

January 10, 2022

POTTSTOWN BOROUGH COUNCIL

ANNOUNCEMENT

Borough Manager Keller explained the format for this evening's meeting, advising that the meeting is a GoTo Virtual Meeting and an in-person meeting. Public comments are being accepted through email and chat and will be announced to all. Comments are limited to 300 words to be in compliance with Council's three-minute rule and participants shall be identified accordingly.

CALL TO ORDER

The regular meeting of the Pottstown Borough Council was called to order on Monday, January 10, 2022 at 7:00 p.m. as a hybrid, in-person and Go-To Meeting, with President Weand in the Chair.

INVOCATION

President Weand requested a moment of silence.

PLEDGE OF ALLEGIANCE

ROLL CALL

Councilors present were Ryan Procsal, Lisa Vanni (virtual), Donald Lebedynsky, Trenita Lindsay and Dan Weand. Also present were Manager Justin Keller, Assistant Solicitor Matthew Hovey, Mayor Stephanie Henrick (virtual) and Borough Secretary Virginia Takach. Councilors Paules and Kirkland were absent.

APPROVAL OF MINUTES

Motion by Councilor Lebedynsky seconded by Councilor Procsal to approve the minutes of the December 13, 2021 Council meeting as presented. Motion carried: 5 ayes.

COMMENTS FROM CITIZENS PRESENT

Ryan Machir, 525 Upland Street - questioned the Fire Protection Agreement between the Borough and West Pottsgrove Township and expressed concerns regarding the fire protection cost for the Pottstown Fire Company providing service to West Pottsgrove Township. He advised that the Borough's millage for fire protection is 2.031% and West Pottsgrove has a 0% fire tax.

Mr. Keller agreed to discuss the Agreement with Mr. Machir following the meeting.

SUBCOMITTEE REPORTS

a. Finance & Administration – President Weand reported that at the end of November the General fund revenues stand at 100% and expenses at 87%. The real estate taxes collected are at 100% and local taxes at 115% , based on the 94% collection rate. President Weand advised that the audit is expected to being February 21st. He added that there were no assessments changes from

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October and have increased by \$415,000. The Borough continues to review under-assessed properties with the School District and Portnoff collections continue. There were no new LERTA applications.

COMMITTEE REPORTS

- a. EAC – There was no report.
- b. Regional Planning – Council Procsal advised that there was no meeting.
- c. Blighted Property Review Committee – There was no meeting

UNFINISHED BUSINESS

None.

NEW BUSINESS

- a. Presentation – Kim E. Bainbridge, Retiree

Kim Bainbridge was present to accept the Resolution which was read and presented by Manager Keller and President Weand, in the presence of his family and fellow workers.

RESOLUTION NO. 2022 – 1

RECOGNIZING KIM E. BAINBRIDGE FOR 27 YEARS OF DEDICATED SERVICE TO THE BOROUGH OF POTTSTOWN

Whereas, Kim E. Bainbridge has served the Borough of Pottstown as a dedicated employee since 1994; and

WHEREAS, for the past twenty-seven plus years Kim has worked in the position of Service Worker within the Public Works Department, and during that time he assisted our residents by providing safe passage throughout our neighborhoods in all types of weather conditions, all with the highest level of customer service possible; and

WHEREAS, Kim's presence at the Borough Garage will be truly missed by the people that have worked with him.

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED by the Mayor and Town Council that Kim E. Bainbridge is officially recognized for the outstanding service he has provided the Borough of Pottstown through twenty-seven years of employment; and further that he is extended best wishes for a happy and well-deserved retirement.

Adopted at Pottstown Borough Hall, 100 East High Street, Pottstown, PA this 10th day of January 2022.

- b. Presentation – Eric J. Weber, Retiree

Officer Eric J. Weber was present to accept the Honorable Discharge and award for his 27 years of service in the Pottstown Police Department. The proclamation was read and presented by Mayor Henrick and Chief Markovich in the presence of his fellow officers.

