

**BEFORE THE RADNOR TOWNSHIP
BOARD OF COMMISSIONERS**

IN RE: APPLICATION OF THE DORRANCE HAMILTON REVOCABLE TRUST

A D J U D I C A T I O N

I. Background.

The Radnor Township Board of Commissioners held a Conditional Use hearing on December 10, 2020, on the application of the Trustees of the Dorrance Hamilton Revocable Agreement of Trust (“Applicant”). The Applicant’s Conditional Use application was received by the Township on September 24, 2020 for a 41-townhouse lot density modification development. The hearings were advertised in the Delco Daily Times on November 24, 2020 and December 1, 2020. A stenographic record of the hearing was taken. Subsequent hearings occurred on January 7, 2021, February 2, 2021, and March 9, 2021. Proofs of publication are on file at the Radnor Township Municipal Building. The Applicant was represented by George Broseman, Esquire and Daniel Rowley, Esquire at the hearings. The Radnor Township Board of Commissioners was represented by the Township Solicitor, John B. Rice, Esquire. Commissioners Jack Larkin, Moira Mulrone, Lisa Borowski, Jake Abel, Sean Farhy, Damian Enderle and Richard Booker were present for the hearings or otherwise reviewed the transcripts of the hearings with no objection from Applicant and agreement of the parties.

The following individuals requested and were granted party status without objection:

1. Joseph Schuda, 14 Forrest Lane, Wayne PA 19087
2. Gloria Johnston, Grant Lane, Wayne, PA 19087
3. Steve Scheri, 9 Grant Lane, Wayne, PA 19087
4. Gregory Szary, 6 Forrest Lane, Wayne, PA 19087
5. Anujeet Sareen, 205 Strafford Avenue, Wayne, PA 19087 represented by Kevin McGowan Esq.
6. Jennifer Sarhaddi, 337 Eagle Road, Wayne. PA 19087
7. Richard Sarhaddi, 337 Eagle Road, Wayne, PA 19087
8. Ted Hymel, 11 Forrest Lane, Wayne, PA 19087
9. Kaitlin O’Sullivan, 201 Strafford Avenue, Wayne, PA 19087
10. Dave Satterfield, 207 Strafford Avenue, Wayne, PA 19087
11. Mary Ann Mahoney, 5 Grant Lane, Wayne, PA 19087
12. Bryn Smythe, 5 Hedgerow Lane, Wayne, PA 19087
13. Jack Reuben, 5 Hedgerow Lane, Wayne, PA 19087
14. Bev (Sue) Huckelbridge, 321 Eagle Road, Wayne, PA 19087
15. David Willis, 335 Strafford Avenue, Wayne, PA 19087
16. Mark Gaeto, 4 Hedgerow Lane, Wayne, PA 19087
17. Tim Hoyle, 12 Grant Lane, Wayne, PA 19087
18. Margaret Ruschmann, 14 Grant Lane, Wayne, PA 19087

The following individuals requested and were granted party status over objection by Applicant:

- 19. Lisa Delizia, of Eagle Road
- 20. Mary Beth Torunian, 404 West Avenue, Wayne, PA 19087
- 21. Cheryl Bellaire, 334 West Avenue, Wayne, PA 19087
- 22. Tara Neal, 311 Eagle Road, Wayne, PA 19087 Nicole Moore, 315 Eagle Road, Wayne, PA 19087
- 23. Brent Moore, 315 Eagle Road, Wayne, PA 19087.
- 24. Robert Batt, 54 Old Eagle School Road, Wayne, PA 19087

The following exhibits were admitted without objection at the hearing:

