



PENMARK MANAGEMENT COMPANY, INC.

Board of Supervisors

Mount Joy Township
8853 Elizabethtown Road
Elizabethtown, PA 17022
VIA USPS & EMAIL: Justin@mtjoytwp.org

(amended/ altered) November 1, 2022

Re: Penmark Management Company Zoning Change Petition

Dear Board Members,

This communication is written on behalf of Elizabethtown Mt Joy, LLC, care of Penmark Management Company, Inc. (hereafter, the "Applicant"), the fee owner of various parcels of land totaling 72 acres, plus another equitable interest in approximately 10 acres, all located along and near Rout 230 through Mount Joy Township (hereafter, the "Township"). The land has been acquired and compiled over 44 years, starting in 1977 with the explicit intent of developing the parcels in accordance with the Regional Strategic Plan *and the Mount Joy Township Land Use Assumptions Report*.

Presently, all parcels owned by the Applicant, to the west of Cloverleaf Road, are zoned Commercial (C-2), while the parcels to the east of Cloverleaf Road maintain two zoning districts: Limited Commercial (C-1) & Agricultural (A). By the instant petition, the Applicant seeks to alter its C-1 and A zoning to General Commercial District (C-2), with certain text amendments assigned thereto.

Enclosed, in support of the petition are the following:

1. A one-thousand-dollar (\$1,000) check to Mt. Joy TWP - filing fee
2. A two hundred fifty-dollar (\$250) check to Lancaster County Planning Commission - filing fee
3. Seven (7) copies of the Tyson Foods letter indicating acquiescing to the zoning change proposal.
4. Seven (7) copies of the legal description(s) of the properties to be rezoned
5. Seven (7) copies of the existing zoning map overlaid with the propped parcels to be rezoned
6. Seven (7) copies of the conceptual site plan for the project
7. Seven (7) copies of the narrative providing justification for zoning change
8. Seven (7) copies of the proposed zoning change Petition

Penmark understands that the Township Solicitor will be preparing the proposed zoning change, with text amendment, in accordance with this request and provided sample; the Applicant agrees to reimburse the Township for cost incurred related thereto in excess of the filing fee.

Thank you kindly.

Very Truly Yours,

Craig T. Edwards, Esquire

Enclosure

cc: Justin Evans, Township Manager



PENMARK MANAGEMENT COMPANY, INC.

ZONING CHANGE WITH TEXT AMENDMENT

APPLICATION NARRATIVE

1. Introduction

The Applicant is the owner and/or equitable owner of five (5) parcels or portions of land located within Mount Joy Township, Lancaster County, Pennsylvania (collectively, the "Property") along with additional, complementary and somewhat contiguous parcels of land within the Township (collectively, the "Project Site") for the purposes of development and improvement in some manner consistent with the path of development in accordance with the needs of the community.

The Applicant is, and has been, in the process of acquiring the Project Site for future development since 1977 in anticipation of the necessity for an appropriate commercial application so as to potentially render the slated use integral to the Township and the public. The Project Site is well placed along the route 230 commercial corridor, with ample access to additional roadways, which makes it perfectly situated for its intended use, to include a Wawa, Aldi's and other, similar, commercial, retail and restaurant uses.

MOUNT JOY TOWNE CENTER

W. Main Street (Route 230) | Mount Joy, PA 17552

For Lease

PHASE 1
to be built in 2023

Spaces	SF
ALDI	21,882
E-1	3,000
E-2	17,000
E-3	20,000
E-4	34,500
WAWA	3,600
E-5	4,000
E-6	9,000
E-7	9,000
E-8	9,936
E-9	8,200
E-10	4,500

OVERALL DEVELOPMENT:
Total Square Feet: 511,348 SF

BUILDING KEY

Leased (blue square) Available (purple square)

PHASE 2

Spaces	SF
E-11	4,500
E-12	4,500
E-13	12,000
E-14	4,500
E-15	8,200
E-23	25,000
E-24	49,800
E-25	49,800
E-26	49,800

PHASE 3

Spaces	SF
E-16	8,000
E-17	8,000
E-18	8,000
E-19	8,000
E-20	8,000
E-21	8,000
E-22	25,000

WEST SIDE

Spaces	SF
W-1	23,000
W-2	23,000
W-3	5,300
W-4	8,320
W-5	3,999
W-6	16,000
W-7	4,800

