

**RESOLUTION NO. 2023- 20**

**A RESOLUTION OF HOPEWELL TOWNSHIP, A FIRST CLASS TOWNSHIP  
OF THE COUNTY OF BEAVER, COMMONWEALTH OF  
PENNSYLVANIA, PROVIDING THE FINDINGS OF FACT,  
CONCLUSIONS AND DECISION OF THE BOARD OF  
COMMISSIONERS FOR THE TOWNSHIP OF HOPEWELL ON THE  
APPLICATION BY SCARMAZZI HOMES FOR FINAL APPROVAL OF A  
PLANNED RESIDENTIAL DEVELOPMENT KNOWN AS  
“COURTYARDS AT LEGENDS” AS PREPARED AND SUBMITTED BY  
SCARMAZZI HOMES AND PRESENTED AT THE PUBLIC HEARING  
HELD ON OCTOBER 23, 2023 IN ACCORDANCE WITH THE  
HOPEWELL TOWNSHIP ZONING ORDINANCE, NO. 2004-1, ARTICLE  
XIX, PLANNED RESIDENTIAL DEVELOPMENT (PRD)**

**FINAL PRD APPROVAL WITH CONDITIONS**

**WHEREAS**, Scarmazzi Homes, with an address listed as 127 Adams Avenue, Canonsburg, PA 15317 (“Applicant”) proposed a Planned Residential Development (PRD) in the R-1 (Residential Agricultural) Zoning District for property located at 1175 Airport Road, Tax Parcel No. 65-193-0237-000, (“Subject Property”) to be utilized as a planned residential development consisting of fifty eight (58) single-family lots (“proposed use”). This Application was made pursuant to the Hopewell Township Zoning Ordinance, Article XIX, Planned Residential Developments; and

**WHEREAS**, on November 20, 2022, Applicant made application for Tentative Approval of the proposed use at the Subject Property pursuant to the aforementioned Zoning Ordinance, Article XIX; and

**WHEREAS**, pursuant to public notice and advertisement in the Beaver County Times on December 2, 2022 and December 4, 2022 the Board of Commissioners for Hopewell Township held a public hearing at the Hopewell Municipal Building on December 12, 2022 to consider and hear comments on the Applicant’s application and, thereafter, gave tentative PRD approval as set forth in Resolution 2023-03 inclusive of all attachments thereto (*attached hereto and marked collectively as Exhibit “1”*); and

**WHEREAS**, this Resolution shall constitute the written decision of the Board of Commissioners for Hopewell Township for Final PRD Approval of the above-referenced PRD Application, with revisions and conditions as set forth below, pursuant to Article XIX of the Zoning Ordinance and the Pennsylvania Municipalities Planning Code.

**NOW, THEREFORE**, it is hereby Resolved and decided by the Board of Commissioners of the Township of Hopewell as follows:

## FINDINGS OF FACT AND CONCLUSIONS

### **Application:**

The Applicant submitted a PRD Tentative Approval Application, drawings, reports and documentation to Hopewell Township on November 20, 2022. *See Application collectively marked as Exhibit "A" and attached to Exhibit "1."* Accompanying the Application were Plan Drawings of the proposed use. *See Drawings collectively marked as Exhibit "I" and attached to Exhibit "1."*

### **Public Hearing Notice:**

A Public Hearing on the Application, properly advertised pursuant to the public notice requirements of the Pennsylvania Municipalities Planning Code on December 2, 2022 and December 4, 2022, was held on December 12, 2022. *See advertisement marked as Exhibit "J" and attached to Exhibit "1."* All adjoining property owners were notified of said hearing by U.S. Mail.

### **Planning Commission:**

The Hopewell Township Planning Commission reviewed the Application on November 17, 2022 and recommended approval with conditions to be determined by the Board of Commissioners. *See Minutes marked as Exhibit "H" and attached to Exhibit "1."* The Beaver County Planning Commission reviewed the Application on November 7, 2022 and recommended approval with conditions. *See correspondence marked as Exhibit "G" and attached to Exhibit "1."*

### **Utilities:**

Correspondence was received from Creswell Heights Joint Authority dated July 26, 2022 and November 18, 2022 confirming water capacity for the proposed use via a waterline extension from an existing 8" main on Airport Road. *See correspondence marked collectively as Exhibit "F" and attached to Exhibit "1."*

