

THE LAW OFFICE OF  
**JACK D. WUERSTLE**

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April 5, 2024

Stephen B. Harris, Esquire  
Harris & Harris  
1760 Bristol Road  
P.O. Box 160  
Warrington, PA 18976

Re: Carson Helicopter/Conditional Use Decision

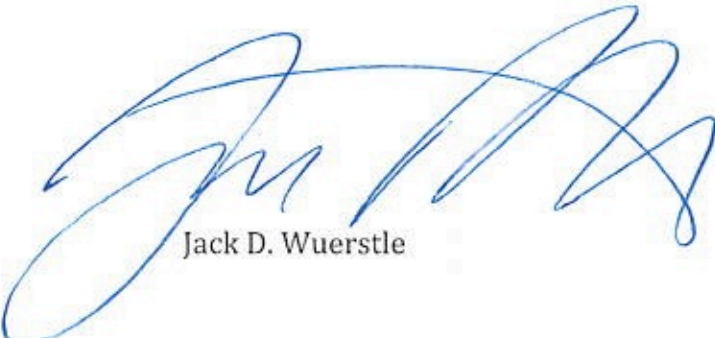
Steve:

Please find enclosed the fully executed Conditional Use Decision in the above matter.

If you have any questions, please let me know.

Thank you.

Sincerely,



Jack D. Wuerstle

cc: Hilltown Township

**BEFORE THE BOARD OF SUPERVISORS OF  
HILLTOWN TOWNSHIP, BUCKS COUNTY, PENNSYLVANIA**

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**In re:** Application of Carson Helicopters, Inc.

**Property:** 952 Blooming Glen Road  
Bucks County TMPs #15-28-173 & 174

**Last Hearing Date:** February 26, 2024

**Conditional Use Appeal No:** 2024-001

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**DECISION**

The Board of Supervisors of Hilltown Township (the "Board") enters the following Findings of Fact, Conclusions of Law, and Decision with Conditions regarding the public hearing on the Application for Conditional Use (the "Application") of Carson Helicopters, Inc.

**FINDINGS OF FACT**

**Background**

1. Applicant is Carson Helicopters, Inc. ("Carson Helicopter" or "Applicant").
2. Carson Helicopter is currently in the business of manufacturing, refurbishing, modifying and maintaining helicopters and helicopter components.
3. Carson Helicopter currently operates on a property located at 952 Blooming Glen Road, Perkasie, PA 18944 (the "Property").
4. The Property is otherwise identified as Bucks County Tax Map Parcel Nos. 15-28-173 & 174.
5. The Property is approximately 51.6 (net) acres in size.

6. On or about December 11, 2023, Carson Helicopter filed the above-referenced Application with Hilltown Township (the "Township") regarding said Property.

7. The Property is presently improved with a residential dwelling, an office, a heliport, and various other buildings relating to the business.

8. The Property is located in the RR – Rural Residential Zoning District.

9. Applicant proposes to construct a new 37,500 square foot warehouse facility on the Property to support its ongoing operations.

#### **Notice – Advertising – Posting**

10. A public hearing on the Application was scheduled for January 23, 2024, at the Hilltown Township Building, located at 13 W. Creamery Road, Hilltown, PA 18927, beginning at 6:00 PM.

11. The Property was timely and otherwise properly posted on January 9, 2023.

12. Notice of the public hearing was timely and otherwise properly advertised on January 5, 2024 and January 12, 2024.

13. By mailing dated January 9, 2023, written notice of the public hearing in proper form was provided to those property owners entitled to such notice under the Zoning Ordinance.

14. No objections were raised at the public hearing concerning the legality of the posting, advertising, or mailed notices regarding the public hearing.

#### **Hearing on January 23, 2024**

15. The public hearing opened on January 23, 2024.

16. Applicant was represented by Stephen B. Harris, Esquire, of the law firm of Harris & Harris.

17. No one in the audience requested party status.

18. The following Township exhibits were entered into the evidentiary record without objection:

<u>Exhibit Number</u>	<u>Description</u>
T-1	Affidavit of Mailing
T-2	Certificate of Posting
T-3	Proof of Publication
T-4	Conditional Use Application

19. The following exhibits were offered by the Applicant and admitted without objection:

<u>Exhibit Number</u>	<u>Description</u>
A-1	Hilltown Township Zoning Hearing Board Decision Appeal No. 94-04
A-2	Deed
A-3	Photo of Barn
A-4	Township Engineer Review Letter of 01/05/24

20. The Applicant's only witness was Franklin Carson ("Mr. Carson").

21. Mr. Carson testified that:

- a. He is the owner and operator of Carson Helicopter.
- b. He purchased the Property in 1958 for \$20,000.00.
- c. He moved the helicopter business, which he had started a year and a half earlier, to the Property in 1958.
- d. Operations on the Property have continued from 1958 through today.
- e. The purposes of the new warehouse is to get parts and materials indoors that are currently being stored outdoors on the Property.
- f. The warehouse will be used exclusively for storage, and not for additional manufacturing.