1000 Germantown Pike, Suite A-2 | Plymouth Meeting, PA 19462 | www.PenmarkProperties.com | 610-272-6500 x126 PENMARK

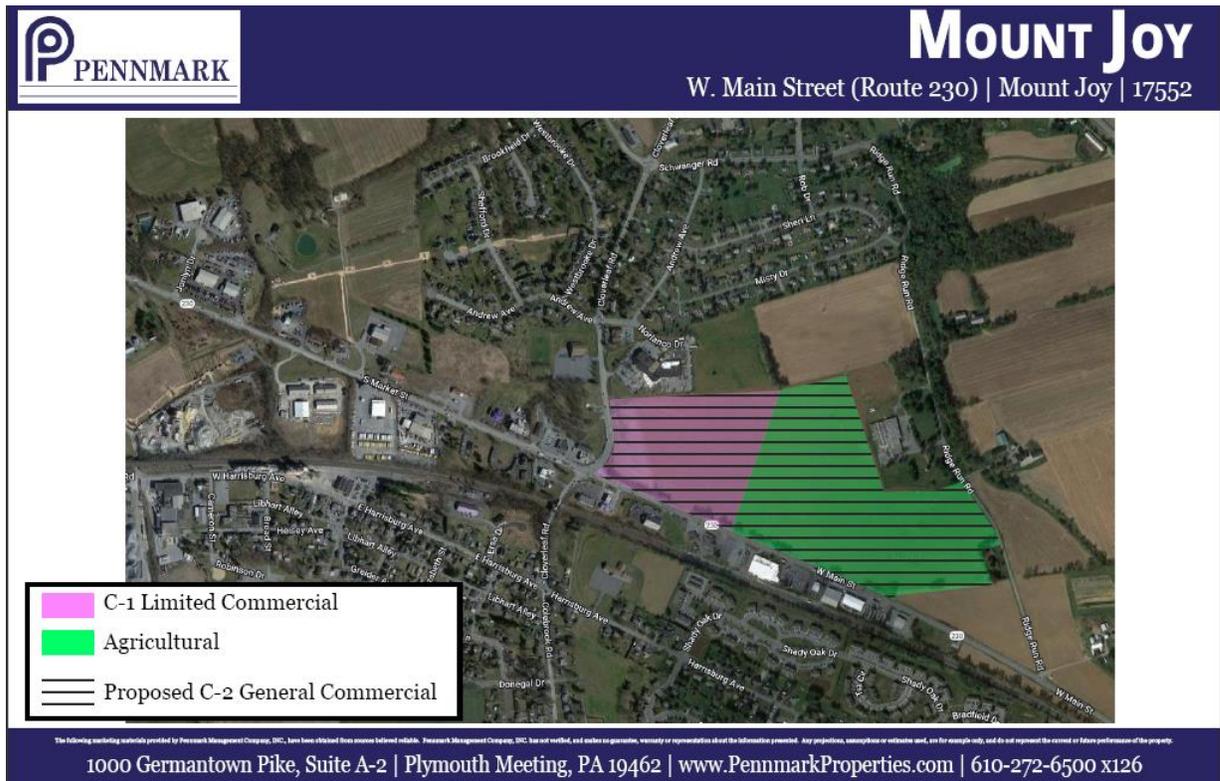
Initial concept rendering showing Wawa on the lower left corner and a potential Aldi location just above Wawa. Concept only, subject to change (including the "Center" designated name).

Plymouth Greene Office Campus
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At present, the western portion of the Property is zoned C-1 Limited Commercial and the eastern portion of the Property is zoned Agricultural. In order to implement the forethought, vision and intended use of the Township and Region, the Applicant seeks to conform with the community vision and be part of implementing the same, while improving the traffic issues and providing a much-needed application, especially considering the number of approved residences, which shall come to fruition rapidly.



Existing zoning with proposed C-2 Commercial zoning change.

Absent the necessary zoning-change approval, as sought herein, the opportunity to keep pace with the slated and substantial residential improvements and expansion may be doomed as there is no better location for such commercial expansion and certainly no better Applicant with sufficient resources, expertise and real estate ownership to accomplish the goals of the community.

