

## RESOLUTION NO. 695

### BOROUGH OF MALVERN CHESTER COUNTY, PENNSYLVANIA

A Resolution approving, subject to conditions, the plan entitled "Final Subdivision Plan for 217 S. Warren Avenue for TAG Builders, Inc.," prepared by Inland Design, LLC, dated December 13, 2012, last revised September 9, 2015, consisting of eleven (11) sheets, pursuant to the Malvern Borough Subdivision and Land Development Regulations of 2005, as amended ("Land Development Ordinance") for the development of certain property ("Property") located in the Borough of Malvern ("Borough"), Chester County, Pennsylvania, in the R-4 zoning district.

#### BACKGROUND

Applicant has filed an application ("Application") with the Borough for approval of an Amended Final Plan prepared by Inland Design, LLC dated December 13, 2012, last revised September 9, 2015 ("Plan"). This Resolution No. 695 is the Borough's written decision on the Application and Plan.

217 S. Warren Avenue is a lot consisting of 1.085 acres and is the site of the former Gables Greenhouse business. Applicant proposes to subdivide the Property into five (5) lots and construct five (5) single family detached dwellings. The proposed dwelling units will be served by public sewer and water. On July 2, 2013, Borough Council granted preliminary plan approval for the proposed subdivision with conditions along with seven (7) waivers from the Land Development Ordinance. On November 5, 2013 pursuant to Resolution No. 671, Borough Council granted final plan approval for the proposed subdivision with conditions along with one (1) additional waiver from the Land Development Ordinance.

Applicant has submitted the Application to the Borough and now requests approval of the Plan.

The Application was reviewed by the Borough Engineer and the Planning Commission. At the Planning Commission meeting on August 6, 2015, the Planning Commission recommended that the Plan, be approved as a final plan conditioned upon compliance with all items in the Borough Engineer's review letter of July 30, 2015.

The September 9, 2015 version of the Plan was reviewed by the Borough Engineer, who provided a review letter dated September 11, 2015. The September 11, 2015 review letter supersedes the July 30, 2015 review letter. Based on the criteria established in the Land Development Ordinance, the changes in the September 9, 2015 version of the Plan are not substantial enough to warrant another review by the Planning Commission.

On September 15, 2015, Borough Council approved the Application at the public meeting subject to conditions as set forth herein. This is the written decision documenting that approval.

## MATTERS RESOLVED


Borough Council hereby RESOLVES that the Plan is approved, as an amended final Plan, pursuant to the Land Development Ordinance and subject to the waiver relief and conditions set forth hereinbelow.

This approval is also subject to the following conditions, which shall bind Applicant, the property owners and their heirs, successors and assigns:

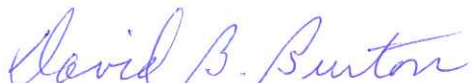
1. Prior to Plan recordation, Applicant shall satisfy all outstanding items included in the Borough Engineer's letter of September 11, 2015.
2. Prior to Plan recordation, Applicant shall provide to the Borough copies of all permits and approvals for the subdivision, including but not limited to, the NPDES Permit from the Pennsylvania Department of Environmental Protection ("DEP") and the Chester County Conservation District erosion and sedimentation control plan approval. Should the permits or approvals cause the relocation of lot lines or improvements otherwise depicted on the Plan, Applicant shall present an amended final plan to Council for review and approval.
3. Prior to Plan recordation, Applicant shall provide the Phase I Environmental Report to the Borough when completed.
4. Prior to Plan recordation, Applicant shall provide pictures of the building elevations and locations of the existing buildings on the Property to the Borough Historical Commission.
5. Prior to Plan recordation, Applicant shall prepare and submit the homeowners' association declaration for the subdivision, which shall include language providing for the maintenance, repair, construction and reconstruction, including drainage facility maintenance and snowplowing of the common driveway, by the homeowners' association created for the subdivision, in a form satisfactory to the Borough Solicitor.
6. Prior to Plan recordation, Applicant shall execute a Stormwater Controls and Best Management Practices Operations and Maintenance Agreement (which will be recorded), a Financial Security Agreement, and a Subdivision and Land Development Agreement, together with the posting of adequate escrow to guarantee the required public improvements, in form satisfactory to the Borough Solicitor.
7. Prior to Plan recordation, Applicant shall execute a Temporary Construction Easement Agreement for construction of a sidewalk on Borough property, in a form satisfactory to the Borough Solicitor.
8. Applicant shall contribute to the Municipal Stormwater Control and BMP Maintenance Fund for the future inspections of the private stormwater facilities.

9. Applicant shall comply with the procedure set forth in Section 525.D.6 of the Land Development Ordinance with respect to any trees removed as part of the sidewalk extension along Warren Avenue.
10. The owner of Lot 5 shall plant the two trees on Lot 5 within the Second Avenue right-of-way, as shown on Sheet 8 of the Plan. The trees are not required to be planted until the Borough issues a building permit for construction of a dwelling unit on Lot 5. At the time of planting, the owner of Lot 5 may request to change the species and location of the two required trees, subject to Borough approval. Prior to the issuance of a building permit for the construction of a dwelling unit on Lot 5, the owner of Lot 5 shall post financial security with the Borough guaranteeing the installation of the two trees prior to issuance of a certificate of occupancy for the dwelling unit on Lot 5. The building permit for the construction of a dwelling unit on Lot 5 shall be conditioned upon the planting of the two trees prior to the issuance of a certificate of occupancy for the dwelling unit on Lot 5.
11. The owner of Lot 5 shall install the recharge bed on Lot 5. At the time of building permit application for the construction of a dwelling unit on Lot 5, the design and specifications for the recharge bed may be revised, subject to Borough and any other applicable governmental approvals, to reflect the actual runoff generated by the dwelling unit and any other improvements proposed to be constructed on Lot 5. Prior to the issuance of a building permit for the construction of a dwelling unit on Lot 5, the owner of Lot 5 shall post financial security with the Borough guaranteeing the completion of construction of the recharge bed. The building permit for the construction of a dwelling unit on Lot 5 shall be conditioned upon the construction of the recharge bed on Lot 5 prior to the issuance of a certificate of occupancy for the dwelling unit on Lot 5. A certificate of occupancy for the dwelling unit on Lot 5 shall not be issued until the recharge bed has been finally inspected and approved by the Borough Engineer.


Passed by Borough Council this 15<sup>th</sup> day of September, 2015.

  
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David G. Bramwell, President

Approved by the Mayor, this 15<sup>th</sup> day of September, 2015.

  
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David B. Burton, Mayor

Enacted, this 15<sup>th</sup> day of September, 2015.

  
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Sandra L. Kelley, Secretary