Correspondence was received from the Hopewell Township Water Pollution Control System dated August 5, 2022 confirming availability and capacity to serve the proposed use. *See correspondence marked as Exhibit "E" and attached to Exhibit "1."*

Correspondence was received from Peoples Natural Gas Company, LLC dated July 29, 2022 confirming availability and capacity to serve the proposed use. *See correspondence marked as Exhibit "D" and attached to Exhibit "1."*

### **Engineering Review:**

Correspondence was received from Victor Wetzel, consulting engineer for the Applicant, addressing various issues related to the proposed use, dated September 27, 2022 (modification requests), November 15, 2022, November 17, 2022 and three (3) dated November 23, 2022. *See correspondence marked collectively as Exhibit "B" and attached to Exhibit "1."*

Correspondence was received from HRG, consulting engineer for Hopewell Township, addressing various issues related to the proposed use, dated November 3, 2022 and December 7, 2022. *See correspondence marked collectively as Exhibit "C" and attached to Exhibit "1."*

### **Public Hearing:**

The public hearing on the Application for Tentative PRD Approval was held before the Board of Commissioners on December 12, 2022. All of the aforementioned Exhibits were entered into evidence and made part of the record. The full proceedings were transcribed. *See entire Transcript marked as Exhibit "O" and attached to Exhibit "1."*

Two (2) Petitions were submitted at the public hearing along with comments from several residents opposing the proposed use. The essence of the opposition related to traffic safety concerns on Airport Road and Stormwater management/landslide concerns from adjacent property owners. *See Petitions marked respectively as Exhibits "L" and "M" and attached to Exhibit "1."*

The Subject Property is located in the R1 Residential Agricultural District which, under Section 602(D), allows Planned Residential Developments as a conditional use. Section 2300 and 2304(I) set forth General Standards and Criteria for PRD's as conditional uses. Pursuant to Section 2305 the proposed use must also comply with the Performance Standards set forth in Section 2217. Article XIX of the Hopewell Township Zoning Ordinance No. 2004-01 provides specific criteria applicable to Planned Residential Developments as conditional uses. *See Article XIX marked as Exhibit "K" and attached to Exhibit "1."*

### **Revised Submissions for Final PRD Approval:**

***Note – these revisions shall replace entirely any prior submission by the Applicant for Tentative PRD Approval to the extent that a prior submission conflicts with these revisions which are deemed necessary and required for Final PRD Approval.***

Following the aforementioned Tentative Approval, and as a condition of the Tentative Approval, geotechnical analyses were performed at certain locations on the Subject Property. A review and comment Memo was prepared by Hopewell Township's

geotechnical consulting engineering firm, Garvin Boward Beitko (GBB), addressing certain issues and setting forth certain recommendations. *See Memo dated September 1, 2023 marked as Exhibit "2" and attached hereto.*

Thereafter, by letter dated October 20, 2023, Hopewell Township's consulting engineer, Herber, Rowland & Grubic, Inc. (HRG) issued comments addressing, in pertinent part, the extension and termination of sanitary sewer laterals, manhole locations relative to inverts, manhole locations relative to laterals, manhole and main proximity to certain utilities, tree plantings within the sewer easement, utility crossing callouts, manhole invert in and out fall and manhole slope. The Applicant's response to these comments and HRG's subsequent responses thereto are imbedded within the letter. This comment letter also contained comments from Hopewell Township's geotechnical consulting engineering firm, GBB, addressing the preliminary geotechnical review of the Applicant's geotechnical consulting engineering firm, ACA, dated March 2, 2023 with recommendations. *See Correspondence dated October 20, 2023 marked as Exhibit "3" and attached hereto. Also see a marked-up version of this same letter containing Applicant's additional responses marked as Exhibit "4" and attached hereto.*

ACA, by letter dated October 19, 2023, provided additional responses to the geotechnical comments provided by GBB. *See Correspondence dated October 19, 2023 marked as Exhibit "5" and attached hereto.*

Victor Wetzel, by letter dated October 23, 2023, provided additional responses to the sanitary sewer comments provided by HRG and geotechnical comments provided by GBB. *See Correspondence and Drawing dated October 23, 2023 collectively marked as Exhibit "6" and attached hereto.*