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c. Conditional Offer of Employment - Motion by Councilor Procsal, seconded by Councilor Lebedynsky to authorize the Chief of Police to extend a conditional offer of employment to one (1) eligible candidate from the Civil Service Eligibility List. Motion carried: 5 ayes.

d. Conditional Use – Bryan Tuckey - Motion by Councilor Lindsay, seconded by Councilor Lebedynsky to grant the Conditional Use request of Bryan Tuckey on behalf of MJ Nester Equipment Sales, LLC to permit an industrial contractor business at property located at 323 West High Street, with conditions as stated in the Order dated January 10, 2022. Motion carried; 5 ayes.

e. Sustainable Energy Plant - Motion by Councilor Procsal, seconded by Councilor Lebedynsky to adopt a Resolution conditionally granting preliminary/final approval to the land development application entitled, “Pottstown Sustainable Energy Park,” submitted by PSEP, LLC for the property located at 451 Keystone Boulevard and conditionally granting associated waivers for certain requirements of Chapter 22, Subdivision and Land Development, and Chapter 26, Water, of the Code of Ordinances of the Borough of Pottstown, as amended.

RESOLUTION NO. 2022- 2

A RESOLUTION OF THE BURGESS AND TOWN COUNCIL OF THE BOROUGH OF POTTSTOWN CONDITIONALLY GRANTING PRELIMINARY / FINAL APPROVAL TO A LAND DEVELOPMENT APPLICATION ENTITLED “POTTSTOWN SUSTAINABLE ENERGEY PARK” SUBMITTED BY PSEP, LLC FOR REAL PROPERTY LOCATED AT 451 KEYSTONE BOULEVARD; AND ALSO CONDITIONALLY GRANTING ASSOCIATED WAIVERS TO CERTAIN REQUIREMENTS OF CHAPTER 22, SUBDIVISION AND LAND DEVELOPMENT, AND CHAPTER 26, WATER, OF THE CODE OF ORDINANCES OF THE BOROUGH OF POTTSTOWN, AS AMENDED.

WHEREAS, PSEP, LLC (hereinafter the “Applicant”) made application to Pottstown Borough for Land Development Approval for property located at 451 Keystone Boulevard, further identified as tax parcel number 16-00-15356-00-9, consisting of approximately 10.33 acres (hereinafter referred to as the “Subject Property”); and

WHEREAS, the Applicant is the equitable owner of the Subject Property; and

WHEREAS, related to its land development application, the Applicant submitted for review by the Borough’s Engineer, staff, and other consultant, Revised Preliminary/Final Plan Land Development Plans for the “PSEP, LLC Pottstown Sustainable Energy Park” project, prepared by SSM Group, Inc., dated September 10, 2021, last revised December 7, 2021, and consisting of thirty (30) plan sheets, (hereinafter referred to as the “Plans”), and

WHEREAS, the Plans depict a cellulose-based solid waste gasification facility which will consist of a biofuel conversion facility, associated feedstock and biochar buildings, administrative office building, associated drives and parking areas, and other infrastructure and features to support the development; and

WHEREAS, simultaneous with the Applicant’s submission of the Plans, the Applicant also submitted to the Borough a Waiver Request Letter dated December 7, 2021 (hereinafter referred to as the “Waiver Letter”) in which the Applicant seeks seven (7) waivers from Chapter 22, Subdivision and Land Development, of the Borough of Pottstown Code of Ordinances, as amended, (hereinafter referred to as the “SALDO”) and one (1) waiver from Chapter 26, Water, as amended, and more specifically identified as waivers from the following sections of those Chapters:

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1. Section 22-202 related to the formal application procedure requirements,
2. Section 22-400(3)(A), Section 22-A402.1, and Section 22-A402.2 related to the physical features and topography to be depicted on the Plans,
3. Section 22-503(A), Section 22-504, Section 22-505.1, and Section 22-508.1 related to the total number of shade trees required to be planted,
4. Section 22-504.4, Section 22-A505.1, and 22-A505.3 related to preservation of open space and recreational facilities,
5. Section 22-A511.3 related to the full extension of Keystone Boulevard;
6. Section 22-A512(C) related to the height of certain light poles,
7. Section 22-700.2 related to the timing for the posting of the financial security for the required public improvements, and
8. Section 26-224 related to the applicable post development stormwater runoff discharge rates; and

WHEREAS, the Borough's Engineer, CEDARVILLE Engineering Group, LLC, reviewed the Plans together with various relevant reports submitted by the Applicant and thereafter issued an engineering review letter dated January 7, 2022 and

WHEREAS, previously, on April 15, 2020, the Applicant and the Borough executed a Memorandum of Understanding governing, in part, the submission, processing, and approval the Plans (hereinafter referred to as the "MOU"); and

WHEREAS, therein, the Applicant and the Borough agreed to substitute the Keystone Employment & Economic Plan Oversight Committee, jointly formed by Pottstown Borough and West Pottsgrove Township (hereinafter referred to as the "KEEP Committee"), for the Borough's Planning Commission with respect to, inter alia, the requirements of § 202 of the SALDO; and WHEREAS, on December 8, 2021, after several meetings between the Applicant and the KEEP Committee spanning approximately two (2) years which included the review of prior iterations of the Plans, the KEEP Committee, based on the Applicant's "will comply" letter submitted to the Borough and dated December 7, 2021, voted unanimously to:

1. Recommend to Pottstown's Borough Council that they grant preliminary/final approval of the PSEP land development plan for 451 Keystone Boulevard contingent upon the applicant satisfying all comments and conditions contained in the Cedarville engineering review letter dated November 4, 2021 and any subsequent engineering review letters issued by the Borough's Engineer; complying with the Zoning Hearing Board decision dated December 7, 2021; obtaining all Borough, Commonwealth, and federally required permits and approvals including but not limited to the Montgomery County Conservation District; agreeing to comply with all applicable ordinances, statutes, and regulations; and agreeing to comply with the Memorandum of Understanding between Pottstown Borough and SEP-I, LLC dated April 13, 2020 and assume all obligations contained therein; and
 2. Recommend to Pottstown's Borough Council, subject to review and approval of the Borough's Solicitor and Engineer, that they grant the full and partial waivers requested on behalf of PSEP related to the land development application for 451 Keystone Boulevard contained within the Waiver Request Letter submitted by SSM Group, Inc. dated December 7, 2021; and
- WHEREAS, on December 7, 2021, the prior day, the Borough of Pottstown Zoning Hearing Board granted the Applicant a variance related to the Plans to allow construction of eight (8) proposed feedstock silos with top piping to a maximum height of eight-five (85) feet, which exceeds the maximum building height of fifty-five (55) feet for the proposed provided for in § 509.3.1 of Chapter 27, Zoning, of the Borough of Pottstown Code of Ordinances, as amended,

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NOW, THEREFORE, BE IT ENACTED AND RESOLVED by the Pottstown Borough Council as follows:

SECTION 1. Council hereby grants preliminary/final approval of the Plans and the waivers requested in the Waiver Letter conditioned upon the Applicant satisfying the conditions set forth below within two (2) years of the adoption of this Resolution unless such timeframe is extended upon request of Applicant and approval of the Borough, which approval will not be withheld but for good cause of a compelling nature. Any extension of time granted by the Borough shall be by Resolution. Preliminary/final approval granted pursuant this Resolution shall not constitute the granting of additional deferrals or waivers except as set forth herein. The Plans shall be only considered to have received preliminary/final approval and the waivers granted once the Borough determines that all conditions attached to said approval have been resolved to the satisfaction of the Borough, and those conditions are as follows:

- A. Conditions of Plan Approval. The preliminary/final approval of the Plan is subject to strict compliance with the following conditions:
- (1) Compliance with all comments and conditions set forth in the CEDARVILLE Engineering Group, LLC review letter dated January 7, 2022 to the satisfaction of the Borough's Engineer.
 - (2) Compliance with all comments and conditions set forth in the Herbert, Rowland & Grubic, Inc. review letter dated October 21, 2021 to the satisfaction of the Pottstown Borough Authority's Engineer.
 - (3) Compliance with the Zoning Hearing Board's Order dated December 7, 2021.
 - (4) Execution of any service or improvement agreements required by the Pottstown Borough Authority.
 - (5) Approval of the Plans by the Borough's Fire Chief/Fire Marshall.
 - (6) The Applicant providing to the Borough its estimated costs for the required public improvements so that the requisite amount of the financial security can be determined, to the satisfaction of the Borough, and posted pursuant to 53 P.S. 10509 prior to the recording of any plan and/or the issuance of any building, grading, or other permits, as provided herein, consistent with all requirements of the Municipalities Planning Code, as amended, except as may be waived by Section (B)(3), below, with respect to the timing required for the posting of the financial security.
 - (7) The preparation and execution of Development Agreement, the form of which shall be acceptable to the Borough Solicitor.
 - (8) The preparation and execution of Financial Security Agreement, the form of which shall be acceptable to the Borough Solicitor
 - (9) Applicant agreeing to comply with all Borough zoning, subdivision and land development, grading and other applicable ordinance requirements not specifically waived or relieved by the Zoning Hearing Board and/or Council.
 - (10) Receipt by the Applicant of all required outside agency permits and approvals including but not limited to the Montgomery County Conservation District and the Pennsylvania Department of Environmental Protection.
 - (11) Acknowledgement by the Applicant that, consistent herewith, the Applicant will not be granted any permits including but not limited to building or grading permits until (a) the record plan and all appropriate development and financial security agreements, easements, and other required legal documents are approved by the Borough and recorded with the Montgomery County Recorder of Deeds, and (b) all appropriate approvals and/or permits from Borough or other agencies for the above-mentioned project are received. Any work performed on this project without the proper permits, approvals, and agreements in place will be stopped.

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(12) Applicant agreeing to address or correct any drainage and/or stormwater runoff problems that may be identified or arise as a result of land development in conformity with all statutes, ordinances and regulations in effect at the time of construction or identification of the issue, whichever is later.

(13) Applicant executing and recording a blanket easement on the site or other document in a form acceptable to the Borough Solicitor which shall permit the Borough to access all stormwater management facilities. The easement shall be noted on the Plans.

(14) Applicant executing and recording a Stormwater Management BMP Operations and Maintenance Agreement in a form acceptable to the Borough Solicitor.

(15) Acknowledgement by the Applicant that the plans shall be considered to have received preliminary/final approval once consultants and/or staff appointed by the Council determine that any and all conditions attached to said approval have been resolved to the satisfaction of staff, and any substantial changes to the approved Plan will require the submission of an amended land development plan consistent with the requirement of the Municipalities Planning Code, as amended.

(16) Applicant replenishing and maintaining the escrow established to reimburse the Borough for all reasonable legal, engineering, inspection, and other fees related to review, approval, and compliance with the Plans and Borough Ordinances, as permitted by the Municipalities Planning Code, as amended.

(17) Applicant agreeing to comply with the requirements of the MOU and assuming legal responsibility for any breach of the MOU by SEP-I, LLC, its heirs, successors, assignees, and the principles thereof as well their heirs, successors, and assignees.