Applicant Exhibits

- A-1 Conditional Use Application of 09/24/2020
- A-2 Supplemental Materials A-E
 - A. Development Impact Statement
 - a. Fiscal Impact Analysis Memorandum
 - b. Traffic Impact Study
 - B. Stormwater Management Report (Narrative Only)
 - C. Sewer Planning Module
 - D. Draft Planned Community Declaration
 - E. Conceptual Architectural Renderings
- A-3 Curriculum Vitae of Robert Lambert, P.E.
- A-4 Conditional Use and Preliminary Land Development Set (collectively “CU Plans”) of 08/27/2020
 - Sheet 1: Cover Sheet
 - Sheet 2: Existing Conditions Plan
 - Sheet 3: Demolition Plan
 - Sheet 4: Record Plan
 - Sheet 5: Post Construction Stormwater Plan
 - Sheet 6: During Construction E&S
 - Sheet 7: PCSM Details
 - Sheet 8: Construction Details
 - Sheet 9: E&S Details
 - Sheet 10: Profiles
 - Sheet 11: Profiles
 - Sheet 12: LP-1 Landscape Plan
 - Sheet 13: LP-2 Landscape Plan
 - Sheet 14: LP-1 Lighting Plans
 - Sheet 15: LI-2 Lighting Details
- A-5 Gannet Fleming Conditional Use Review (11/05/2020)

- A-6 Gilmore and Associates, Inc., Conditional Use Transportation Review 1 (11/16/2020)
- A-7 Revised Proposed Plan (revised Sheet 4 of 15 of CU Plans) (12/08/2020)
- A-8 Zoning Map Exhibit
- A-9 Existing Conditions Plans (Sheet 2 of 15 of CU Plans of 08/27/2020).
- A-10 Illustrative Revised Proposed Site Plan with Surrounding area/land uses shown.
- A-11 Illustrative Revised Proposed Site Plan with proposed landscaping
- A-12 Sketch – Conventional Subdivision & Development under R-4 District regulations (min. lot size: 7,000 sq. ft. lots)
- A-13 CV of Bernard Panzak, R.L.A
- A-14 Street Frontage Renderings
 - A. Eagle Road – View 1
 - B. Eagle Road – View 2
 - C. Strafford Avenue – View 1
 - D. Strafford Avenue – View 2
 - E. Strafford Avenue – View 3
- A-15 Sketch of Conventional Subdivision & Development under R-4 District regulations (min. lot size: 7,000 sq. ft. lots)
- A-16 Illustrative Proposed Plan with Larger Tree Conservation areas.
- A-17 CV of Frank Tavani, P.E.
- A-18 Revised Traffic Impact Study
- A-19 Summary of Density Modification Development Advantages (A & B)
- A-20 CV of Erik Hetzel
- A-21 Fiscal Impact Study Report
- A-22 Summary of Annual Fiscal Impact, Conventional R-4 District, Single Family Detached dated 1/07/21
- A-23 Summary of Annual Fiscal Impact, Alternative Four-Bedroom Townhomes

Board Exhibits

B-1 Letter dated 02/02/21 from Rosenzweig & McGowan

Exhibits of Gregory Szary

1. Demolition Plant Sheet 3
2. Post Construction Stormwater Sheet 5

Exhibits of Mark Gaeto

1. CV of Joseph Fiocco
2. 03/08/21 Traffic Impact Study Letter from Joseph Fiocco to Mark Gaeto

Exhibits of David Willis

1. TE School District Population Projection

Exhibits of Joseph Schuda

1. Video (1) Depicting stormwater runoff on Mr. Schuda's property on 08/04/2020.
2. Video (2) Depicting stormwater runoff on Mr. Schuda's property on 08/04/2020.

Based on the testimony and evidence presented, the Board hereby adopts the following Findings of Fact, Conclusions of Law and Order.

II. Findings of Fact.

1. The Applicant is the Trustees of Dorrance Hamilton 3-15-1996 Revocable Agreement of Trust (hereinafter the "Applicant") with an address at 200 Eagle Rd., Ste. 316, Wayne, PA 19087.
2. The proposed development (the "Project") consists of four parcels situate at 228 Strafford Avenue, Wayne, PA 19087, 208 Strafford Avenue, Wayne, PA 19087, and 18 Forrest Lane, Wayne, PA 19087 (the "Property") of the following Delaware County Folio Nos:
 - a. #36-01-00539-00
 - b. #36-01-00538-00
 - c. #36-01-00236-02
 - d. #36-02-00540-00
5. The Project consists of a density modification development of a proposed 7.754-acre tract (approximately 337,764 sq. ft.) located in the Township's R-4 Zoning District.
6. The Property currently contains a single-family home and related improvements and is surrounded on three sides by public roads.
7. The Property has a boundary line along the rear of the Eagle Village shops, a large shopping center with frontage on Lancaster Avenue and Eagle Road.

