



# MOUNT JOY TOWNSHIP

LANCASTER COUNTY, PENNSYLVANIA

## Application for Consideration of a Subdivision and/or Land Development Plan

For Mount Joy Township Use Only:

M.J.T.P.C. File No.:	Date of Receipt/Filing:
School District: Donegal	Elizabethtown

The undersigned hereby applies for approval under Chapter 119, Subdivision and Land Development, of the Code of the Township of Mount Joy for the Plan submitted herewith and described below:

### Plan & Project Information

Plan Name: Bear Creek Estates			
Plan No.:	Plan Date:		8/1/2022
Location: North side of Bear Creek Road, west of Sheaffer Road, east of College Avenue			
Property Owner: Forino Co., LP			
Owner Address: 555 Mountain Home Road, Sinking Spring, PA 19608			
Telephone No.: 410.670.2200			
E-mail: npletscher@forino.com			
Deed Reference: 6681087		Tax Parcel No.: 460-78244-0-0000	
Plan Type:	Sketch	Preliminary	<input checked="" type="checkbox"/> Final
	Lot Line Change	Minor Agricultural or Land Development	
Description: Create 39 new single family lots, 2 open space parcels.			
Zoning District: R-1 Low Density Residential			
Is a zoning change necessary? No    If yes, please specify:			
Is/was a zoning variance, special exception, or conditional use approval necessary?			If yes, attach ZHB decision.
Total Acreage: 29.74			
Name of applicant (if other than owner): Same as Owner			
Address:			
Telephone No.:			
E-mail:			
Firm which prepared plan: C2C Design Group			
Address: 37 East Penn Avenue, Wernersville, PA 19565			
Phone No.: 610.860.6050			
Person responsible for plan: Brian Focht, P.E.			
E-mail: bfocht@c2cdg.com			

◆ SUPERVISORS    ◆ PARK & RECREATION BOARD    ◆ PLANNING COMMISSION    ◆ ZONING HEARING BOARD

8853 ELIZABETHTOWN ROAD, ELIZABETHTOWN, PA 17022

PHONE (717) 367-8917 –FAX (717) 367-9208

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

### Proposed Lots and Units

	# of Lots	# of Units		# of Lots	# of Units
<b>Total #</b>	41	39	Mixed Use		
Agricultural			Single Family Detached	39	
Commercial			Multifamily (attached-sale)		
Industrial			Multifamily (attached-rental)		
Institutional			Other: Open Space	2	
Total Square Feet of Ground Floor Area (building footprint):			93,600		
Total Square Feet of Existing Structures (all floors):			N/A		
Total Square Feet of Proposed Structures (all floors):			187,200 (approx.)		
Total Square Feet (or Acres) of Proposed Parkland/Other Public Use:			7.3 acres (open space)		
Linear feet of new street:			2,138		
Identify all street(s) not proposed for dedication:					

### Type of water supply proposed:

<input checked="" type="checkbox"/>	Public (Live)		Community
<input type="checkbox"/>	Public (Capped)		Individual

### Type of sanitary sewage disposal proposed:

<input checked="" type="checkbox"/>	Public (Live)		Community
<input type="checkbox"/>	Public (Capped)		Individual

The undersigned hereby represents that, to the best of his knowledge and belief, all information listed above is true, correct and complete.

\_\_\_\_\_  
Signature of Landowner of Applicant

\_\_\_\_\_  
Date

LAW OFFICES

**MORGAN, HALLGREN, CROSSWELL & KANE, P.C.**

ANTHONY P. SCHIMANECK  
JOSELE CLEARY  
ROBERT E. SSKO  
JASON M. HESS

P. O. BOX 4686

LANCASTER, PENNSYLVANIA 17604-4686

[WWW.MHCK.COM](http://WWW.MHCK.COM)

FAX (717) 299-6170

E-MAIL: [attorneys@mhck.com](mailto:attorneys@mhck.com)

GEORGE J. MORGAN  
(1971 - 2021)

RETIRED  
CARL R. HALLGREN  
MICHAEL P. KANE

700 NORTH DUKE STREET  
LANCASTER, PA 17602  
717-299-5251

1536 W MAIN STREET  
EPHRATA, PA 17522  
717-733-2313

659 E WILLOW STREET  
ELIZABETHTOWN, PA 17022  
717-361-8524

OF COUNSEL  
WILLIAM C. CROSSWELL  
RANDALL K. MILLER

December 12, 2024

**VIA EMAIL**

Justin S. Evans, AICP, Community Development Director/Zoning Officer  
Mount Joy Township  
8853 Elizabethtown Road  
Elizabethtown, PA 17022