- g. There will be no increase in traffic to the Property.
- h. There will be no change in access to the Property.
- i. There will be no change in signage on the Property.
- j. The only additional outdoor lighting will involve safety lighting above doorways to the new warehouse.
- k. The proposal complies with the impervious coverage limitations of the Zoning Ordinance.

22. The Board finds Mr. Carson's testimony to be credible, substantive and material, and hereby incorporates such testimony as factual findings.

23. Moreover, the Board recognizes that the use, which has existed on site since 1958, remains appropriate to the tract in question and that the addition of the proposed warehouse will not disrupt or destroy the character of stable residential neighborhoods.

24. Finally, because the use will not create additional access points to the property nor generate any additional traffic, the proposed use will not produce hazardous conditions at intersections or areas of poor road alignment, nor will it generate any undue congestion.

25. Following examination of Mr. Carson, the record was closed and the hearing was adjourned by agreement until February 26, 2024, at 7:15 PM.

#### Analysis

Conditional uses are a type of permitted use. As such, conditional uses are uses specifically recognized by the legislature as being consistent with the zoning plan. Aldridge v. Jackson Twp., 983 A.2d 247 (Pa. Cmwlth. 2009). Thus, it is presumed that the particular type of conditional use does not, in and of itself, adversely affect the public interest. Id.

In addressing an application for a conditional use, the local governing body must employ a shifting burden of persuasion. Initially, the applicant seeking conditional use approval must demonstrate compliance with both the use-specific and general conditional use standards and

criteria explicitly set forth in the zoning ordinance. In re AMA/Mercian Marketing Association, Inc., 142 A.3d 923 (Pa. Cmwlth. 2016). If the applicant is able to satisfy this burden, then the application must be granted unless the protestors to the application present evidence that such a use would pose a substantial threat to the community. Id. It is not enough to show some negative impact to the community, but rather the proposed use must be shown to be of such a degree that it would adversely affect the public welfare in a way not normally expected from that type of use. Aldridge, supra. However, in deciding conditional use applications, municipalities are not bound by technical rules of evidence, but rather they are empowered to consider all relevant evidence of reasonably probative value. Such flexibility in matters of evidentiary admissibility exists in the conditional use context because local municipalities have the paramount duty to protect their residents from harm to their person and property, and such land uses may present the possibility that property rights of neighboring landowners will be negatively affected. See EQT Production v. Borough of Jefferson Hills, 208 A.3d 1010 (Pa. 2019); see also Luke v. Cataldi, 932 A.2d 45 (Pa. 2007). The Board recognizes the need to review and decide the Application with the above analytical framework in mind.

Applicant seeks conditional use approval to construct a 37,500 square foot warehouse building. There was no evidence presented to challenge classification of the proposed use. In other words, the construction of the proposed building will not result in a change of use on site.

In this case, the Applicant presented sufficient evidence to meet its initial burden and demonstrate compliance with the Zoning Ordinance criteria for the proposed use. The use qualifies as eligible for expansion under Section 160-62.B.4 of the Zoning Ordinance, as there was ample proof presented that the use existed prior to the enactment of zoning in 1959 and the proposed expansion is less than 50% of existing building or floor area existent when said provision was enacted. The Applicant also presented sufficient evidence that the use otherwise complies with all other objective criteria of the Zoning Ordinance.

No one requested party status. Nevertheless, certain neighbors voiced limited concerns about potential impacts to their properties should the Application be approved. In turn, the Board recognizes that, in granting conditional use approval, it has the authority, pursuant to MPC

Section 603(c)(2), to attached such reasonable conditions and safeguards, in addition to those expressed in the Zoning Ordinance, as it may deem necessary to implement the purposes of the MPC and the Zoning Ordinance. Clinton County Solid Waste v. Wayne Twp., 643 A.2d 1162 (Pa. Cmwlth, 1994); Hill v. Zoning Hearing Board of Maxatawny Township, 597 A.2d 1245 (Pa. Cmwlth. 1991). Given the concerns raised by certain nearby property owners, the Board hereby seeks to ensure, through the imposition of appropriate and targeted conditions, that any negative impacts to the area are mitigated to the full extent allowed by law, while at the same time protecting the integrity of the Zoning Ordinance and the property rights of all involved.