8. The Property has no sidewalk frontage.
9. The Property has no stormwater management controls.
10. The Property is served by public water and public sewer.
11. The Property does not contain watercourses, streams, floodplains, or steep slopes.
12. Robert Lambert, P.E. (hereinafter "Lambert") was offered and accepted as an expert witness in civil engineering without objection.
13. Lambert, in concert with Bernard Panzak of Glackin, Thomas, and Panzack, prepared the Plan Set marked as Exhibit A-4, indicating the proposed development of the Project (the "Plan").
14. A Plan Revision was filed by Applicant, this Plan Revision being introduced as Applicant's exhibit A-7, to eliminate a dead-end area.
15. The Plan generally proposes to construct a planned community consisting of 41 townhome units with common open space, improvements, and a stormwater management system.
16. The Plan proposes to combine discrete parcels situate at 18 Forrest Lane, Wayne, PA 19087, 208 Strafford Avenue, Wayne, PA 19087 and 228 Strafford Avenue, Wayne, PA 19087 into one approximately 7.754-acre parcel.
17. The Plan proposes 53,685 sq. ft. of Common Open Space.
18. The Plan proposes 25.1% of Max Building Coverage.
19. The Plan proposes Max Impervious Coverage of 43.6%.
20. The Plan proposes a 26ft buffer along residentially zoned properties.
21. The Plan proposes a minimum building setback of 42 feet from ROW and 27 feet from the property line.
22. The Plan proposes density of 41 units.
23. The Plan proposes a private road to be maintained by a Homeowner's Association.
24. The Plan proposes additional parking of twelve (12) spaces on the private road.
25. The Plan provides for a two-car garage and two spots for driveway parking in each townhome driveway.
26. The Plan shows a minimum thirty (30)-foot rear yard.
27. The Plan has a minimum thirty (30)-foot side yard distance between each townhome grouping.

28. The Plan proposes the construction of a sidewalk on the frontage on Eagle Road and Strafford Avenue with internal sidewalks and pedestrian connections to the Eagle Village Shops.
29. The Plan does not propose accessory structures.
30. The Plan provides for two driveway access points to the private road.
31. The Plan, at Sheet 4, proposes six (6) areas of Common Open Space (hereinafter referred to as "Open Space").
32. Open Space- 1 is a small tract of land behind the property lines of Units twelve (12) through fifteen (15), which area also encompasses an area of land between units eleven (11) and twelve (12).
33. Open Space- 2 is a small tract of land between units fifteen (15) and sixteen (16).
34. Open Space- 3 is a small tract of land between units seven (7) and six (6) upon which a pedestrian walkway is proposed.
35. Open Space- 4 is a small tract of land between units twenty-five (25) and twenty-six (26), which area also abuts the proposed private road and a proposed parking area.
36. Open Space- 5 is a small tract of land between units twenty-nine (29) and thirty (30), which tract also abuts the proposed private road and proposed parking area.
37. Open Space- 6 is a large tract of land behind the townhomes grouped at twenty-one (21) through twenty-five (25), twenty-six (26) through twenty-nine (29) and thirty (30) through thirty-five (35).
38. The Plan, at Sheet 5, proposes a stormwater management system (hereinafter referred to as the "System"), consisting of six (6) subsurface infiltration beds intended to accumulate and infiltrate stormwater and to be managed by a proposed Homeowner's Association. The System will rely on retention to control the rate of runoff with little or no infiltration on site.
39. The proposed infiltration beds will require construction consisting of the excavation of uncompacted subgrade, the placement of a liner, the placement of a 6" stone bedding atop the liner, the placement of a pipe system consisting of 48" perforated pipe, the placement of a 6" layer of stone atop the perforated pipe, and the placement of a top liner.
40. The proposed infiltration beds will require the construction of inlet and outlet structures, requiring the placement of cast-in-place or pre-cast concrete with steel reinforcements. The System, as designed, constitutes a "structure" as defined by Township ordinances.
41. Five (5) of the six (6) proposed infiltration beds are interconnected, concentrate stormwater, and eventually discharge stormwater to a single outlet into the storm water pipe on Forrest Lane. One infiltration bed discharges stormwater into pipes on Eagle Road.