Re: Final Subdivision and Land Development Plan for Bear Creek Estates  
Our File No. 10221-1

Dear Justin:

The Township Planning Commission granted conditional approval to the Final Subdivision and Land Development Plan for Bear Creek Estates dated August 1, 2022, last revised September 11, 2023, at its meeting on September 23, 2023. Developer Forino Co., LP (“Forino”) did not comply with the conditions on approval within one year, and pursuant to Section 119-26.B(1) of the Subdivision and Land Development Ordinance (“SALDO”) the approval expired. I informed Alexander Elliker, counsel to Forino, of the expiration of the conditional approval by letter dated November 21, 2024. C2C Design Group has now filed the Final Subdivision and Land Development Plan for Bear Creek Estates with a date of last revision of August 6, 2024 (the “2024 Plan”). This letter will provide comments on the 2024 Plan and refiled documents.

I informed Mr. Elliker by letter dated August 10, 2024, of numerous issues with the Plan. I attach a copy of my letter to Mr. Elliker dated August 10, 2024, for your information. That letter referenced a letter dated October 28, 2023, to you which also outlined issues. Those issues remain outstanding.

I previously prepared some documents relating to the Bear Creek Estates development. I have updated some of those documents. I reviewed the website of the Corporation Bureau, and it appears that Forino incorporated the homeowners’ association, Bear Creek Estates Community Association, on October 15, 2024. As I have previously indicated, I must review and approve the homeowners’ association documents. I have updated the Storm Water Management Agreement and Declaration of Easement and other documents to reflect the passage of time, the incorporation of the Association, and the change in mortgages. Attached please find the following documents:

1. Storm Water Management Agreement and Declaration of Easement between Forino and the Township with consent by mortgagee for Univest Bank and Trust Co (“Uninvest”) and consent and joinder by the Association. Exhibit A, the operations and

maintenance required, must be prepared by Forino's engineer and approved by the Township Engineer.

2. Agreement Providing for Grant of Road Maintenance Agreement from Forino to the Township for East College Avenue with consent by mortgagee for Uninvest. A legal description and a plan, no larger than 8 ½ inches by 11 inches of the easement must be attached.

3. Agreement Providing for Grant of Road Maintenance Agreement from Forino to the Township for Sheaffer Road with consent by mortgagee for Uninvest. A legal description and a plan, no larger than 8 ½ inches by 11 inches of the easement must be attached.

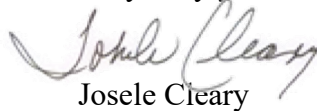
Forino has requested that we provide the required Land Development Agreement. Until the 2024 Plan is conditionally approved, the Land Development Agreement cannot be finalized. I have prepared and attached a draft Land Development Agreement which will require completion of the required exhibits and is subject to change. Please also confirm that the amount of the fee in lieu of dedication and the transportation impact fees are correct.

The Plan continues show the construction of storm water management facilities (pipe, endwalls and riprap) on the property of Mark A. Johnson and Ashley L. Johnson (the "Johnson Lot"). These storm water facilities are not located within existing easements. Forino must obtain the necessary easements for these facilities, and the long-term maintenance of the facilities on the Johnson Lot must be addressed.

I have reviewed documents relating to the proposed work on the property of Elizabethtown Area School District (the "School District"). Forino will have to provide proof that those documents have been executed on behalf of the School District and recorded.

If you have any questions concerning these comments, please contact me.

Very truly yours,



Josele Cleary

JC:sle  
MUNI\10221-1(7mm)\241209\2\71  
Attachments

cc: Kimberly Kaufman, Township Manager (via email; with attachments)  
Patricia J. Bailey, Secretary (via email; with attachments)  
Benjamin S. Craddock, P.E. (via email; with attachments)  
Alexander J. Elliker, Esquire (via email; with attachments)

ANTHONY P. SCHIMANECK  
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LAW OFFICES  
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ELIZABETHTOWN, PA 17022  
717-361-8524

OF COUNSEL  
WILLIAM C. CROSSWELL  
RANDALL K. MILLER

August 10, 2024

**VIA EMAIL**

Alexander J. Elliker, Esquire  
316 West Main Street  
Kutztown, PA 19530

Re: Final Subdivision and Land Development Plan for Bear Creek Estates  
Our File No. 10221-1

Dear Mr. Elliker:

I received your email dated August 7, 2024, relating to the Final Subdivision and Land Development Plan for Bear Creek Estates (the "Final Plan") in which you state that your client Forino Co., LP ("Forino") is "ready to move forward with finalizing developer agreements." I also received an email from Forino's design engineer forwarding a revised draft of the Final Plan dated August 6, 2024, in which he requests to know "are we able to start submitting plans for signature?"