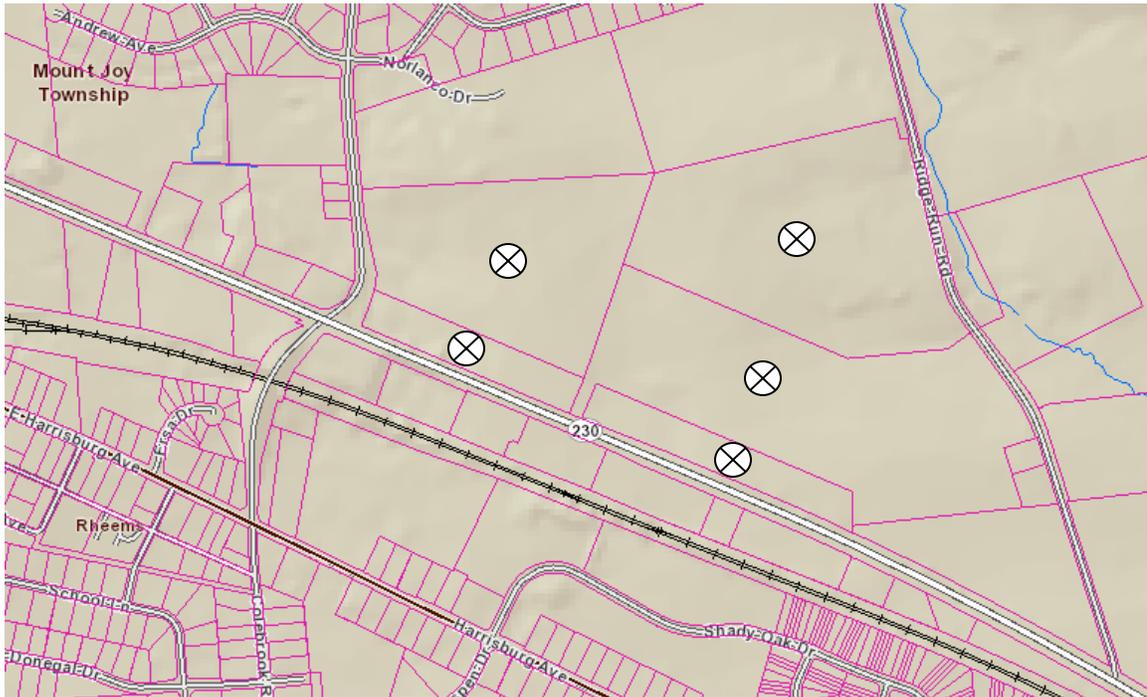


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2. Background

a. **The Property**

The Property is the subject of and included within a forty-four (44) year acquisition process, with eleven (11) separate purchases, totaling (with expenses) more than five million dollars (\$5,000,000).



Mount Joy tax map showing proposed parcels slated for change and surrounding tax parcels

Furthermore, the Property is centrally located in the Township, about half-way between Mt. Joy Borough and Elizabethtown Borough, Pennsylvania – along route 230, to the west of Cloverleaf Road, within the C-1 Commercial and Agriculture Districts, bordering the C-2 Commercial District to the west and south (on the other side of Route 230). The western portion of the Property is bordered by Cloverleaf Road, with the Site extending beyond Cloverleaf Road further to the west, while the eastern portion of the Property is bordered by Ridge Run Road.

A portion of the Property is under Agreement with Tyson Foods for subdivision and ultimate purchase (the “Tyson” portion), which includes specific permission for the instant zoning change application relative to the portion slated for future in-fee ownership by the Applicant.



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The Property is within a long-term planning area for both the Township and “region,” and within the Urban Growth boundary for the County of Lancaster. Furthermore, the area is served by a full range of utilities and infrastructure. To wit: Not only can the local area and this specific Property accommodate the proposed and intended development, as set forth in this narrative, but the development may be an integral part of the Township’s ability to remain current with the necessary and practical needs of its residents.



Mount Joy Existing zoning designation with key

On December 22, 2015, the Township published the Mount Joy Township Land Use Assumptions Report, where, on the projected Land Development Page, the Township indicates that on the Applicant’s original four (4) parcels of 55.4 acres, the Township sought 400,000 Square Feet of Commercial Development Yield, with the estimated time frame anticipated to be within six (6) to ten (10) years (from 12/22/15) or by approximately 2021 to 2025. The Applicant’s timeline for development, subject to the sought zoning change herein, meets the stated Township goals and planning.