42. Four (4) of the six (6) proposed infiltration beds will be constructed under areas intended to also serve as open space, which areas specifically are Open Space-1, Open Space-6, and Open Space-4.
43. Approximately half of the required open space is encumbered by the System or consist of leftover lawn areas with little open space utility.
44. Bernard S. Panzak, Jr., (hereinafter "Panzak") was offered and accepted as an expert witness in landscape architecture without objection.
45. Panzak's firm prepared the proposed landscape and lighting plans for Project, which landscape and lighting plans are at sheets 12 through 15 of the Plan.
46. Panzak testified that the general objective for the proposed landscaping plan was to preserve as many significant trees as possible that were in good condition, particularly along the edges of the property.
47. Panzak testified that the Plan complies with all applicable provisions of the township landscaping and tree replacement provision.
48. Panzak testified that the Plan satisfies the objectives of the density modification lighting standards in so far as any lighting provided by the Plan will not shine directly into any habitable dwelling outside of the Plan tract.
49. Panzak testified that the lighting plan is designed mainly to provide for low-level lighting for safety purposes.
50. Frank Tavani (hereinafter "Tavani") was offered and accepted as an expert in traffic engineering.
51. Tavani prepared the traffic study marked for identification at A-18 using data collected on 05/16/2019, by studying the intersections of Strafford Avenue and Eagle Road, Strafford Avenue and Grant Avenue, and Eagle Road and North Wayne Avenue.
52. Tavani testified that the Plan has vehicular and pedestrian access sufficient to satisfy the Township's density modification standards because two driveways are provided, there is access to a side street, there is no problem with obstructions to lines of sight or sight distance and there are sidewalks sufficient for pedestrian traffic.
53. Peak-hour trip generation in and out of the proposed site will be twenty-seven (27) vehicles or less in a sixty (60) minute period.
54. Tavani testified that there is almost no measurable level of traffic service impact on the intersections surrounding the proposed development, with the highest impact being a peak-hour delay of one (1) second.
55. Tavani did not generate a traffic study of a by-right development of R-4 single-family homes.

56. Lambert was re-called as a witness and testified that the open-space area between units 21 and 35 was approximately 200x200. Mr. Lambert offered no opinion on whether stormwater management structures were permissible within the open space.
57. Lambert further testified that the proposed townhomes would have 4,000 square feet.
58. Applicant's witnesses who testified that the plan complied with all the Density Modification requirements are deemed not credible where the prohibitions of structures and public facilities in open space was completely ignored by these witnesses.
59. Erik Hetzel was introduced and accepted as an expert in land planning.
60. Mr. Hetzel prepared a fiscal impact analysis and testified to a positive fiscal impact of the Plan. Mr. Hetzel offered no opinion on whether stormwater management structures are permissible in open space.
61. Gregory Szary testified to his observation of stormwater in the area Forrest Lane.
62. Mark Gaeto offered Joseph Fiocco as an expert traffic engineer and Mr. Fiocco was accepted.
63. Mr. Fiocco provided testimony related to a review of the traffic study of Frank Tavani and opined that that the Tavani study was deficient in its methodology.
64. Various resident parties testified and/or provided evidence establishing existing problems with stormwater in the area surrounding the Property.