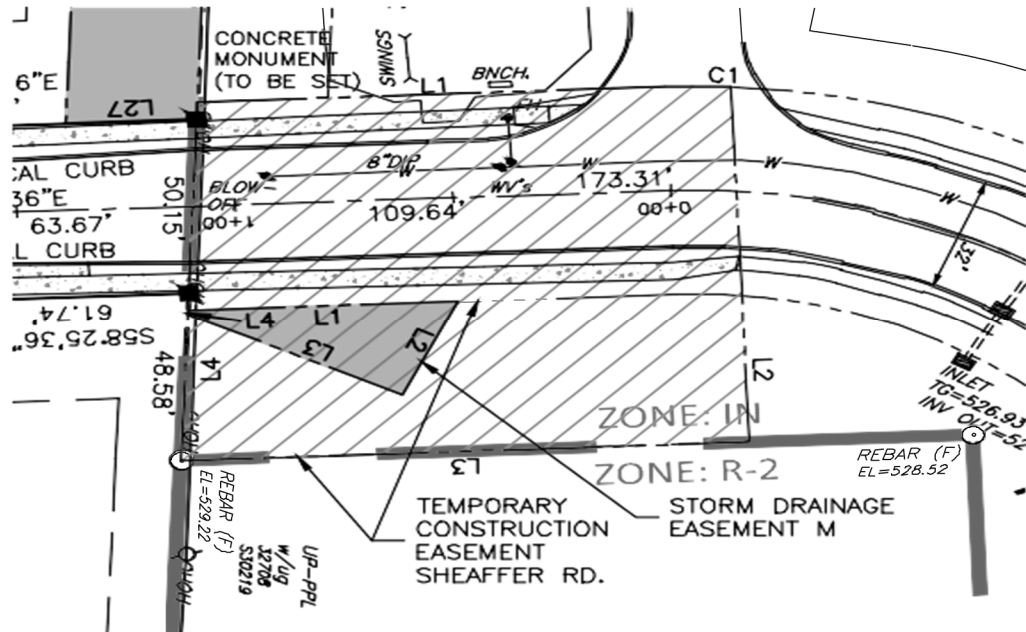
Your email reviewed the documents which you believed would be necessary. I attach for your information my letter dated October 28, 2023, which was previously provided to you outlining issues which needed to be resolved as well as identifying necessary documents. You never responded to my letter dated October 28, 2023. All of the issues raised in that letter remain outstanding. Unless and until they are addressed, the required documents cannot be finalized and the Township cannot execute the Final Plan. I attach a copy of that letter and the draft documents forwarded with it, all of which must be revised when other issues are addressed.

Your email states that "Per my client's discussions with Justin Evans, the comment related to needing an easement with the School District and the Neffs has been resolved as the work is all within the ROW." This statement is incorrect. I have confirmed with Mr. Evans that he never told any Forino representative that all of the work the Final Plan proposes is in the public right-of-way or that this matter has been resolved. Mr. Evans informed Forino's representatives that no easement was required for work within the right-of-way.

The Final Plan has been revised to show a "temporary construction easement" on the lands of Elizabethtown Area School District (the "School District"). There has been nothing provided to the Township indicating that the School District has granted the temporary construction

Alexander J. Elliker, Esquire  
August 10, 2024  
Page 2

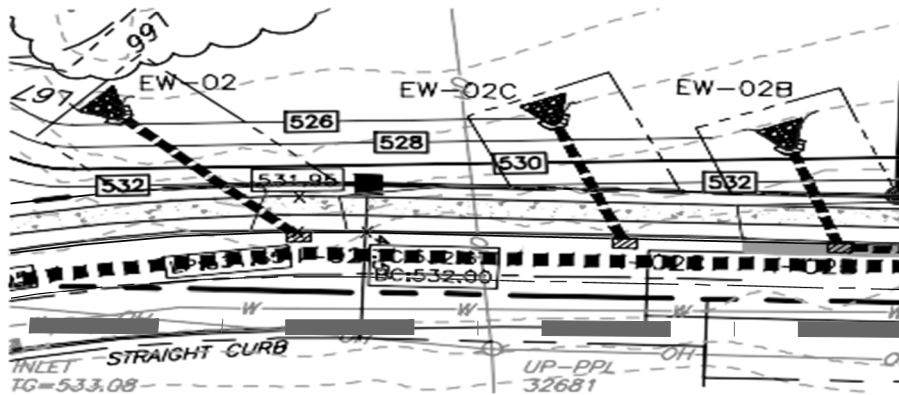
easement now shown on the August 6, 2024, revision of the Final Plan. The temporary construction easement may extend onto the property of Robert E. Neff and Brenda S. Neff. See Sheets SU-1 and SU-3. I also note that Sheet SU-3 indicates a permanent “storm drainage easement” on the lands of the School District.: I reprint that portion of the Final Plan:



Your statement that all work is within a public street right-of-way is incorrect. Please also note that even if work is within a street right-of-way the Township has no power to grant a permanent drainage easement in the right-of-way as shown on the Final Plan. See e.g. *In re: City of Altoona*, 388 A.2d 313 (Pa. 1978).

You have also requested to know whether “the Johnson agreements are satisfactory or not. There must be an amendment to the Storm Water Management Agreement and Declaration of Easement between Forino and the Township recorded May 19, 2023, at Document No. 6736706 relating to the Minor Subdivision Plan 1319 Bear Creek Road recorded at Document No. 2023-0164-J (the “Minor Plan”) which created the lot now held by Mark A. Johnson and Ashley L. Johnson by a deed recorded at Document No. 6740770 (the “Johnson Lot”). The Storm Water Management Agreement relating to the Johnson Lot required that they own and maintain the storm water management facilities shown on the Minor Plan other than one facility installed within an easement granted to the Township. The August 6, 2024, revision of the Final Plan shows that there are three new storm water management facilities and three new drainage easements on the Johnson Lot:

Alexander J. Elliker, Esquire  
August 10, 2024  
Page 3



The Storm Water Management Agreement recorded at Document No. 6736706 must be amended to require Mr. and Mrs. Johnson and future owners of the Johnson Lot to maintain those facilities. Please note that Mr. and Mrs. Johnson have granted a mortgage to S & T Bank recorded at Document No. 6740771. S & T Bank must execute a Joinder by Mortgagee to the amendment to the Storm Water Management Agreement.

Please forward the homeowners' association documents to me for review. Please also forward evidence to me that the homeowners' association has been incorporated. The homeowners' association must be a party to documents, so I cannot finalize the documents I previously prepared in draft without knowing the name of the homeowners' association and without having proof that it has been incorporated.

Please also be aware that by forwarding the snow easements agreements the Township is not committed to accepting dedication of either street. The issues concerning the AT&T easement must be addressed for the Township to ever consider accepting that street segment.

If you have any questions concerning the issues in this letter, please contact me.

Very truly yours,

Josele Cleary

JC:sle

MUNI10221-1(7mm)24080771

Attachments

cc: Justin S. Evans, AICP, Community Development Director/Zoning Officer (via email; with attachments)  
Kimberly Kaufman, Township Manager (via email; with attachments)  
Patricia J. Bailey, Secretary (via email; with attachments)  
Benjamin S. Craddock, P.E. (via email; with attachments)

LAW OFFICES

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JASON M. HESS

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OF COUNSEL  
WILLIAM C. CROSSWELL  
RANDALL K. MILLER

October 28, 2023

**VIA EMAIL**

Justin S. Evans, AICP, Township Manager  
Mount Joy Township  
8853 Elizabethtown Road  
Elizabethtown, PA 17022

Re: Final Subdivision Plan for Bear Creek Estates  
Our File No. 10221-1

Dear Justin:

I was contacted by attorney Alexander Elliker, counsel to Forino Co., LP ("Forino") before I left on vacation relating to documentation for the Final Subdivision Plan for Bear Creek Estates (the "Plan"). I have reviewed my file relating to the Plan. I have not received information necessary to enable me to prepare all of the required documents.

The Plan proposes the creation of a homeowners' association (the "Association") which will maintain certain facilities proposed by the Plan including the storm water management facilities, open space lots, and emergency access drive. I have not been provided with the Association documentation. I reviewed the website of the Corporation Bureau, and there does not appear to be a nonprofit corporation formed to be homeowners' association for Bear Creek Estates. I must be provided with Association documentation and proof that the Association as named in the documentation has been incorporated.