Furthermore, on December 23, 2015, the township published the Mount Joy Township Roadway Sufficiency Analysis where the table on page 8 assumes 679,719 SF of retail will be built, of which the Applicant’s project would consume over 58% of the total.

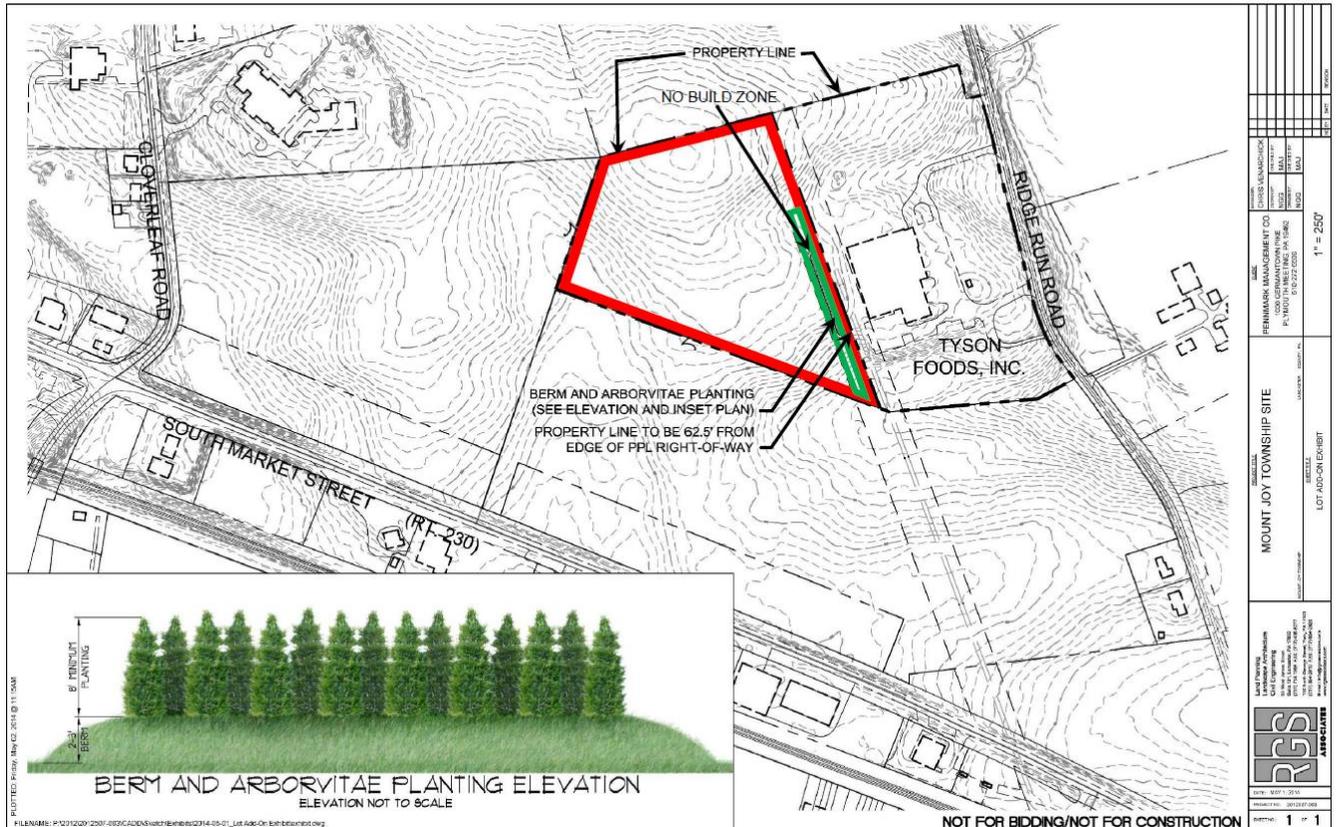
Additionally, on February 16, 2016, the township published the Mount Joy Township Capital Improvements Plan, which utilized the previously mentioned



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Land Use Assumptions and Roadway Sufficiency Analysis, where the township lays out the following Road Improvement Plan:

- \$24.6 MM in total improvements
- 37% of this is to be funded by a 209 Plan or \$8.8MM
- An estimate of the fully developed 85-acre site would provide 209 Fees of over \$3MM or over 34% of the total 209 collected by the Township



Tyson subdivision, memorialized by written/executed Agreement

The Applicant produced a Fiscal Impact Study to understand the cost benefits to the area, which concluded that upon full development of the proposed Plan:

- The Applicant's development will add no school-aged children
- Additional services and retail options may be needed as the Township has over 2,000 new houses in the development "que" at present
- The development contemplates potential of **\$700,000 in additional annual Real Estate Taxes** with over **550 permanent new jobs**
- The Applicant's commercial development forecasts over **\$15,000,000 in annual payroll subject to Local Earned Income Tax**



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The Applicant's commercial development, with zoning change, accomplishes the Regional, County and Township's long-term planning goals – via private enterprise.

3. Proposed Project

As depicted below, the Applicant proposes, by way of the instant zoning change, with text amendment, to build-out, in phases, a commercial retail development to include such tenants as Aldi's and Wawa (with whom the Applicant already has leases in-place).



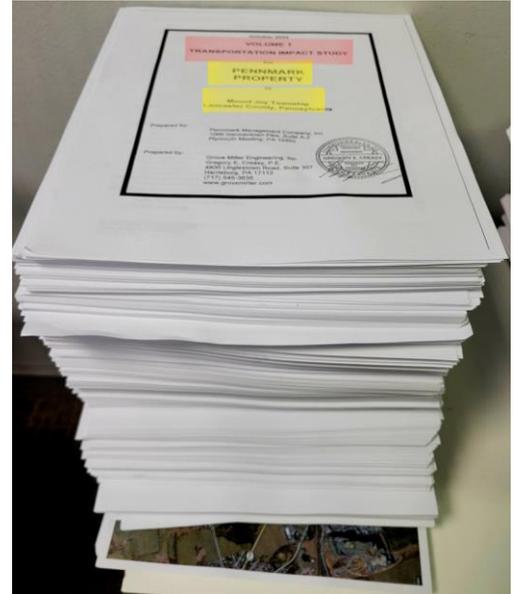
Master Plan for C-2 Commercial Development (work-in-progress)



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a. Traffic Study

The second of two traffic studies is complete, offering comprehensive results for a *fully commercial development*, in accordance with the code requirements of §135-310 "Required traffic impact study submittals." The Applicant, on information and belief, holds forth that the study submission under this chapter, complies with Chapter 119 "Subdivision and Land Development" as per the code requirements of §135-310. If additional provisions for traffic studies are required for a particular use - as with this development, compliance with such additional provisions is demonstrated at this time with the procured and comprehensive study, recently completed in accordance with the COMMERCIAL ONLY use, in lieu of the previous study, which encompassed some residential mixed-use planning on the parcels at issue. The Applicant shall submit the same, electronically - or in such form as requested, to the Township of Mount Joy upon request and in due course so as to conform with Township demands and zoning code mandates. The study - as shown - is approximately nine inches (9") in height and includes significant detail.



NEW (2nd) Traffic Study – commercial ONLY



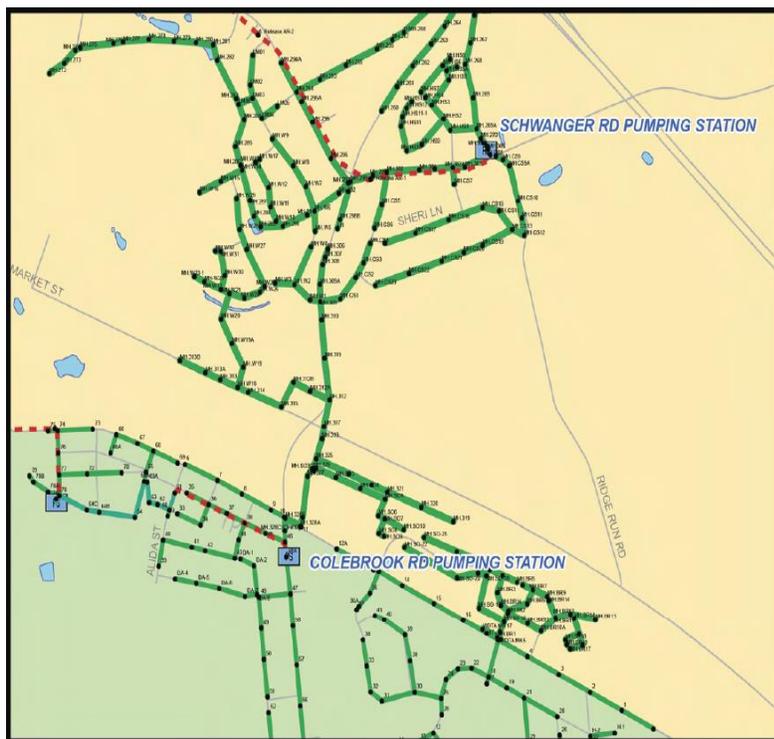
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b. Sewer