The Applicant submitted application for Final PRD and Subdivision Approval for the proposed use. Due to the number and nature of changes since the application for Tentative Approval, another public hearing was held pursuant to public notice and advertisement in the Beaver County Times on September 10, 2023 and September 17, 2023. The Board of Commissioners for Hopewell Township held a public hearing at the Hopewell Municipal Building on October 9, 2023, continued to October 23, 2023, to consider and hear comments on the application for Final PRD Approval. *See advertisement marked as Exhibit "7" and attached hereto.* At the public hearing, in addition to the above-referenced Exhibits, the Applicant provided drawings and plans in a power point presentation and offered testimony in support of same. *See Drawings and Plans collectively marked as Exhibit "8" and attached hereto.*

## DECISION

The Board of Commissioners of the Township of Hopewell hereby grants Final PRD Approval of the proposed use at the Subject Property with the following Conditions in accordance with the Findings of Fact and Conclusions above as well as the evidence submitted and presented at the Public Hearing held on October 23, 2023 all of which are incorporated herein with the same force and effect as though fully set forth at length:

### Conditions of Approval

The Applicant shall comply with all representations set forth in its Application, as revised, its submissions into evidence at the initial public hearing on December 12, 2022 and the final public hearing on October 23, 2023, the Performance Standards set forth in Section 2217 of the Hopewell Township Zoning Ordinance, Section 2300 and 2304(I) General Standards and Criteria for PRD's as conditional uses and Article XIX of the Hopewell Township Zoning Ordinance No. 2004-01 providing specific criteria applicable to Planned Residential Developments as conditional uses. *See Article XIX collectively marked as Exhibit "9" and attached hereto.*

Final approval of the Applicant's request is also conditioned upon the following:

- 1) As set forth in Exhibit 8 the proposed use involves a 49.05 acre tract, the Subject Property, for an age-targeted residential community providing owners with common areas and open space maintained through a homeowner's association. Access to the development will be provided via Airport Road where required site distances shall be established. Ridge Road will be the single access point from Airport Road. Within the development will be one loop road, Collins Circle. Collins Circle will be built to Township specifications with a fifty (50') foot right of way, twenty-one (21') foot cartway and all grades less than six (6%) percent. Five (5') foot sidewalks will be constructed along Collins Circle. Water, gas, cable, electric and sanitary sewers are available at Applicant's expense to extend such services to the site. Water, gas, cable and electric utilities will be located underground. Stormwater will be collected into stormwater sewers directed to two (2) detention basins constructed in strict conformity with the Township Stormwater Management Ordinance. The stormwater system and detention basins, including the access easements thereto, will be maintained in perpetuity by the homeowner's association. No assignment of this responsibility is permitted without the written consent of Hopewell Township. Should Hopewell Township, for any reason, be required to undertake maintenance, repairs or reconstruction of the stormwater system at the Subject Property, the homeowner's association shall fully reimburse, indemnify and hold harmless the Township for all costs, expenses and claims associated therewith which, if unpaid, shall be a lien against all lots within the Subject Property.

- 2) The Courtyards at Legends will be a development of 48 single-family lots with homes built by Scarmazzi Homes. Typical building elevations were provided with the Application. *See Exhibit 1(A)*.
- 3) The Applicant proposes more than the required open space at 34.1 acres, or 70%. The location, purpose and amount of open space is more than adequate and the proposal for a homeowner's association to maintain and conserve that open space, inclusive of the stormwater detention basins, is reliable and adequate as related to the proposed density.
- 4) The Courtyards at Legends will be developed in one phase. The revisions from Tentative to Final approval result in ten less lots (48 instead of 58), 40,000 less cubic yards of grading, 6.4 less acres of earth disturbance and tree removal (17 acres total of earth disturbance), 735 less linear feet of streets and 720 less linear feet of detention road and significantly reduced footprint to avoid and/or limit disturbance of steep slopes, slide prone soils and the necessity for fill in these areas.
- 5) The Courtyards at Legends will preserve a majority of existing trees along with 177 proposed new plantings consistent with the Township's environmental stewardship.
- 6) The physical design of the proposed use and its provision for public services, control over vehicular traffic, furthering the amenities of light and air, recreation and visual enjoyment are adequate at the Subject Property.
- 7) The proposed use will not be materially adverse to the neighborhood in which it is proposed.
- 8) The previously approved modifications are identified in Exhibit 8 and detailed below at paragraph 19.
- 9) The proposed use of the Subject Property, with the conditions set forth herein, is consistent with the standards and conditions of the Hopewell Township Zoning Ordinance and the Pennsylvania Municipalities Planning Code, except as may be specifically noted herein, and preserves the community development objectives which are set forth in both the Zoning Ordinance and the Hopewell Township Comprehensive Plan.
- 10) Based on the evidence of record, the proposed use, with the conditions herein imposed, meets the public interest of Hopewell Township as defined by the Pennsylvania Municipalities Planning Code.

