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FEDERAL EXPRESS

CORE5 Industrial Partners
c/o Brian Reisinger
1250 N. Mountain Road
Harrisburg, Pennsylvania 17112

**Re: Land Development Application for
Final Land Development Plan Approval by CORE5 Industrial
Partners: Decision by the Lowhill Township Board of Supervisors**

Dear Mr. Reisinger:

On July 13, 2023, the Board of Supervisors of Lowhill Township (the “Board”) at its regularly monthly stated meeting considered the application for final land development submitted by CORE5 Industrial Partners (the “Developer”) on May 8, 2023 (the “Application”). The property is located at 2766 Route 100 in the RV - Rural Village District pursuant to the Township’s Zoning Ordinance. The Application proposes the construction and operation of a 312,120 square foot commercial warehouse/distribution center building on 43.4 acres, with associated parking, trailer storage spaces, and storm water management. No end-user has been identified for this 312,120 square foot commercial warehouse/distribution center building, rendering evaluation of Developer’s compliance with applicable township ordinances and Article I, Section 27 of the Pennsylvania Constitution challenging.¹

The preliminary land development application was submitted by Trammel Crow Corporation and received conditional approval on June 16, 2022, by a 2-1 voice vote. The approval was conditioned on full compliance with Keystone Consulting Engineers’ letter dated May 23, 2022.²

The Application was considered by the Lowhill Township Planning Commission at its May 22, 2023, regularly scheduled monthly meeting. Neither the Developer nor its consulting engineer Pennoni Associates, Inc. attended the Planning Commission meeting to address the outstanding engineering review comments, namely two (2) review letters dated May 22, 2023, from the

¹ There are seven (7) types of warehouses and each have their attendant impacts that need to be considered with any warehouse land development proposal: Distribution Center; Cold Storage Warehouse; Smart Warehouse; Bonded Warehouse; Public Warehouse; Private Warehouse; and, Consolidation Warehouse.

² A copy of Keystone Consulting Engineers letter dated May 23, 2022, is attached hereto as Exhibit “A” and is incorporated by reference as if set forth in full.

Township Engineer, Keystone Consulting Engineers (“KCE”), and questions Planning Commission members had on the Application.

The final plan submission was scheduled for consideration at the June 8, 2023, regular monthly meeting of the Board of Supervisors. On June 1 and June 5, 2023, Developer requested that the final land development application be tabled. The Board granted Developer’s request to table. The Board then considered the final land development application at its regular monthly meeting on July 13, 2023, including the final plan set titled “2766 PA Route 100 Industrial Project” dated May 8, 2023, last revised May 31, 2023, five (5) review letters from Keystone Consulting Engineers dated July 11, 2023, July 6, 2023, May 22, 2023 (2), and May 23, 2022, and the response letter of Pennoni and Associates, Inc. (“Pennoni”), the Developer’s design consultant, dated June 21, 2023,³ and public comment from interested residents. No additional extensions of time from the deadlines contained in Section 508 of the Pennsylvania Planning Code (MPC) were offered by Developer; rather, the Developer urged the Supervisors to take action on July 13, 2023, ignoring the outstanding comments of KCE and issues raised by the Supervisors. After review and consideration of the foregoing, the Board voted to DENY the Developer’s Application, based on the following deficiencies identified by the Board and its consultants:

Sewage & Water:

1. Developer proposes that all on-site sewage be treated through an on-lot sewer system. No public sewers are proposed. The Application indicates a peak sewage flow of 3,000 gallons per day (GPD), and indicates 250 as the maximum number of employees. The flow is based on average metered flows from facilities “similar to” the proposed warehouse. The Department of Environmental Protection has implemented a new policy regarding warehouse uses. The comparison facilities must be identical in nature to the proposed use. Without a definitive end user, the Department is using the prescribed flows from 25 Pa. Code § 73.17 of 35 GPD for each warehouse employee and 10 GPD for each office staff. The employee number cannot be as high as 250, without additional planning and soil testing for supplemental suitable absorption area. Developer refused to recalculate projected flows based on 25 Pa. Code § 73.17, and failed to include additional soil testing in the event a supplemental absorption area is needed.
2. Developer proposed to extend public water to the proposed warehouse. No plan to provide water and sewer to this area of Lowhill Township was ever studied by the Township nor does the Township’s current Act 537 Sewage Facilities Plan provide for public sewer or water. The Township requested Developer to investigate the feasibility of private well water to supply the proposed use. The Developer refused to consider private well water.