B. Conditions of Grant of Waivers. The grant of the requested waivers is generally conditioned upon the Applicant receiving unconditional preliminary/final approval; provided, however, that the following requested waivers are also conditioned upon the following specific conditions:

(1) The requested waiver concerning Section 22-503(A), Section 22-504, Section 22-505.1, and Section 22-508.1 related to the total number of shade trees required to be planted is also specifically conditioned upon the Applicant paying to the Borough a fee in lieu of the required shade trees in the amount of \$12,000.00 payable upon the Applicant's submission for building permits,

(2) The requested waiver concerning Section 22-504.4, Section 22-A505.1, and 22-A505.3 related to preservation of open space and recreational facilities is also specifically conditioned upon the Applicant paying to the Borough a fee in lieu of the required open space and recreational facilities in the amount of \$20,000.00 payable upon the Applicant's submission for building permits, and

(3) The requested waiver concerning Section 22-700.2 related to the timing for the posting of the financial security for the required public improvements is also specifically conditioned upon the Applicant agreeing to (i) providing the required financial security for erosion and sedimentation control facilities, seeding, and respreading of topsoil; site preparation including but not limited to excavation, fill, and grading; stormwater management facilities; the required improvements for Keystone Boulevard; curbing and sidewalks; and monumentation, together with a ten-percent (10%) contingency and five-percent (5%) inspection fee based on the aggregate cost thereof, prior to the recording of the Plan, and then (ii) providing the required financial security for paving limited to the driveway and parking areas; trash enclosure; landscaping requirements contained in the SALDO, lighting, retaining walls, and pavements markings, together with a ten-percent (10%) contingency and five-percent (5%) inspection fee based on the aggregate cost thereof, upon the Applicant's submission for building permits.

SECTION 2. The conditions set forth in Section 1 above shall be accepted by the Applicant, in writing, within thirty (30) days from the date of receipt of this Resolution.

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SECTION 3. This Resolution shall become effective on the date upon which the conditions are accepted by the Applicant in writing. In the event that the executed Resolution is not delivered to the Borough within thirty (30) days of receipt, then the conditional preliminary/final approval granted pursuant hereto shall become null and void, the waivers requested shall be deemed denied, and the Plans shall be denied for failure to comply with the SALDO for the reasons set forth in the CEDARVILLE Engineering Group, LLC engineering review letter dated January 7, 2022 and the Herbert, Rowland & Grubic, Inc. review letter dated October 21, 2021.

SECTION 4. Any substantial change to the Plans inconsistent herewith shall require the submission of an amended land development plan, as per the requirements of the Municipalities Planning Code, as amended.

IN WITNESS WHEREOF, I hereby certify that this Resolution was adopted by the Pottstown Borough's Council this 10th day of January, 2022.

Motion carried: 5 ayes.

f. Chipotle Restaurant - Motion by Councilor Lebedynsky, seconded by Councilor Lindsay to adopt a Resolution conditionally granting preliminary/final approval to the land development application entitled, "Chipotle Restaurant and Retail Space," submitted by Pottstown Equities, LLC for the property located at 200 Shoemaker Road and conditionally granting associated waivers for certain requirements of Chapter 22, Subdivision and Land Development, of the Code of Ordinances of the Borough of Pottstown, as amended.

RESOLUTION NO. 2022 – 3

A RESOLUTION OF THE BURGESS AND TOWN COUNCIL OF THE BOROUGH OF POTTSTOWN CONDITIONALLY GRANTING PRELIMINARY / FINAL APPROVAL TO A LAND DEVELOPMENT APPLICATION ENTITLED "CHIPOTLE RESTAURANT AND RETAIL SPACE" SUBMITTED BY POTTSTOWN EQUITIES, LLC FOR REAL PROPERTY LOCATED AT 200 SHOEMAKER ROAD; AND ALSO CONDITIONALLY GRANTING ASSOCIATED WAIVERS TO CERTAIN REQUIREMENTS OF CHAPTER 22, SUBDIVISION AND LAND DEVELOPMENT, OF THE CODE OF ORDINANCES OF THE BOROUGH OF POTTSTOWN, AS AMENDED.