I have prepared and attach a Storm Water Management Agreement and Declaration of Easement. This is a rough draft of the document. The Association must execute a joinder to the Storm Water Management Agreement. According to the website of the Office of the Recorder of Deeds, Univest Bank and Trust Co. ("Univest") holds a mortgage against the property which is the subject of the Plan, so there must be a Joinder by Mortgagee for Univest.

The Storm Water Management Agreement requires that the operations and maintenance requirements be attached as Exhibit A. These operation and maintenance requirements are on Sheet PCSM-8 of the Plan. C2C Design Group should prepare that exhibit and provide a draft to me for review. A reduced version of Sheet PCSM-8 is not acceptable.

The Plan requires snow stockpile easements at the cul-de-sac turnarounds. I have prepared and attach an Agreement Providing for Grant of Road Maintenance Easement for each street.



Justin S. Evans, AICP, Township Manager  
October 28, 2023  
Page 2

There must be a legal description and a plan, no larger than 8½ inches by 11 inches, for each snow stockpile easement. The legal descriptions and plans must be submitted to the Township Engineer for review and approval. There is a Joinder by Mortgagee for Uninvest attached to each Agreement.

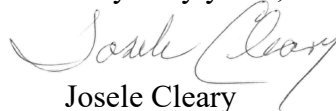
There does not need to be an Agreement Providing for Grant of Conservation Easement for the floodplain and wetland. We prepared the Agreement Providing for Grant of Conservation Easement as part of the documentation for the Minor Subdivision Plan 1319 Bear Creek Road recorded at Document No. 2023-0164-J (the "Minor Plan"). The Agreement Providing for Grant of Conservation Easement was recorded at Document No. 6736707. In my review letter dated September 8, 2023, I indicated that the recording reference for the Conservation Easement should be included on the Plan.

I will prepare a Land Development Agreement closer to the time that the Plan is ready for conditional approval. That Land Development Agreement will have to note the items being dedicated to the Township as well as the amount of the fee in lieu of dedication to be paid to the Township. If the Township has reached an agreement with Forino relating to the amount of the fee in lieu of dedication, please let me know.

In my letter dated September 8, 2023, I raised questions concerning the Encroachment Permit granted by AT&T Corp. for crossing its existing easement for a fiberoptic cable for the extension of College Avenue. Although I asked for a copy of that document, it has not been provided. Forino must provide the Township with the encroachment permit if Forino desires for the Township to accept dedication of the extension of East College Avenue. If the encroachment permit contains provisions that are unacceptable to the Township, then Forino would have to obtain the necessary modifications of the encroachment permit. You may recall that the language of a similar encroachment permit was at issue for the Westbrooke IV development.

If you have any questions concerning the attached documents, please contact me. By copy of this letter, I am providing the documents to Mr. Elliker and requesting that he provide me with a copy of the Association documentation, the encroachment permit, and any separate easement agreement relating to the emergency access easement.

Very truly yours,



Josele Cleary

JC:sle  
MUNI\10221-1(7mm)\231018\71  
Attachments

cc: Patricia J. Bailey, Secretary (via e-mail; with attachments)  
Benjamin S. Craddock, P.E. (via e-mail; with attachments)  
Alexander J. Elliker, Esquire (via e-mail; with attachments)

July 31, 2024

Kim Kaufman  
Township Manager  
Mount Joy Township  
8853 Elizabethtown Road  
Elizabethtown, PA 17022

Via email: Kkaufman@mtjoytp.org



**LANCASTER CIVIL**  
★ ★ engineering company ★ ★  
p.o. box 8972, lancaster, pa 17604-8972  
[www.lancastercivil.com](http://www.lancastercivil.com)

Re: Bear Creek Estates  
Final Subdivision and Land Development Plan  
Township Permit No. 23-10-FLDP  
LCEC Project No: 25-146

Dear Mr. Kaufman,

We have received a final subdivision and land development plan submission from C2C Design Group, Inc. for the above-referenced project. The submission consisted of the following documents:

- Comment response letter dated June 28, 2024
- Final Subdivision and Land Development Plan revised April 18, 2024
- Post Construction Stormwater Management Plans revised May 8, 2024
- Erosion and Sediment Control Plans revised May 8, 2024
- Post Construction Stormwater Management Narrative revised June 20, 2024
- Drainage Area Plans revised June 5, 2023
- Email correspondence re: Elizabethtown Fire Department dated April 18, 2024
- ERSA Reservation of Capacity Agreement dated May 9, 2023
- NPDES General Permit effective date December 8, 2019
- Storm Drainage Easement Legal Descriptions dated July 8, 2024

Based upon my review of the submitted information, I offer the following comments for the Township to consider:

**Zoning Ordinance**

1. The applicant shall enter into a recordable agreement with the Township providing for the permanent maintenance of the riparian corridor, in a form acceptable to the Township Solicitor (135-306.F).
2. The applicant shall enter into a recordable agreement with the Township providing for the permanent maintenance of the wetland area, in a form acceptable to the Township Solicitor (135-307.E & 119-35.E(4)(d)).