III. Discussion.

The Radnor Township Board of Commissioners (the "Board") heard testimony and evidence from the applicant and multiple parties concerning the proposed conditional use pursuant to 913.2 of the MPC, 53 P.S. 120913.3, and Section 280-137 of the Township Zoning Ordinance (the "Ordinance"). The burden is on the Applicant to establish that the application complies with the Ordinance's objective standards. Visionquest Nat'l, Ltd. v. Bd. of Supervisors of Honey Brook Twp., Chester Cnty., 569 A.2d 915 (Pa. 1990); City of Hope v. Sadsbury Twp. Zoning Hearing Bd., 890 A.2d 1137 (Pa. Cmwlth. 2006). Section 913.2 of the Pennsylvania Municipalities Code ("MPC") permits a governing body of a municipality to grant or deny a conditional use application in accordance with express standards and criteria set forth in applicable ordinances. (53 P.S. 10913.2).

Applicant seeks a Density Modification development, which is permitted in the Township by conditional use within the R-4 Zoning District subject to the standards of §280-90, *et. seq.* and §280-134, *et. seq.* of the Ordinance. A Density Modification Development is a regulated activity per the Stormwater Management Ordinance 245-1, *et. seq.* of the Township and is thus required to comply with all applicable stormwater management regulations. A Density Modification development will only be approved if the application meets the requirements for the use set forth in Article XIX, Section 280-90 thru 280-100 of the Zoning Ordinance. A significant consideration in any Density Modification plan is the location and character of the proposed open space. Section §280-91 Common Open Space ("Open Space") sets specific objective standards required for approval including the following:

- i. Not less than 15% of the tract area shall be designated in the subdivision or development plan as Open Space;
- ii. Open Space shall be land, which is appropriate and in suitable condition for recreation, park site, school grounds, woodland conservation, floodplain or other similar recreation or open-space purpose;
- iii. Open Space shall not consist of areas set aside for public facilities.
- iv. No structure is permitted on Open Space except for those structures related to outdoor recreational uses.

A minimum open space requirement is an objective requirement as it provides a simple ratio by which to judge compliance. Robal Associates, Inc., v. Board of Supervisors of Charlestown Township, 999 A.2d 639 (Pa. Cmwlth. 2010). A minimum open space requirement is substantive because it relates to a minimum area. Id.

In addition to the Density Modification requirements, all conditional use applicants must meet the requirements of Section 280-137 Standards for Approval. For the reasons described below, Applicant has failed to meet its burden and **the application is therefore denied.**

A. Applicant's Stormwater Management System is a public facility and the land devoted to it can not be counted toward the common open space requirements for a Density Modification plan

Applicant's Plan does not meet the Ordinance's Common Open Space standards because the calculation of open space cannot include areas set aside for public facilities. Section 280-90 F. of the Zoning Ordinance specifically excludes "areas set aside for public facilities" from the common open space requirements. By encumbering half of the common open space with stormwater facilities, Applicant has failed to meet this specific ordinance standard.

In Harvin v. Board of Commissioners of Upper Chichester Tp., 33 A.3d 709 (Pa. Cmwlth. 2011), the Commonwealth Court heard an appeal from an Order of the Delaware County Court of Common Pleas granting the appeal of a developer after the Board of Commissioners denied developer's Application for Tentative Plan Approval of a Subdivision and Land Development Plan. The Board of Commissioners had reasoned that developer's plan did not meet the Township zoning ordinance's twenty-five percent (25%) Open Space requirement. At issue, *inter alia*, was whether the Board of Commissioners erred in determining that "public facilities", which were prohibited from the calculation of Open Space but were not defined in the ordinance, included underground stormwater management facilities. Id. The Commonwealth Court held that the Board's interpretation of the underground stormwater management facilities as public facilities was not in error, and that as such, the land above these facilities was properly excluded from the Open Space calculation. Id. at 716. The Court reasoned that the ordinary usage of the word "public" includes a group of people having common interest or characteristics Id. at 715. The Court reasoned further that:

"The group of people to be served by the [stormwater] facilities and features, both within and without the proposed planned residential development are "[u]nquestionably a particular aggregation of people with common interests or characteristics and a sense of

community and are therefore ‘the public’ within discrete geographic boundaries of the [neighboring areas of the Township and the planned residential development].” *Id.* at 716.