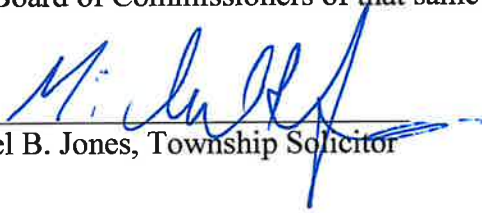
- 11) The Applicant must fully comply with the current Township Stormwater Management Ordinances and satisfy all Township and Commonwealth requirements for stormwater management. The Applicant must fully comply with Township specifications for street and road construction relative to Collins Circle. The Applicant must fully comply with Township specifications for sanitary sewer construction and Township and Commonwealth requirements for sanitary sewage collection and disposal. The Applicant shall pay in full all Township costs associated with processing the plan as well as post with the Township the Completion of Improvements Guarantee required by and pursuant to the PRD provisions of the Zoning Ordinance. Upon completion of these public improvements, as certified by the Township consulting engineer, and with the exception of the stormwater detention basins, the Applicant shall dedicate these public improvements to the Township for acceptance.
- 12) At all times during the aforementioned use of the Subject Property, the Applicant will not cause any conditions that may be dangerous, injurious or noxious, or cause offensive odor, smoke, dust, dirt, noise, vibration, glare, excessive traffic, attract vermin or rodents or constitute a nuisance or be a detriment to the health, safety, or moral or general welfare of the community or to any other person or property in the Township of Hopewell.
- 13) The Applicant shall maintain erosion and sedimentation controls, consistent with the Township Stormwater Management Ordinance, so as not to exacerbate existing slide conditions on adjoining properties as may be determined by geotechnical testing and findings.
- 14) All conditions of the Pennsylvania Municipalities Planning Code, this Decision, all ordinances of the Township of Hopewell and laws of the Commonwealth of Pennsylvania as applicable, shall be consistently followed during the construction and operation of the proposed use, except as is specifically noted herein.
- 15) The Applicant shall comply with and shall ensure compliance with required clear site distance requirements at the intersection of Airport Road.
- 16) The Applicant acknowledges that the Township of Hopewell may revoke any and all of its permits, refuse to issue additional permits of any kind relating to the proposed use, and additionally take any and all other legal or equitable remedies available to it should the Applicant violate in any way the terms and conditions of this Final PRD Approval or any other applicable local, state or federal law or regulation.
- 17) This Final PRD Approval is granted based upon the evidence as presented by the Applicant at the Public Hearings on December 12, 2022 and October 23, 2023 and all Exhibits attached hereto, and is non-transferrable and non-assignable to any other

party or successor without the express written consent of the Township of Hopewell. Any approved assignee shall comply with all of the terms and conditions of this Decision.

- 18) The terms of this Final PRD Approval shall constitute Final Approval to the Applicant, as per the provisions of the Zoning Ordinance of the Township of Hopewell, the Pennsylvania Municipalities Planning Code and laws of the Commonwealth of Pennsylvania.
- 19) The requested modifications, as set forth below, are approved and are deemed to be sufficient and in the public interest:
  - a. To permit a 20' foot front yard setback (instead of 30') measured from the right of way. Section 1906.C(3)a
  - b. To permit a 45' perimeter setback (instead of 50') from the property line for Lots 101, 104, 105, 106, 112, 113, 114 and 117. Section 1906.E(7).



The Effective Date of this Resolution shall be October 23, 2023 as approved by Motion of the Board of Commissioners of that same date.

  
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Michael B. Jones, Township Solicitor

ATTEST:

TOWNSHIP OF HOPEWELL

  
\_\_\_\_\_  
Township Manager

By:   
\_\_\_\_\_  
Chairman  
Board of Commissioners

I, Jamie Yurcina, as Manager for the Township of Hopewell, County of Beaver, Commonwealth of Pennsylvania, certify that this document constitutes an official communication by the Hopewell Township Commissioners and accurately reflects their decision on the above captioned matter which was voted on at a public meeting held on October 23, 2023.

  
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Manager  
Hopewell Township