**Subdivision and Land Development Ordinance**

3. The plans shall be signed and sealed by a registered engineer, surveyor or landscape architect (119-31.A(5)).
4. All certificates shall be executed prior to final plan approval (119-35.E).

5. A Stormwater Management Agreement and Declaration of Easement in a form acceptable to the Township Solicitor shall be executed and recorded (119-35.E(4)(c), 119-56.E & 113-62).
6. Prior to final plan approval, recordable easements will be required for the storm drainage facilities located on adjoining tracts (119-35.E(4)(e)).
7. An easement agreement will be required for the proposed grading on the adjoining "Neff" and "Elizabethtown Area School District" properties (119-35.E(4)(e)). The Township Solicitor should confirm that the new storm pipes, endwalls and riprap aprons to be constructed on the Mark A. & Ashley L. Johnson property are covered under the existing stormwater management and temporary construction easements.
8. A land development agreement in a form acceptable to the Township Solicitor shall be executed (119-35.E(4)(f)).
9. A construction cost estimate and financial security shall be provided (119-41 & 113-60).
10. Deeds to lots which contain clear sight triangles shall provide that no structure, landscaping or grading shall be erected, installed or performed within the area of the clear sight triangle which would obscure the vision of motorists (119-52.L).
11. The applicant shall be responsible for completing a shared access agreement for the proposed emergency access drive in a form acceptable to the Township Solicitor (119-52.S(3)(a)).
12. The deeds for lots which have easements shall contain the requirement that nothing shall be placed, planted, set or put within an easement that would adversely affect the function of the easement or conflict with the easement agreement (119-56.B).
13. Requirements for the drainage easements shall be included in the new deeds (119-56.E).
14. Recreational areas and facilities shall be provided (119-61). The minimum lot area which shall be dedicated is 2.106 acres (39 dwelling units x 0.054 acre per dwelling unit). The applicant has indicated the intent to provide a fee in lieu of dedicating park and open space. This fee shall be computed and paid prior to approval of the final plan.

#### **Stormwater Management Ordinance**

15. There are numerous instances where the grading and features shown on the land development plans are inconsistent with the PCSM plans (113-43.J(1)).
16. A detail shall be provided for the stone apron below the spillway of Infiltration Basin C (113-43.J(5)).
17. The landowner shall execute the final documents prior to final plan approval (113-41.B).

#### **Traffic**

18. The proposed development is located within the Transportation Service Area established for the Mount Joy Township Traffic Impact Fee Ordinance. Therefore, the development shall be assessed a traffic impact fee based on the number of new P.M. peak hour trips generated by the development. Based on the 11<sup>th</sup> Edition of the ITE Trip Generation Manual, the calculation of this fee would be as follows:

39 single family units = 41 new P.M. peak hour trips

41 new P.M. peak hour trips x \$1,766/new P.M. peak hour trip = \$72,406.00

The impact fee is payable at the time of building permit issuance.

If you should have any questions or need additional information, please do not hesitate to contact me at [bencraddock@lancastercivil.com](mailto:bencraddock@lancastercivil.com) or via telephone at 717-799-8599.

Sincerely,



Benjamin S. Craddock, PE, President

**LANCASTER CIVIL**

cc: Justin Evans, Township Community Development Director/Zoning Officer (via email)  
Patricia Bailey, Township Secretary (via email)  
Josele Cleary, Esquire, Township Solicitor (via email)  
Christopher Lincoln, PE, Traffic Planning & Design (via email)  
Del Becker, PE, EAWA (via email)  
Nick Viscome, ERSA (via email)  
Abraham King, RETTEW (via email)  
Renee Addleman, Planner, LCPC (via email)  
Nathan Pletscher, Forino Co. (via email)  
Brian Focht, P.E. C2C Design Group (via email)  
Dan Bartolo, RLA, C2C Design Group (via email)  
Elliot Leomporra, C2C Design Group (via email)  
Eric Hout, Lancaster County Conservation District (via email)