³ KCE review letters dated July 11, 2023, July 6, 2023, and May 22, 2023 (2), and Pennoni letter dated June 21, 2023, are attached as Exhibits B, C, D and E, respectively, and are incorporated by reference as if set forth in full.

Zoning and Engineering:

3. The proposed stormwater basins are “structures,” and are 44 feet in height. This height exceeds the permitted 35 feet maximum height permitted in the steep slopes portion of the environmental protection district (Zoning Ordinance, Ordinance 2018-1 (“Zoning Ordinance”), § 874), and the maximum height permitted in the Rural Conservation District (Zoning Ordinance, § 744).
4. Despite repeated requests, the fire suppression system report and calculations were never submitted to KCE and the Fire Marshall for review. Subdivision and Land Development Ordinance (“SALDO”), § 1.400 b); § 4.701.
5. KCE requested a retaining wall design prepared by a Pennsylvania Professional Engineer. Developer desired to defer the retaining wall design to the building permit phase of the project. SALDO, § 1.400 b); § 4.701.
6. A portion of the retaining wall at the rear of the building is within the Environmental Protection area. Zoning Ordinance, § 870. Slopes in excess of 15% are being encroached at the southeast corner of the building/retaining wall. Zoning Ordinance, § 432.02.
7. The side walls of the sedimentation basin are too steep and will be a danger to maintain. Developer failed to provide an alternative maintenance plan (SALDO, § 1.400 b); § 4.701; Ordinance 86-1), or an Environmental Resources Site Design Assessment. Stormwater Management Ordinance, Ordinance No. 2007-1, § 403.E.
8. The western retaining wall at the rear of the parking lot exceeds the allowable 35’ for a structure. Zoning Ordinance, § 520 and § 544.

Stormwater:

9. The multiple deficiencies in the stormwater management plan for the site are detailed in KCE’s July 11, 2023 review letter, Exhibit B pp. 2-4, which excerpt is incorporated by reference as if set forth in full. Stormwater Management Ordinance, Ordinance No. 2007-1.

Article I, Section 27 of the Pennsylvania Constitution:

10. Article I, Section 27 of the Pennsylvania Constitution provides: “The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and aesthetic values of the environment. Pennsylvania’s public natural resources are the common property of all the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people.” Political subdivisions in Pennsylvania have a duty to consider Article I, Section 27 in its land use decisions. Warehouses, depending on size and end user, can have a significant impact on the surrounding residents and businesses, and the environment. These impacts

include truck traffic, air pollution, noise, lighting, surface runoff and stormwater. Without identifying an end user, Lowhill Township is incapable of quantifying and mitigating the impact of a 312,120 square foot warehouse on Route 100 in Lowhill Township and on properties in close proximity to the proposed warehouse.

Additional Deficiencies:

11. The Application remains incomplete and not in full compliance with the Township Subdivision and Land Development Ordinance (SALDO). The specific deficiencies are delineated in the Township Engineer's July 6, 2023, and July 11, 2023 letters from Keystone Consulting Engineers' to Joshua Hoffman, P.E., Pennoni, Exhibits "B" and "C."
12. A majority of the public comments from Township residents focused on traffic, congestion and safety. The experience of Lowhill Township residents on Route 100 under current conditions is intolerable. The local road network cannot, at this time, accommodate warehouse development and additional truck traffic. PennDOT recently installed "traffic control gates" at the on and off ramps of I-78. The traffic control gates are designed to prevent traffic from entering I-78 during certain conditions, directing them to local roads. Residents and the Board of Supervisors requested that the Developer investigate this new condition and determine the impact these gates will have on operations and local traffic. SALDO, § 1.400 b); § 4.701. The Developer declined.
13. The Applicant failed to secure a determination by the Lehigh County Conservation District (LCCD) that the proposed stormwater management plan is compliant with the Stormwater Management Act, Act 167 of 1978 and the applicable Act 167 Stormwater Management Plan (Stormwater Ordinance § 302.A.). A copy of LCCD' June 28, 2023 Incompleteness Letter and attached "Individual NPDES Permit Application Completeness Deficiencies" is attached as Exhibit "F" and incorporated by reference as if set forth in full.
14. The Applicant failed to provide an Erosion and Sedimentation Control plan meeting Township requirements (Ordinance 2012-1 and Stormwater Management Ordinance § 303.B.).

Sincerely,

David J. Brooman

DJB/pro

Cc: Richard Hughes, Chairman, Board of Supervisors
Ryan Christman, Township Engineer
Jill Seymour
Joseph Fitzpatrick, Esquire, via Federal Express
Frank N. D'Amore, Esquire, via Federal Express