The Applicant has purchased significant EDUs so as to partially or fully supply the necessary sewer to the Site, for the intended and proposed use(s). The Applicant is planning a "Fully Built Out Retail Site," including its properties and the acquired land from Tyson, which may require approximately 123 Total EDU's.

In a 2003 signed agreement, the Applicant paid for and was guaranteed 15,390 gallons per day. At the time, the calculation above was based upon 270/Gallons per day; thus, the Applicant paid for 57 EDU's

With current assumptions based-upon 235 gallons per day, the Applicant may be entitled to 65 EDU's
The Applicant is guaranteed capacity at the Colebrook Pumping Station, which presently has excess capacity



Mount Joy Township Sewer Map

4. Proposed Zoning Amendment - Rezoning

The purpose of §135, Article XIV C-2 General Commercial District, is to (quoting) "accommodate the needs for distribution of goods and services to the consumer in a retail and/or professional office setting in accordance with the Regional Strategic Plan. The uses provided in this district are meant to serve local resident as well as motorists passing through the area."



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Regional Strategic Plan



Adopted April 29, 2010

The eastern most portion of the Property was formerly zoned commercial until the October 16, 2006 MJTBS Minutes, page 3, subparagraph d(f) "to rezone lands outside of the Urban Growth Boundary to Agricultural District (A)." To the Applicant's knowledge and belief, the zoning was altered from Commercial to Agriculture absent the "Urban Growth Boundary" being defined, which may have been premature, as evidenced by the long-term planning goals as presently stated by the County, "region" and Township.

By the instant Zoning Amendment, acquiescing to the C-2 rezone, would alter the zoning from Agriculture (A) back to a Commercial District, in this case C-2, while applying the proposed Text Amendment(s), so as to accommodate actual and intended use, which remains most conducive to the community, region and Township.

Conclusion

In short, *and to be blunt*, the Agricultural zoning for the parcel at issue does not comport with the long-term planning goals of the local community and should *not* have been changed from Commercial to Agricultural zoning absent a clear definition of the "Urban Growth Boundary," but now that the Boundary has been defined, to include the Site at issue, the zoning change (with text amendment) *should be* axiomatic along with the C-1 matriculation to C-2, complete with a comprehensive Text Amendment addition and supplement (*infra*).

Thus, the Applicant respectfully and humbly petitions the Township of Mount Joy to work with the Applicant to assist, promote and establish a community-oriented commercial project that *ideally* fits with the County, Township and regional planning and provides much-needed services and purchasing options in thoughtful anticipation of the future needs of the surrounding residents. Private enterprise combined with flexible government oversight, by way of the instant C-2 Commercial zoning change, will achieve the highest and best use.



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TOWNSHIP OF MOUNT JOY

Lancaster County, Pennsylvania

RESOLUTION No. _____

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE TOWNSHIP OF MOUNT JOY, CHAPTER 135, ZONING, AS FOLLOWS:

- (I) TO CHANGE THE ZONING CLASSIFICATIONS FOR THE TRACTS OF LAND IDENTIFIED AS TAX PARCELS NO. 4618217600000, 4610048600000, FROM C-1 COMMERCIAL TO C-2 COMMERCIAL and TO CHANGE THE ZONING CLASSIFICATIONS FOR THE TRACTS OF LAND IDENTIFIED AS TAX PARCELS NO. 4619541700000, 4614145500000, and A SUBDIVIDED PORTION OF 4613408100000 (455 RIDGE RUN RD) FROM AGRICULTURAL TO C-2 COMMERCIAL and
- (II) AMEND AND ALTER THE OFFICIAL TOWNSHIP MAP TO REFLECT THE CHANGES AS REFERENCED HEREIN, NAMELY CERTAIN PARCELS FROM C-1 COMMERCIAL AND ADDITIONAL PARCELS FROM AGRICULTURAL TO C-2 COMMERCIAL
- (III) WITH THE ADDITIONAL TEXT AMENDMENTS, NAMELY AMENDING THE §135-133 SPECIAL EXCEPTION USES TO ELIMINATE SUBSECTIONS (G)(L)(P)
- (IV) WITH THE ADDITIONAL TEXT AMENDMENTS, NAMELY AMENDING THE AREA AND BULK REGULATIONS UNDER §135-133
- (V) WITH THE ADDITIONAL TEXT AMENDMENTS, NAMELY ADDING A NEW (SECTION) §135-141 REFERENCING AND ALLOWING TAX INCREMENT FINANCING (TIF)
- (VI) WITH THE ADDITIONAL TEXT AMENDMENTS, NAMELY SPECIAL EXCEPTION USES §135-256 AMENDING THE RETAIL STORES AND SHOPPING CENTERS IN EXCESS OF 10,000 SQUARE FEET OF GROSS FLOOR AREA

BE IT HEREBY ORDAINED AND ENACTED by the Board of Supervisors of Mount Joy Township, Lancaster County, Pennsylvania, as follows:

SECTION 1: The Code of Ordinances of the Township of Mount Joy, Chapter 135 thereof, Zoning Article IV, Zoning Districts, Section 135-52, Zoning Map, is hereby amended to change the zoning classification of the tracts of land identified as Property ID Nos: 4618217600000, 4610048600000, FROM C-1 COMMERCIAL TO C-2 COMMERCIAL and TO CHANGE THE ZONING CLASSIFICATIONS FOR THE TRACTS OF LAND IDENTIFIED AS TAX PARCELS NO. 4619541700000, 4614145500000, and A SUBDIVIDED PORTION OF 4613408100000 (455 RIDGE RUN RD) FROM AGRICULTURAL TO C-2 COMMERCIAL (collectively, "Property"), described by metes and bounds in Exhibit A and depicted on Exhibit B, to the C-2 Commercial District.

SECTION 2: The Secretary of the Township is directed to change, and duly certify, the Mount Joy Township Zoning Map to effectuate the reclassification of the tract of land identified in Section 1.



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SECTION 3: Section 135-132 “Permitted-by-rite uses” is hereby amended as indicated by the blackline interlineations below, with underlined interlineations indicating insertions of language and strikethrough text indicating deletions of language as follows:

1. §135-132. Permitted by-rite Uses in Article XIV. C-2 – General Commercial District shall hereby remove B. (1), (2) & (3), which presently excludes stores in excess of 10,000 square feet of gross floor area, shopping centers & Vehicular fuel pumps, as follows:

To wit:

- B. Retail sales of goods and services, including motor vehicle parts without installation, and excluding the following:
 - (1) ~~Stores in excess of 10,000 square feet of gross floor area;~~
 - (2) ~~Shopping centers;~~
 - (3) ~~Vehicular fuel pumps; and~~
2. §135-132. Permitted by-rite Uses in Article XIV. C-2 – General Commercial District shall hereby **add new sections Y, Z and AA**, in the following manner:
§Y to state “Shopping Centers, including stores in excess of 10,000 square feet of gross floor area in accordance with §135-256.”
§Z to state “Convenience Stores in accordance with §135-32, which may be utilized in concert with §135-268 ‘Vehicular Fuel Pumps.’”
§AA to state “Vehicular fuel pumps including those fueling stations that are provided as an accessory use to a retail establishment or Convenience Store (§135-32), in accordance with §135-268.”

§ 135-133 Special exception uses.

The following uses are permitted when special exceptions are granted by written approval of the Zoning Hearing Board. In granting any special exception, the Board may attach certain conditions to its approval which it feels are necessary requirements in order to preserve and protect the character of the district in which the proposed use would locate. The burden shall be upon the applicant to prove that the approval of the application will not be detrimental to the health, safety and general welfare of the community.