#### Conclusions of Law

1. The Board has exclusive jurisdiction to hear and decide the Application pursuant to the MPC and the Zoning Ordinance.
2. All of the Findings of Fact set forth above that can be interpreted or construed to be Conclusions of Law are incorporated herein as Conclusions of Law.
3. Applicant has standing to file and prosecute the Application.
4. The public hearing was properly advertised, the Property was properly posted, and all required direct notices were properly provided prior to the public hearing.
5. The Application qualifies for expansion as provided in Section 160-62.B.4 of the Zoning Ordinance.
6. Access to the Property is safe as proposed, will not create hazardous conditions, and will not create undue congestion.
7. The proposed lighting will not disrupt residential areas, disrupt motorists, or intrude in the background near traffic lights.
8. The proposed use will be made compatible with the surrounding existing uses provided that the conditions set forth below are met.

9. Therefore, subject to compliance with the below imposed conditions and pursuant to the above Findings of Fact, Applicant satisfies the requirements of the Zoning Ordinance to obtain conditional use approval for the proposed warehouse.

10. Imposition of the below listed conditions is reasonable, appropriate and necessary to effectuate and implement the objectives of the MPC and the Zoning Ordinance.

**Approval**

AND NOW, this 26<sup>th</sup> day of February, 2024, in consideration of the Application of Carson Helicopters, Inc., and all the evidence and testimony adduced at the public hearing related thereto, and subject to those conditions set forth below, the Board hereby **GRANTS** the Application for the proposed construction of a 37,500 square foot warehouse. In granting this approval, the Board finds that the proposal is appropriate to the tract in question and will not disrupt or destroy the character of the neighborhood; provided the following conditions of approval are met.

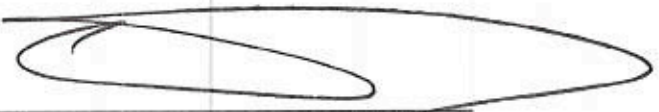
1. Applicant shall promptly pursue and secure all required land development approvals and authorizations including, but not limited to, preliminary and final land development approval, as well as all required county, state and federal authorizations.
2. Applicant shall comply with all applicable area and bulk requirements of Hilltown Township, including but not limited to, setbacks, impervious coverage, and lot size requirements.
3. Applicant shall comply with all applicable parking requirements of Hilltown Township.
4. Applicant shall comply with all applicable noise regulations of Hilltown Township.
5. Applicant shall comply with all applicable lighting regulations of Hilltown Township.

6. Any signage proposed shall comply with all applicable signage regulations of Hilltown Township.
7. Applicant shall not emit or allow for the emission of any smoke, liquid or solid particles from any chimney, or emit or allow for the emission of dust, dirt, fly ash, fumes, vapors or gases that would cause substantial harm to humans, animals or vegetation.
8. Applicant shall not emit or allow for the emission of heat from onsite operations perceptible beyond the property line.
9. Applicant shall receive approval from the fire marshal prior to construction.
10. Applicant shall provide enhanced buffering, as determined during land development review, to better screen the new building from public view.
11. No additional access points shall be created onto any public roadway.
12. No topsoil shall be removed from the property during construction, except as provided by the Zoning Ordinance.
13. Applicant shall otherwise comply with all federal, state and local laws, regulations and ordinance, unless waived by the governing body with jurisdiction and as authorized by the statute.

**[REMAINDER OF PAGE INTENTIONALY LEFT BLANK]**

This Decision and Conditions of Approval above are binding upon the Applicant, its successors and assigns, and failure to timely comply with the above Conditions of Approval shall render this Decision null and void, and the Application shall be deemed denied.

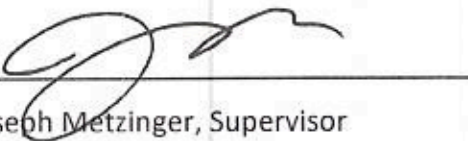
**HILLTOWN TOWNSHIP  
BOARD OF SUPERVISORS**

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Caleb Torrice, Chairman

A handwritten signature in black ink, appearing to be 'James C. Groff', written over a horizontal line.

James C. Groff, Vice-Chairman

A handwritten signature in black ink, appearing to be 'Joseph Metzinger', written over a horizontal line.

Joseph Metzinger, Supervisor