

**WHITEMARSH TOWNSHIP
MONTGOMERY COUNTY, PENNSYLVANIA**

RESOLUTION NO. 2018- 20

A RESOLUTION OF THE WHITEMARSH TOWNSHIP BOARD OF SUPERVISORS GRANTING THE CONDITIONAL USE APPLICATION OF K. HOVNANIAN PENNSYLVANIA ACQUISITIONS, LLC TO CONSTRUCT TOWNHOMES AT THE PROPERTY LOCATED AT 4006 AND 4046 BUTLER PIKE, SUBJECT TO CONDITIONS

WHEREAS, K. Hovnanian Pennsylvania Acquisitions, LLC (“Applicant”) submitted a conditional use application to Whitemarsh Township, to construct 67 townhomes at the property located at 4006 Butler Pike (the “Corson Parcel”) and 4046 Butler Pike (the “Haub Parcel”) (collectively the “Property”); and

WHEREAS, Applicant has entered into conditional agreements of sale with the owners of both parcels; and

WHEREAS, the Property is in the VC-2 District, in which the Whitemarsh Township Zoning Ordinance (the “Zoning Ordinance”) permits townhomes by conditional use, subject to certain conditions; and

WHEREAS, the Corson Parcel contains Abolition Hall, Hovenden House, and the Barn (“Historic Structures”) which were used by Abolitionist George Corson to hold anti-slavery meetings and lectures, and to shelter slaves as part of the underground railroad; and

WHEREAS, the Property also contains an additional existing single-family detached dwelling, detached garage, and related accessory structures on Marple Lane (the “Marple Lane Structures” and collectively a part of the “Historic Structures”); and

WHEREAS, prior to Applicant’s submission of its conditional use application, the Township made an offer to buy the Property, which was rejected by its owners; and

WHEREAS, Applicant proposes to preserve the Historic Structures in their current state, and buffer them from the townhomes; and

WHEREAS, the Board of Supervisors held 7 hearings on the conditional use application, from March through September 2018; and

WHEREAS, Pennsylvania law requires the Board of Supervisors to grant a conditional use application unless objectors present sufficient evidence that the proposed use has a detrimental effect on the public health, safety and welfare; and

WHEREAS, after hearing the testimony of multiple witnesses for both the Applicant and objectors opposing the application, and multiple public comments, the Board of Supervisors has

determined it must grant the conditional use application pursuant to law, but desires to attach reasonable conditions.

NOW, THEREFORE, BE IT RESOLVED, by the Whitmarsh Township Board of Supervisors of that Applicant's conditional use application is hereby granted, subject to the following conditions:

1. The Applicant shall comply with all applicable conditional use requirements set forth in Sections 116-291 and 116-292 of the Zoning Ordinance and all other applicable requirements of Sections 116-293 through 116-298 of the Zoning Ordinance.

2. The number of townhome units developed on the Property shall not exceed sixty-seven (67) units.

3. The Applicant shall not demolish Abolition Hall, Hovenden House, the Barn, or the Marple Lane Structures (collectively, the "Historic Structures").

4. All new buildings shall be constructed using building materials that comply with §116-283(A)(2) of the Zoning Ordinance and shall be similar to the townhouse design submitted as Exhibit A-1, Tab 7. The building design and construction materials and colors proposed by the Applicant shall receive a recommendation from HARB, and shall receive all required certificates of appropriateness from the Board of Supervisors.

5. The Applicant shall submit and comply with a maintenance plan approved by the Board of Supervisors (which approval shall not be unreasonably withheld or delayed) for the maintenance and upkeep of the Historic Structures in accordance with all applicable Township ordinances, which plan shall, at a minimum, address the following:

- a. Mowing of lawns on Lot 1 and Lot 3 within timeframes set forth in the approved maintenance plan;
- b. Removal of snow and ice from driveways on Lot 1 and Lot 3 and walkway leading from Hovenden House to parking area on Lot 1 within timelines set forth in the approved maintenance plan;
- c. Removal of snow and ice from public sidewalks in accordance with Township ordinances;
- d. Quarterly inspections of all Historic Structures to identify and address conditions that are in a state of disrepair, if any, as more particularly set forth in the approved maintenance plan; and
- e. Ensuring that Historic Structures are heated during winter months as more particularly set forth in the approved maintenance plan.

6. The Applicant shall increase the gross area of Lot 1 from 1.388 acres to 1.600 acres.

7. The Applicant shall comply with all relevant requirements set forth in the Township's Subdivision and Land Development Ordinance (Chapter 105 of the Whitmarsh Township Code of Ordinances), unless waivers from such requirements are requested by the Applicant and granted by the Board of Supervisors

8. The Applicant shall comply with all applicable buffering and landscaping requirements set forth in §116-291.C. of the Zoning Ordinance, and cross-referenced in §105-52 of the SALDO.

9. The Applicant shall comply with §116-292.B. of the Zoning Ordinance; provided, however, that any deciduous trees contained in required landscaping and buffers shall be a minimum of 3 inches in caliper, and any evergreen trees shall be planted at a size of 8 to 10 feet in height.

10. The Applicant shall comply with §116-292.C. of the Zoning Ordinance; provided, however, that all parking areas shall have at least one tree of 2.5 inches minimum caliper for every five parking spaces in single bays and two trees of 2.5 inches minimum caliper for every 10 parking spaces in double bays. A combination of deciduous and evergreen shrubs shall also be included within parking lot islands.

11. The Applicant shall provide, between Lot 1 and Lot 2, a 30-foot planted buffer of Class B as defined in Table 1 of the SALDO. If the buffer is considered inadequate by the Township after review by its arborist, the Township may request additional plantings for up to 2 months after initial installation of the buffer.

12. The Applicant shall propose a second access point from the development onto Butler Pike, which access shall be conditioned upon review and approval by Montgomery County Roads and Bridges. If such access is approved by Montgomery County Roads and Bridges, the Applicant shall eliminate the proposed emergency access shown on the Conditional Use Site Plan.

13. The Applicant shall extend the sidewalks shown on the Plan along the Butler Pike frontage of the Property, continuing those sidewalks across Lot 1 to the corner of Germantown Pike.

14. The Applicant shall provide one-half (1/2) acre of contiguous green space on Lot 1, abutting Abolition Hall, and shall, as a condition of final subdivision approval for Lot 1, prepare and file a declaration of covenants, conditions and restrictions for the purpose of ensuring that said contiguous one-half acre remains green space in perpetuity unless the reconfiguration or elimination of such green space is approved by the Township. Contiguous green space excludes required buffers, wetlands, parking lot landscaping, and land devoted to stormwater management facilities.

15. Any and all street furniture, such as trash receptacles, benches, bollards, etc. shall be of a style approved by the Board of Supervisors, in accordance with §116-297.B. of the Zoning Ordinance.

16. The Applicant shall provide for the inclusion of the Cross-County Trail Easement on its land development plan, conditioned upon Montgomery County's approval and acceptance of dedication of such easement.

17. The Applicant shall comply with all applicable requirements set forth in Chapter 58: Grading, Erosion Control, Stormwater Management and Best Management Practices, and the applicable stormwater design criteria contained in Resolution 2004-08 including but not limited to the design of stormwater management facilities such as BMPs, detention basins, storm drainage piping systems and erosion and sediment control features.

18. A detailed soils evaluation of the Property shall be performed by a Registered Professional Engineer experienced in geotechnical engineering or a Certified Professional Soil Scientist; and, at a minimum, the study shall include a Carbonate Hazard Analysis and shall address soil permeability, depth to bedrock, susceptibility to sinkhole formation, and subgrade stability. The evaluation shall be subject to review and approval by the Township Engineer.

19. All utility lines on Lot 2 shall be placed underground from the edge of the right-of-way to the place of service, per §116-291.A(2).

20. In connection with the review of the Applicant's land development plan, the U.S. Army Corps of Engineers' ("Corps") shall make a determination of the presence of wetlands on Lot 2, and the Township Engineer shall review the Corps' determination. If the Township Engineer approves of the Corps' determination, the Corps' wetland determination shall be valid for and binding on all land development approvals within the Township related to Lot 2. If the Township Engineer disagrees with the Corps' wetland determination, the Township shall meet with the Applicant to discuss and attempt to resolve the concerns of the Township. If, after the Township and the Applicant meet, the Township and the Applicant continue to disagree, then, upon the request of the Applicant, the Applicant and the Township shall enter into binding arbitration to resolve all points of disagreement related to the delineation of existing wetlands on Lot 2 in accordance with generally accepted wetland delineation procedure outlined in the 1987 Army Corps of Engineers Wetland Delineation Manual (Technical Report Y-87-1). The terms and conditions of such arbitration shall be negotiated in good faith between the Township and the Applicant.

21. Applicant shall provide an updated traffic impact study in conjunction with its land development plan in accordance with the requirements of Section 105-21.B.(9)(c) of the SALDO.

22. The maximum height of any building constructed on the Property by the Applicant shall be 38.5 feet measured from the mean grade around the building to the midpoint of the highest peaked roof.

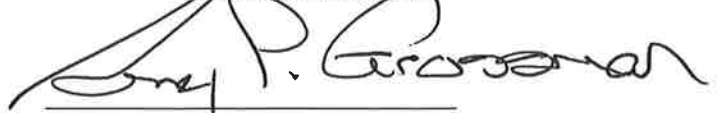
RESOLVED this 25th day of OCTOBER, 2018.

ATTEST:



Richard L. Mellor, Jr.
Secretary

**WHITEMARSH TOWNSHIP
BOARD OF SUPERVISORS**



Amy P. Grossman
Chair