

**CHELTENHAM TOWNSHIP  
MONTGOMERY COUNTY, PENNSYLVANIA**

**RESOLUTION NO. 47-18**

**THE ENCLAVE AT KERLIN FARM, 1050 ASHBOURNE ROAD  
PRELIMINARY LAND DEVELOPMENT APPROVAL**

**WHEREAS, 1050 ASHBOURNE ASSOCIATES** (“Developer”) is the owner and developer of a certain tract of land known as 1050 Ashbourne Road in Cheltenham Township on which the Developer intends to develop three (3) four-story buildings containing a total of seventy-nine (79) apartment units with one hundred fifty-three (153) parking spaces taking access from Ashbourne Road and Oak Lane Road with associated site improvements, with Building 1 containing space for first-floor retail and personal service shops for residents of 1050 Ashbourne Road and with Building 1 also housing a 1,902 square foot assembly, activity or community room including fitness area (“Community Room”) (collectively, “Development”); and

**WHEREAS**, the Development is more particularly shown on a plan prepared by Guy Engineering Associates, Inc. dated November 20, 2017, last revised October 11, 2018, (“Issued for Township Review” dated June 21, 2018), a Wetland Evaluation prepared by Envirosearch Consultants, Inc., dated August 10, 2011, Double Ring Infiltration Testing prepared by Ambric Technology Corporation dated November 3, 2017, an Environmental Impact Study, Phase I, prepared by DiBenedetto Associates, Architects, Inc. dated May 22, 2012, and a Post-Construction Stormwater Management Report prepared by Guy Engineering Associates, Inc., dated November 20, 2017, last revised September 24, 2018 (collectively, the “Plans”); and

**WHEREAS**, the Township Engineer issued review letters dated January 15, 2018, July 20, 2018, September 19, 2018 and October 15, 2018; and

**WHEREAS**, Guy Engineering Associates, Inc. issued response letters dated June 27, 2018, August 27, 2018, and September 24, 2018; and

**WHEREAS**, the Township’s Traffic Consultant, F. Tavani and Associates, Inc. issued a review letter dated January 5, 2018; and

**WHEREAS**, the Shade Tree Advisory Commission (“STAC”) provided certain recommendations and conditions at their meetings on January 11, 2018 and March 8, 2018; and

**WHEREAS**, the Montgomery County Planning Commission (“MCPC”) reviewed the application in a letter dated January 8, 2018; and

**WHEREAS**, the Township Zoning Hearing Board issued certain zoning relief for the subject property in Appeal No. 3437 by Order dated March 13, 2013, which Order is incorporated herein by reference.

**NOW, THEREFORE, BE IT RESOLVED** that the Cheltenham Township Board of Commissioners hereby **GRANTS PRELIMINARY APPROVAL** of the land development as shown on the Plans described herein subject, however, to the following conditions:

1. At this time, the Cheltenham Township Board of Commissioners waives strict compliance with the following provisions of the Cheltenham Township Subdivision and Land Development Ordinance:

- a. the requirement per §260-32.D(2) and §260-32.D(5) that the location, names and widths of streets, including those shown on the Township Plan of Streets, the location and names of railroads, the location of property lines and names of owners, and the location of watercourses, sanitary sewers, storm drains and similar features, and topography within four hundred (400) feet of the project must be provided on the Plan. An aerial photograph has been provided in lieu of showing existing features within 400 feet of the project site;
- b. the requirement per §280-9.A(1)(a) that no wooded lot shall be disturbed in such a manner that more than 15% of trees having a dbh of 6-inches or greater be removed without replacement with new trees having a caliper of at least 2 1/2-inches, in order to reduce the number of required replacement trees from 249 trees to 232 trees conditioned upon the recommendation of the STAC that the Developer either: (1) contribute the reasonable monetary value of the 17 trees, of the stated dimensional requirement, to the Township Tree Replacement Account or (2) plant the 17 replacement trees of the stated dimensional requirements, in locations on Township property designated by the Township Engineer.

2. Prior to final plan submission to the Township, the Developer shall revise the Plans to conform to the recommendations and conditions of the STAC meeting on March 8, 2018, as reflected in the STAC Minutes of March 8, 2018, the entire contents of which are incorporated herein by reference, and which is attached hereto as Exhibit "A".

3. Prior to final plan submission to the Township, the Developer shall revise the Plans to resolve to the satisfaction of the Township Engineer all issues set forth in the review letter of the Township Engineer, dated October 15, 2018, the entire contents of which are incorporated herein by reference, and which is attached hereto as Exhibit "B".

4. Prior to final plan submission to the Township, the Developer shall revise the Plans to conform to the review comments and recommendations of the MCPC set forth in their January 8, 2018 letter, not inconsistent herewith, the entire contents of which are incorporated herein by reference, and which is attached hereto as Exhibit "C".

5. The Development shall be constructed in strict accordance with the content of the Plans, notes on the Plans and the terms and conditions of this Preliminary Approval Resolution.

6. Prior to recording the Plans, Developer shall provide the Township with all required approvals from outside agencies having jurisdiction over the Development, including, but not limited to, approval from the Pennsylvania Department of Transportation, the Pennsylvania Department of Environmental Protection ("DEP"), the Montgomery County Conservation District and the Montgomery County Department of Assets and Infrastructure, as applicable. With regard to the Pennsylvania Department of Environmental Protection, see Paragraph 13 below.

7. Prior to the start of construction, Developer shall notify the Township Manager and the Township Engineer and schedule a preconstruction meeting with the Township. Developer shall provide the Township Manager and the Township Engineer with at least seventy-two (72) hours notice prior to the initiation of any grading or ground clearing (whether for the construction of public improvements or in

connection with individual buildings or additions) so that the Township may certify that all appropriate erosion and sedimentation control facilities have been properly installed and also that snow fencing or other types of boundary markers (acceptable to the Township) have been installed to protect such trees as are specifically proposed not to be eliminated during the construction of the Development.

8. Prior to final plan submission, the Developer shall remove the Elementary School Trail Easement, referred to in the MCPC review letter, from the final plan.

9. Prior to recording the Plans, Developer shall enter into a Land Development and Financial Security Agreement (“Financial Security Agreement”) with Cheltenham Township. The Financial Security Agreement shall be satisfactory to the Township Solicitor and the Developer shall obligate itself to complete all of the public improvements including, but not limited to, all proposed stormwater management facilities, shown on the Plans in accordance with Township criteria and specifications as well as to secure the completion of the said public improvements by posting satisfactory financial security as required by the Pennsylvania Municipalities Planning Code (“MPC”).

10. The cost of accomplishing, satisfying and meeting all of the terms and conditions and requirements of the Plans, notes to the Plans, this Preliminary Approval Resolution, and the Financial Security Agreement shall be borne entirely by the Developer and shall be at no cost to the Township.

11. Although the maintenance of all stormwater collection, detention and conveyance facilities shall be the responsibility of Developer, its successors and assigns, Developer shall, prior to the recording of the Plans, execute a declaration to reserve easements in favor of the Township so that the stormwater facilities may be maintained by the Township (with all expenses charged to the Developer) in the event that the maintenance responsibilities of the stormwater facilities are not fulfilled after reasonable notice to do so. The terms and conditions of the declaration shall be satisfactory to the Township Solicitor, and the declaration shall be recorded simultaneously with the Plans.

12. Consistent with Section 509(b) of the MPC, as amended, the payment of all applicable fees and the funding of all escrows under the Land Development and Financial Security Agreement shall be accomplished within ninety (90) days of the date of final approval unless a written extension is granted by Cheltenham Township. Any such extensions granted by Cheltenham Township shall only apply to the time restriction set forth in Section 509(b) of the MPC and shall not modify or affect any other time restriction set forth in the MPC.

13. On June 22, 2018, Cheltenham Township entered into an Asset Purchase Agreement with Aqua Pennsylvania Wastewater, Inc. for the sale of the Township’s Sanitary Sewer System with the sale contingent upon, among other things, approval of the Pennsylvania Public Utilities Commission. The Developer, through its legal and design professionals, has been notified of this potential transfer. The Developer has also been notified of the fact that the Development is not, at this time, listed on the DEP-approved Connection Management Plan of the Township and no sanitary sewer capacity for the Development is available until the Development is listed on a DEP-approved Connection Management Plan of the Township. As a condition of the approval granted herein by the Board of Commissioners, the Development must receive the approval of DEP for connection to the public sanitary sewer system and the approval of the Township, or its successor, for connection to the public sanitary sewer system.

14. The Developer has agreed, as a condition of the approval granted herein by the Board of Commissioners, that trash removal/pickup at the Development shall be limited to the hours between 8 a.m. and 6 p.m., prevailing time.

15. With particular reference to the landscaping of the property, the Development shall be in substantial accordance with the documents, testimony and other evidence presented by the applicant at the hearings before the Zoning Hearing Board. Zoning Hearing Board Order of March 13, 2013, Condition No. (1).

16. Use of the Community Room shall be limited to use by the residents of the Development and no area shall be rented or used by third parties. Zoning Hearing Board Order of March 13, 2013, Condition No. (3).

17. The subject property shall not be changed from an age-restricted use unless all requirements of the underlying zoning district (currently R-2) are met. (Ordinance No. 2236-12, Article XXXIII, §295-244.L.1.)

18. In conformity with the applicable Township Zoning Ordinance provisions, the Development shall be operated as an age 55 and over adult community, in compliance with all Federal, State and local statutes and regulations including, but not limited to, those regulations of the United States Department of Housing and Urban Development (the “Department”) applicable to age 55 and over adult communities.

19. An applicant for an age restricted community in the Age-Restricted Overlay District shall provide at the time of final plan approval, proof of deed restrictions or other documentation satisfactory to the Township Solicitor that limits the residential use of the property to those residents who meet the requirements of Article XXXIII of Chapter 295 of the Township Code including, but not limited to, the requirements below in Paragraph 20. (Ordinance No. 2236-12, Article XXXIII, §295-244.L.2.)

20. All leases to residents of the Development shall include, in addition to other provisions required by the Township Solicitor, the following items:

- a. terms implementing age verification, in accordance with regulations of the Department, as amended, that the units in the housing facility or community are intended and are operated for occupancy by at least one person who is 55 years of age or older;
- b. terms implementing verification, in accordance with regulations of the Department, as amended, if any, and the Township that at least 90% of the occupied units are occupied by at least one person who is 55 years of age or older;
- c. a requirement that the Developer or its successors and assigns and the apartment management publish and/or adhere to policies and procedures which demonstrate the intent for the facility to qualify for the statutory exemption from claims of familial status discrimination;
- d. such procedures and policies as are required by the Secretary of the Department for periodic verification of occupancy, as amended, including verification by reliable surveys and affidavits and policies and procedures relevant to a determination of compliance; and
- e. a definition of “occupied unit” identical to the definition in the Departments’ regulations, as amended. (Ordinance No. 2236-12, §295-244.L.3)

21. Following completion of construction of at least 25% of the total number of units of the entire Development, at least 90% of the units shall have at least one (1) occupant who is 55 years of age or older. (24 Code of Federal Regulations §100.305(d); Ordinance No. 2236-12)

22. The Development shall be constructed in substantial accordance with the plans and testimony presented by the Developer at the hearings on the application before the Zoning Hearing Board between August 13, 2012 and January 14, 2013.

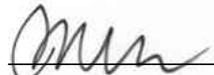
23. All construction shall comply with Cheltenham Township Ordinance No. 2236-12 under which the Developer obtained the special exception including, but not limited to, provisions for off-street parking and loading, lighting, refuse, service and loading areas, and guidelines for energy rating.

24. Under the provisions of the MPC, the Developer has the right to accept or reject conditions imposed by the Board of Commissioners upon preliminary approval. In the absence of an appeal filed in writing within thirty (30) days from the date of this Resolution, the conditions set forth herein shall be deemed to have been accepted by the Developer. If the Township receives written notice of an appeal of any of the conditions set forth herein filed within thirty (30) days from the date of this Resolution, this approval and the waivers granted in Paragraph 1 (which waivers are granted contingent upon the acceptance of the conditions set forth herein) shall be deemed to be automatically rescinded and revoked and the application shall be considered denied based upon the failure to fully comply with all of the sections set forth in Paragraph 1, all as authorized by Section 508 of the MPC.

**ADOPTED** and **APPROVED** by the Cheltenham Township Board of Commissioners at its public meeting held on **December 19, 2018**.

**ATTEST:**

**TOWNSHIP OF CHELTENHAM  
BOARD OF COMMISSIONERS**



**Bryan T. Havir**  
*Township Manager and Secretary*

By:   
**Daniel B. Norris, President**