



## CARROLL TOWNSHIP

*Board of Supervisors*

June 22, 2009

David R. Getz, Esquire,  
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502 N. Front Street,  
P.O. Box 845, Harrisburg, PA 17108-0845

*(Via Certified Mail 7005 3110 0004 2994 1701, First Class Mail and Facsimile – 234-4224)*

Roy M. Fuss  
c/o Lobar Properties, LLC  
Attn.: Paul E. Hedin, Jr.  
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*(Via Certified Mail 7005 3110 0004 2994 1732 and First Class Mail)*

GTS Technologies, Inc.  
Attn.: Thomas A. Graupensperger  
441 Friendship Road  
Harrisburg, PA 17111

RE: York County Court of Common Pleas No. 2007-1590-SU-Y08  
South Mountain Commons  
Preliminary Subdivision Plan and  
Preliminary Land Development Plan  
Carroll Township, York County

Dear Sirs:

As you are aware, on September 8, 2008, York County Court of Common Pleas, through the Order of Judge Stephen P. Linebaugh, set aside the Township's Conditional Approval and remanded the above referenced Plan back to the Carroll Township Board of Supervisors for further proceedings. Because the remanded Plan was neither approved nor denied, the Township considered the Plan an active Subdivision and Land Development Plan submittal requiring Township action within ninety (90) days in accordance with the Pennsylvania Municipalities Planning Code, 53 P.S. § 10508 (MPC). The Developer, JZCM, L.P., provided the Township with two (2) written time extensions for action on this Plan. The first extended the deadline for Township action until March 9, 2009, and the second until June 8, 2009. There were no revisions to the remanded Plan submitted to the Township.

On June 8, 2009, at the regularly scheduled Carroll Township Board of Supervisors meeting, the Board voted to deny the remanded Plan. The plans were denied based on the cited Ordinance deficiencies that render the plan inappropriate to approve, as outlined in Judge Linebaugh's Order. Therefore, in accordance with section 304.c of the Carroll Township Subdivision and Land Development Ordinance (SALDO) and applicable provisions of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10508, the following Ordinance deficiencies constitute a list specifying the defects found in this application/plan along with a description of the requirements which have not been met and, further, includes in each specific item a cite to the provision of the Carroll Township Subdivision and Land Development Ordinance, Zoning Ordinance, Stormwater Management Ordinance:

1. The Plan failed to keep the minimum setback area free of encroachment from Structures. While the Plan shows a 75' setback line as required by the Zoning Ordinance, the Plan proposes various stormwater management facilities such as detention ponds, outlet structures, headwalls, endwalls, and piping within the required setback distance. Section 9.5.1 of the Zoning Ordinance requires a distance of 75' between any Structure and the Re-located Route 74 right-of-way, as an Arterial Road, and for Lot 1 as a proposed Shopping Center lot, 100' between any structure and its right-of-way line (ZO Section 8.29.7).
2. The Plan located drainage facilities and their associated drainage easements within a proposed 30' Landscape Buffer at the front of various lots along the proposed Right-of-way, thereby failing to meet the requirements of the Zoning Ordinance. Zoning Ordinance Section 9.11 mandates that no landscaping shall be planted within any street, sewer, or drainage rights-of-way. Further, by definition a buffer strip must be free of required improvements according to SALDO Section 202.
3. The Plan failed to provide an unoccupied 30' Rear Yard along the rear lot line of Lots 5 and 6. The Plan shows an Access Drive 20' from the rear lot line, thereby occupying the Rear

## South Mountain Commons Remanded Plan

Yard. Zoning Ordinance Section 5.2.5.3 requires a 30' Rear Yard. By definition a Rear Yard is unoccupied (ZO Section 14.3).

4. The Plan failed to provide a 20' Landscape Buffer along the rear lot line of Lot 5 and Lot 6 that meets Ordinance requirements. The plan shows required improvements such as a sidewalk and utilities within the proposed 20' Landscape Buffer. By definition a buffer strip must be free of required improvements according to SALDO Section 202.
5. The Plan is deficient because it allows for an increase in the volume of stormwater runoff being discharged for up to the 2 year, 24 hour frequency rainfall, pre-Development to post-Development. The developer had requested and was granted a waiver of this requirement prior to the remanding of the Plan, however the granting of this waiver was reversed by the Court of Common Pleas. (Stormwater Management Ordinance, Section 401.2.A)

Sincerely,



Mark W. Hilson, P.E.  
Township Engineer