Considering Harvin and considering the objectives of the Ordinance to encourage conservation of natural resources, prevent soil erosion and to prevent unnecessary clearing of land, the Board determines that Applicant’s Systems are public facilities prohibited from the Open Space calculation. The proposed Systems will inure to the benefit of proposed residents of the Project and will be constructed to meet Applicant’s NPDES and Stormwater Ordinance requirements. Applicant will also be obligated to enter into an operation and maintenance agreement with the Township which will require the Township to have oversight of the system’s maintenance and repair. With approximately half of the proposed Open Space encumbered by public facilities, Applicant cannot meet the fifteen percent (15%) Open Space requirement of the Ordinance and the Plan must be rejected.

B. Applicant’s Stormwater Management System is a Structure not related to outdoor recreational uses and is therefore prohibited from the common open space

Applicant’s Plan does not meet the open space standards of Section 280-90 D. of the Zoning Ordinance which states in part that “[a]reas set aside for common open space shall contain no structures other than a structure related to outdoor recreational use.” A Structure is defined at §280-4 of the Ordinance as:

“Anything constructed or erected on the ground or attached to the ground including, but not limited to, buildings, sheds, manufactured homes, and other similar items. This term includes any man-made object having an ascertainable stationary location on or in land or water whether or not affixed to land.”

This definition expands upon the definition of a structure found in the Municipalities Planning Code, which defines a structure as “any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land.” 53 P.S. §10107. It is clear from both the Township ordinance and the MPC that any man-made object “on or in land or water” with an ascertainable stationary location is a structure. In Tri-County Landfill Inc. v. Pine Township Zoning Hearing Board, 83 A. 3d 488 (Pa. Commonwealth Ct. 2014), the Commonwealth Court heard an appeal from a decision of a Zoning Hearing Board which had determined that a “structure,” defined in the relevant ordinance as:

“[a] combination of materials forming a construction for occupancy and/or use including among other[s], a building, stadium, gospel tent, circus tent, reviewing stand, platform, staging, observation tower, radio tower, water tank, trestle, pier, wharf, open shed, coal bin, shelter, fence, wall and a sign,”

included a landfill. The Commonwealth Court affirmed the interpretation of the Zoning Hearing Board.. The Court reasoned that a “structure” included a landfill because a landfill is highly engineered and highly sophisticated man-made construction, containing many components, in an ascertainable location. A landfill consists of the construction of a smooth soil bed, a liner system, drainage nets, a series of stone bedding, and eight feet of garbage.

As in Tri-County, Applicant's System is a structure pursuant to the Ordinance. The definition of a structure in the Ordinance is unambiguous and includes any man-made object with an ascertainable stationary location in land. Through its engineer, Applicant established that the System is designed to provide rate and volume control to stormwater primarily through the construction of six (6) subsurface infiltration basins, with the majority of these basins encumbering areas of proposed Open Space. The infiltration basins are highly engineered and highly sophisticated consisting of the excavation of uncompacted subgrade, the placement of a liner, the placement of a 6" stone bedding atop the liner, the construction and placement of a pipe system consisting of 48" perforated pipe, the placement of a 6" layer of stone atop the perforated pipe, and the placement of a top liner. There will also be the construction of inlet and outlet structures necessitating the placement of cast-in-place or pre-cast concrete with steel reinforcement, as well as a system of connecting pipes leading to two outlets to public water systems. Because the System is a structure per the Ordinance, and because land containing structures cannot be used to calculate Open Space, the Plan must be rejected.

C. The proposed project will exacerbate existing stormwater problems by concentrating existing and projected flows onto adjacent properties in non-compliance with the Township's Stormwater Ordinance.

Applicant's plan to develop the site with 41 townhomes and related impervious improvements will result in new concentrated flow into an already taxed stormwater system. Applicant provided little testimony on the infiltration rates of the system and set forth conclusory opinions that the proposal will improve stormwater management in the area. Residents from both Tredyffrin Township and Radnor Township documented existing excessive flooding conditions in the Forrest Road area during storm conditions. Applicant's engineer only testified that the stormwater plan would comply and that the existing conditions would be improved. There was no testimony or plans presented which would indicate compliance with the recharge/infiltration rates required by Section 405 of the Township's Stormwater Ordinance, Ordinance 2005-11. The overall stormwater plan must meet the recharge, water quality and peak rate control criteria of the Stormwater Ordinance and the plans and conclusory testimony were insufficient to meet this burden. The lack of any proposed recharge measures which meet the requirements of Section 405 will result in an inadequate stormwater system endangering existing adjacent properties. Section 280-145 B of the Zoning Ordinance as incorporated by Section 280-137 A (2) requires in part, that,

“...the proposed plan be an appropriate use consistent with the character and type of development in the area surrounding the location for which the request is made and will not substantially injure or detract from the use of surrounding property or the character of the neighborhood....”

The Board is of the opinion that the introduction of the proposed project into the community with a non-compliant stormwater System will be a substantial detriment to the residents of both Radnor and Tredyffrin Townships. Although the applicant may be able to comply with the Stormwater Ordinance in the future as promised, such promises are insufficient upon which an approval may be granted.

IV. Conclusions of Law.

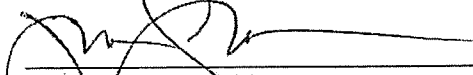
1. The Property is located in the R-4 Zoning District.

2. Applicant submitted a Conditional Use Application for Density Modification Development in the R-4 District.
3. Density Modification plans are permitted in the R-4 District subject to the standards of, *inter alia*, §280-90, *et. seq.* and §280-134, *et. seq.* of the Zoning Ordinance.
4. Applicant's proposed sub-surface infiltration beds are structures as defined by §280-4 of the Ordinance and Section 107 of the MPC, 53 P.S. 10107, and land which they encumber cannot be included in the calculation of Open Space.
5. Applicant's proposed stormwater management systems are public facilities and are prohibited in the Open Space calculations per §280-91(f) of the Ordinance.
6. Open Space- 1, Open Space -2, Open Space- 3, Open Space -4, and Open Space -5 are not areas suitable for recreation, park site, school grounds, woodland conservation, floodplain or other similar recreation or open-space purpose.
7. The Plan fails to meet the Common Open Space standards of §280-91 because, for the reasons discussed above, Applicant has not designated at least 15% of the proposed tract as Common Open Space.
8. The Board may deny a Density Modification conditional use plan which it believes can be developed under other provisions of the Zoning Ordinance pursuant to Section 280-90. B.
9. Single Family Detached dwellings are permitted in the R-4 District on 7,000 square foot lots.
10. Section 280-37. A. of the Zoning Ordinance requires all conditional use applications to meet the specific standards of the Ordinance. The open space requirements regarding structures and public facilities are such standards.
11. Applicant's plan is a regulated activity under the Township's Stormwater Management Ordinance, Ordinance 2005-11.
12. Applicant's plan does not comply with Sections 401 B., E., F., J., and K. of the General Requirements of the Stormwater Management Ordinance.
13. Applicant's plan cannot meet the recharge requirements of Section 405 of the Stormwater Management Ordinance.

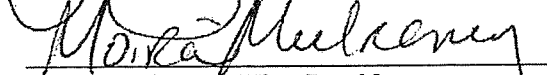
ORDER

AND NOW, this 12th day of April 2021, after due deliberation and discussion at a public hearing, the Radnor Township Board of Commissioners does hereby **DENY** the conditional use application of the Trustees of the Dorrance Hamilton 3/15/1996 Revocable Agreement of Trust.


**RADNOR TOWNSHIP
BOARD OF COMMISSIONERS**



Jack Larkin, President



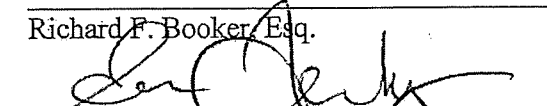
Moira Mulrone, Vice-President



Lisa Borowski



Jake Abel

Richard F. Booker, Esq.


Sean Farhy

Date of Mailing: 4-16-21