- ~~G. Vehicular fueling stations, including those fueling stations that are provided as an accessory use to a retail establishment or convenience store, in accordance with § 135-268.~~
- ~~L. Retail stores and shopping centers in excess of 10,000 square feet in accordance with § 135-256. If the retail use consists of home improvement and building materials sales, such use shall also comply with § 135-233.~~
- ~~P. Accessory structures and uses customarily incidental to the above special exception uses.~~



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SECTION 4: Section 135-133 is hereby amended as indicated by the blackline interlineations below, with underlined interlineations indicating insertions of language and strikethrough text indicating deletions of language as follows:

§ 135-135 **Area and bulk regulations.**

E. ...

- 4) Residential buffer strip. Any lot adjoining land within a residential zone or land that is available for residential use shall maintain a fifty-foot setback for nonresidential buildings, structures, off-street parking lots, loading areas and outdoor storage areas, from the property boundary that is shared with a residential district being utilized for residential purposes at the time of plan-submission of the Commercial (C-2) development. ~~or land that is available for residential use.~~ Such areas shall be used for a landscape strip and screen, see § ~~135-299~~.

G. Notwithstanding rules and regulations under this Article IV C-2, within the Commercial C-2 District, land may be subdivided for sale or leasing purposes without regard to individual lot-line standards and Ultimate Rights-of-Way restrictions, when a Shopping Center is contemplated and approved, provided that the development of those lots complies with the SALDO, Commercial C-2 regulations, subject to the following regulations:

1. The proposed Development shall not be exempt from the formal submission and approval process as designated in the SALDO and elsewhere in the Township regulations and rules.
2. Commercial C-2 Developments shall be created following a single, unified plan, with a fully coordinated system of interior traffic access, coordinated traffic circulation, and coordinated parking.
3. Where the Township approving body has approved plans for a Commercial C-2 Shopping Center Development, individual units, buildings, or parcels of land within the Commercial C-2 Development may be leased, purchased, subdivided, sold and mortgaged, as individual zero lot line units with zero lot setbacks for internal parking and building lines, provided that such leasing subdivision, or sales is not in conflict with the SALDO.
4. References and regulations to the Ultimate Rights-of-Way shall be disregarded in total, relative to Route 230 and Ridge Run Road, so long as the Development is otherwise in compliance with the regulations and rules as stated within this Section AND the SALDO.
5. Each Retail or other use located within the Commercial C-2 Development, as approved in accordance with the SALDO, shall provide reciprocal access easements for its parking aisles and driveways, guaranteeing access to all lots that were developed pursuant to the approved land development plan for the Commercial C-2 Development.



PENMARK MANAGEMENT COMPANY, INC.

- 6. Each use located within the Commercial C-2 Development, shall comply with the performance and design standards contained in this subsection.

SECTION 5: Article XXII "Specific Use Regulations"

Article XXII § 135-256 is hereby amended as indicated by the blackline interlineations below, with underlined interlineations indicating insertions of language and strikethrough text indicating deletions of language as follows:

§ 135-256 Retail stores and shopping centers in excess of 10,000 square feet of gross floor area.

Retail stores and shopping centers containing a gross floor area in excess of 10,000 square feet shall be subject to the following regulations:

A. General requirements.

- (1) ...
- (2) Not more than 25 ~~15~~% of the total development tract utilized for a shopping center use shall be occupied by buildings.
- (3) ...
- (4) The distance, at the closest point of any two building or groups of units of attached buildings, shall not be less than 10 ~~20~~ feet, unless a more stringent separation requirement is specified in this chapter.

B. ...

C. Traffic control, access and study requirements.

...

- (4) Any retail store or shopping center in excess of 50,000 square feet of gross floor area that is located within one mile of a Route 283 interchange shall allow for ~~integrate~~ a portion of the required off-street parking spaces for public use as a park-and-ride facility. ~~The facility shall be readily identifiable and conveniently accessible to passing motorists.~~ At least 3% of the parking spaces provided for the shopping center use shall be permitted for public use as a park-and-ride area, which facility shall not increase or otherwise additionally burden the shopping center parking mandates; the 3% allowance be integrated and included within the existing parking requirements for the shopping center. Additionally, the shopping center shall NOT be required to incur any additional costs related to the park-and-ride facility or provide any amenities or facilities related thereto. The Zoning Hearing Board may permit the required number of parking spaces to be provided for public use as a park-and-ride area to be reduced by special exception in accordance with the following criteria: