 233-234 [Gable].)

16 10. Landscape buffering between the Resort and Commercial areas will be installed
17 as necessary. (N.T. 3/9/23, p. 307.)

18 11. The Wiscasset parking lot buffer will consist of Norway spruce, white pine, and
19 giant arborvitae as these plantings provide reasonable buffer in conjunction with the existing
20 vegetation. (N.T. 2/23/23, p. 234 [Gable].)

1 **J. U-Turns**

2 1. Rock Ridge Road and Route 611 intersection is a right turn out. (N.T. 4/27/23,
3 p. 584 [Horner].)

4 2. Rock Ridge Road to Wiscasset Road already provides a loop to Route 611.
5 There are only six homes on Wiscasset. (N.T. 4/27/23, p. 585.)

6 3. Rock Ridge Road to Wiscasset Road is not a desirable turnaround.
7 (N.T. 4/27/23, p. 586 [Horner].)

8 4. Concerns were raised throughout the hearing process regarding sight distance
9 and increased traffic at Wiscasset Road.

10 5. Concerns were raised throughout the hearing process regarding U-turns at
11 Wiscasset Road due to the Commercial center.

12 6. The engineer recommended that commercial traffic to and from the
13 Commercial center, including deliveries, be prohibited from using Wiscasset and Rock Ridge
14 Roads. (N.T. 4/27/23, p. 588, lines 21 and 22 [Horner].)

15 7. The Applicant would do everything necessary working with PennDOT and the
16 Township to eliminate or reduce the turnarounds. (N.T. 4/27/23, p. 586 [Horner].)

17 8. The Applicant is willing to install signage to try to reduce U-turns from Route
18 611 onto Wiscasset Road and keep traffic on S.R. 611 oriented. (N.T. 4/27/23, p. 588;
19 N.T. 5/23/23, pp. 641-643 [Horner].)

20 9. There is no assurance that this problem can be fixed. All answers provide
21 discussion of effectiveness of roundabout. (N.T. 4/27/23, pp. 586-587 [Horner].)

1 **K. Greenway**

2 1. Section 160-21-C sets forth the requirements for greenway lands and
3 conservation easements including ownership options. (N.T. 3/9/23, p. 310 [Gable].)

4 2. Greenway land design, ownership, and maintenance in a master development
5 must comply with §160-21-C(D)(E)(F).

6 3. Master developments are required to evaluate master development property in
7 the same manner as Option 1, Conservation subdivisions, to establish adjusted tract acreage and
8 minimum greenway lands as described in §160-21-C(B) and (C) as required by §160-21(43.B)(c).

9 4. All greenway uses as they relate to the ordinance requirements (minimum areas
10 for development) will be located in Paradise Township. Greenway areas may include passive
11 recreation such as walking trails. (N.T. 3/9/23, po. 310-311 [Gable].)

12 5. It is the Applicant's intent that the greenway remain in private ownership with
13 the Resort. (N.T. 3/9/23, p. 312 [Gable].)

14 6. The greenway will not be open to the public. The greenway land will be used
15 for passive recreation purposes as shown on the plans for Resort guests. The public will not be
16 given access to stream. (N.T. 3/9/23, pp. 311-313 [Gable].)

17 7. The Applicant will retain primary responsibility to monitor greenway areas for
18 trash. (N.T. 3/9/23, p. 314 [Gable].)

19 8. The Applicant provided no additional information regarding establishing
20 greenway lands or location of greenway lands.

21 9. All lands utilized by Applicant to meet the greenway/conservation requirements
22 of §160-12(43)(B) shall comply with §160-21-C and be located in Paradise Township.

1 **L. Fiscal Impacts**

2 1. Erik Hetzel testified as an expert in community impacts, assessments, including
3 economic and financial aspects and as such prepared Exhibit A-27. (N.T. 3/16/23, pp. 453-456
4 [Hetzel].)

5 2. The Project is estimated to create 100 new jobs at the Resort and 427 new jobs
6 at the Commercial area, for a total of 527 new jobs. (N.T. 3/16/23, pp. 459-460 [Hetzel].)

7 3. Construction jobs are 536 direct construction jobs and 382 jobs in supporting
8 industries. The total regional economic output of the Project exceeds 182 million dollars.
9 (N.T. 3/16/23, p. 467 [Hetzel].)

10 4. The operational economic affect is 527 new direct jobs plus 71 additional
11 indirect jobs, bringing earning totals to 23.5 million dollars, with a total economic output generated
12 of 85.25 million dollars. (N.T. 3/16/23, p. 468 [Hetzel].)

13 5. The projected investment growth to the overall economy is approximately 98.2
14 million (80 million Resort and 18.2 million from Commercial). (N.T. 3/16/23, pp. 466-467
15 [Hetzel]; Exhibit A-27, pp. 3, 4.)

16 6. It is projected that there will be approximately \$118,179.00 in positive fiscal
17 impact to Paradise Township annually. (N.T. 3/16/23, p. 462 [Hetzel].)

18 7. It is projected that total revenue from the Project to Monroe County,
19 Pennsylvania and the Commonwealth of Pennsylvania, the school district, and Township will be
20 approximately 3.9 million dollars. (N.T. 3/16/23, p. 464 [Hetzel].)

1 8. It is projected that public safety demand as a result of the Project is less than
2 one police officer; less than a fractional amount for both police vehicle and facility space; and
3 EMS service will be similarly impacted. (N.T. 3/16/23, pp. 464, 465 [Hetzel]; Exhibit A-28.)

4 9. It is projected that there will be approximately 1.2 million dollars of positive
5 fiscal impact to the school district. (N.T. 3/16/23, p. 463 [Hetzel].)

6 10. All figures for the Commercial area are based on assumptions of what uses will
7 be in the area. (N.T. 3/16/23, p. 468 [Hetzel].)

8 11. The projections made by Mr. Hetzel are based on assumption of intended uses
9 and averaging of various assessments in the area. (N.T. 3/16/23, pp. 468-476 [Hetzel].)

10 12. The assumptions did not include where the new 527 new employees will live
11 so that impact was not considered. (N.T. 3/16/23, pp. 459, 469-470, 477, 478 [Hetzel].)

12 13. No testimony was presented by any party which reputed the presumption and
13 projections provided by Mr. Hetzel.

14 14. Charles Leonard, Executive Director of the Pocono Mountains Economic
15 Development Corporation for 43 years, was offered in support of Mr. Hetzel's testimony.
16 (N.T. 3/16/23, p. 503 [Leonard].)

17 15. Mr. Leonard testified that the Project will have a significant positive fiscal
18 impact on the area and that the numbers provided by Mr. Hetzel are very conservative on economic
19 impact. (N.T. 3/16/23, p. 506 [Leonard].)

20 16. The Project is appropriate in its current location as the Monroe County 2014
21 Comprehensive Plan targets S.R. 611 for commercial development. (N.T. 3/16/23, pp. 508-509
22 [Leonard].)

1 17. Mr. Leonard believes that the Project will create benefits to residents' properties
2 based on the current condition of the existing buildings. (N.T. 3/16/23, p. 507 [Leonard].)

3 18. In Mr. Leonard's experience, new industries attract new employees in the area.
4 This Project will not have a hard time getting employees. (N.T. 3/16/23, p. 505 [Leonard].)

5 19. In his experience, these types of jobs are filled by residents or commuters as
6 these are not the types of jobs for which most would relocate. (N.T. 3/16/23, pp. 505, 513
7 [Leonard].)

8 20. Mr. Leonard opined that the employees will be either existing residents or
9 commuters coming into the area. (N.T. 3/16/23, pp. 511, 513 [Leonard].)

10 **M. Integration**

11 1. Mr. Rosen opined that the Project, once completed, would not have an effect on
12 the existing residences in an R-2 Resort Overlay District. If it does have an effect, it will increase
13 values. (N.T. 3/16/23, pp. 484, 485, 501 [Rosen].)

14 2. Mr. Rosen testified that the existing Resort and golf course properties are
15 currently in disarray. (N.T. 3/16/23, p. 485 [Rosen].)

16 3. Mr. Rosen noted that all of S.R. 611 is a commercial corridor with several
17 resorts in close proximity. Accordingly, the proposed development is consistent with nature and
18 character of the area and existing commercial uses. (N.T. 3/16/23, pp. 486, 488 [Rosen].)

19 4. Mr. Rosen does not believe that the proposed used would alter the character of
20 the residences nor be detrimental to their values based upon his 24 years of experience, as follows:

- 21 a. A new parking lot in front of residences would not affect the values
22 assuming buffer plan and lighting is directed away from residential
23 properties;

- 1
2 b. A change in hillside view from forested to buildings and lights would
3 not affect the value of the property;
4
5 c. The properties adjoining a drip irrigation field would not be impacted
6 so long as the sewage facilities are constructed as described;
7
8 d. Walkway paths constructed for Resort guest utilization along adjoining
9 residential property lines would not affect the value of the adjoining
10 properties.

11
12 (N.T. 3/16/23, pp. 486-487, 489, 490, 492, 500, 502 [Rosen].)

13
14 5. Mr. Rosen's opinion was that the Project would not have a detrimental impact
15 on the neighboring residential properties. (N.T. 3/16/23, p. 489 [Rosen].)

16 6. Mr. Rosen has never analyzed the effect of property values adjoining a drip
17 irrigation system but believed it would not affect adjoining properties. (N.T. 3/16/23, pp. 498-499
18 [Rosen].)

19 7. Mr. Rosen did not perform before and after assessment of the individual
20 properties surrounding the Project. His opinions were not based on individual properties but
21 overall scale of the properties. This testimony was based solely on his opinion. No written report
22 was entered into evidence. (N.T. 3/16/23, pp. 496-498 [Rosen])

23 8. No party produced any evidence to rebut the opinions and presumptions of
24 Mr. Rosen.

25 9. Mr. Varaly was proffered as an expert in urban planning. (N.T. 5/23/23, p. 667
26 [Varaly]; Exhibits A-32, A-33.)

1 10. Mr. Varaly opined that Applicant’s proposed uses were properly before the
2 Board of Supervisors as a conditional use as the Property is located in an R-2 Zone within a Resort
3 Overlay District. (N.T. 5/23/23, pp. 671-673 [Varaly].)

4 11. Mr. Varaly relied on the Paradise Township Comprehensive Plan in
5 formulating his opinion by stating: The most important part of the Comprehensive Plan is “The
6 purpose of the district (Resort Overlay) is to provide an integrated development of a variety of
7 uses according to a master development plan and diversify the Township’s economic and update
8 the tourism industry.” (N.T. 5/23/23, p. 673 [Varaly].) (*See also* §160-71.B(1).)

9 12. There is no definition for the word *integrated* in the Paradise Township Code
10 of Ordinances. (N.T. 5/23/23, p. 674 [Varaly].)

11 13. Mr. Varaly noted that if there is no definition, a dictionary may be used to define
12 the term. The Ordinance states that if a term is not defined under the Ordinance, a dictionary may
13 be used. (N.T. 5/23/23, p. 675 [Varaly].)

14 14. Mr. Varaly defined the word *integrated* by paraphrasing one portion of a
15 *Merriam-Webster Dictionary* as “something with various parts or aspects linked or coordinated.”
16 (N.T. 5/23/23, p. 675 [Varaly].)

17 15. Nothing in the Ordinance requires access from the Commercial area to the
18 Resort area to be internal. (N.T. 5/23/23, p. 675 [Varaly].)

19 16. Mr. Varaly stated that the Applicant’s proposed “Master Development Plan” is
20 integrated because:

- 21 a. the uses border each other and the Property physically touches
22 (N.T. 5/23/23, pp. 675, 685 [Varaly]);
23

- 1 b. guests can drive on Route 611 from one use to the other;
2
3 c. guests can also walk using pathways to each use (N.T. 5/23/23, p. 675,
4 686 [Varaly]);
5
6 d. another resort is about a mile away (N.T. 5/23/23, p. 679 [Varaly]);
7
8 e. the use is in a Resort Overlay District (N.T. 5/23/23, pp. 674-680, 684
9 [Varaly]);
10
11 f. Applicant has elected for Commercial and Resort components.
12 (Section 160-71(B) (N.T. 5/23/23, pp. 633, 674 [Varaly]));
13
14 g. the Commercial component was integrated with the proposed casino
15 development (N.T. 5/23/23, p. 670 [Varaly]);
16
17 h. both parts meet sewage and water requirements under the Ordinance
18 (N.T. 5/23/23, p. 684 [Varaly]); and
19
20 i. the uses are coordinated because Applicant coordinated the design and
21 layout for both (N.T. 5/23/23, p. 685 [Varaly]).
22

23 17. The Resort and Commercial areas are not commercially dependent on one
24 another. (N.T. 5/23/23, p. 686 [Varaly].)

25 18. The Resort Property, not inclusive of the Commercial component, is designed
26 so that a guest coming to stay at the Resort will have everything they need at the Resort to function
27 and enjoy their time without leaving the Property, including a bathing suit or towel.
28 (N.T. 1/30/23; pp. 113, 114 [Garrison].)

29 19. Mr. Varaly acknowledged that the Property is in an R-2 District and therefore
30 the Commercial area could not exist without the Resort component. (N.T. 5/23/23, p. 687
31 [Varaly].)