WHEREAS, Pottstown Equities, LLC (hereinafter the "Applicant") made application to Pottstown Borough for Land Development Approval for property located at 200 Shoemaker Road, further identified as tax parcel no. 16-00-25833-30-5, consisting of approximately 1.459 acres, located within the HB – Highway Business District (hereinafter referred to as the "Subject Property"); and WHEREAS, the Applicant is the equitable owner of the Subject Property; and WHEREAS, as part of its application, the Applicant submitted for review by the Borough's consultants and staff, Revised Preliminary/Final Plan Land Development Plans for the "Chipotle Restaurant and Retail Space" project, prepared by Bursich Associates, Inc., dated September 17, 2021, last revised November 23, 2021 (hereinafter referred to as the "Plans"), and WHEREAS, the Plans depict redevelopment of the Subject Property consisting of the demolition of an existing 5,562 square foot restaurant building and related improvements and the construction of a 2,400 square foot Chipotle restaurant with an outdoor seating area and associated dedicated pickup lane, a separate 7,200 square foot retail space, landscaping, and other infrastructure and features to support the development; and

WHEREAS, the Applicant also submitted to the Borough a Waiver Request Letter dated

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November 22, 2021 (hereinafter referred to as the “Waiver Letter”) in which the Applicant seeks four

(4) waivers from Chapter 22, Subdivision and Land Development, of the Borough of Pottstown Code of Ordinances, as amended, (hereinafter referred to as the “SALDO”), more specifically identified therein as waivers from the following sections of the SALDO:

1. Section 22-202 related to the formal application procedure requirements,
2. Section 22-400(3)(A) related to the physical features and topography to be depicted on the Plans,
3. Section 22-A402.1 related to information concerning physical and natural features to be depicted on the Plans, and
4. Section 22-A402.2 related to information concerning existing structures, parking areas, and landscape features to be depicted on the Plans, and

WHEREAS, during the December 15, 2021 meeting of the Borough’s Planning Commission, the Applicant also effectively requested waivers from § 22-503(A), § 22-504, §22-505.1, and § 22-508.1 of the SALDO related to the total number of shade trees required to be planted and also § 22-504.4, § 22-A505.1, and § 22-A505.3 of the SALDO related to preservation of open space and recreational facilities (hereinafter referred to as the “Additional Waivers”), and

WHEREAS, the Borough’s Engineer, CEDARVILLE Engineering Group, LLC, reviewed the Plans together with various relevant reports submitted by the Applicant and thereafter issued an engineering review letter dated December 10, 2021, and

WHEREAS, the Borough Traffic Engineer, Traffic Planning and Design, Inc., also reviewed the Plans together with various relevant reports submitted by the Applicant and thereafter issued a traffic engineering review letter dated December 14, 2021, and

WHEREAS, the Pottstown Borough Authority’s Engineer, Herbert, Rowland & Grubic, Inc., also reviewed the Plans together with various relevant reports submitted by the Applicant and thereafter issued a water and sewer systems engineering review letter dated December 10, 2021, and

WHEREAS, the Montgomery County Planning Commission also reviewed the Plans together with various relevant reports submitted by the Applicant and thereafter issued a review letter dated October 26, 2021, and

WHEREAS, the Borough plans to construct a traffic circle or other traffic circulation improvement deemed appropriate by the Borough’s Traffic Engineer at the intersection of Shoemaker Road and Robinson Street (hereinafter referred to as the “Traffic Circle”) and in furtherance of that project secured financial support from property owners in the vicinity of the intersection who will benefit from improved traffic circulation at that juncture resulting from the Traffic Circle; and

WHEREAS, the Applicant expressed support for the Traffic Circle and acknowledged its value to the proposed land development and desires to voluntarily contribute \$50,000 to the Borough towards the planning and construction of the off-site improvement if the Applicant secures approval of the Plans and is able to proceed to construction on the proposed restaurant and retail space; and

WHEREAS, on December 15, 2021, after several meetings between the Applicant and the Borough’s Planning Commission, which included the review of the Plans and the review letters identified above, the Planning Commission, voted unanimously to:

1. Recommend to Borough Council that they grant preliminary/final approval of the Plans contingent upon the Applicant complying with the Borough Engineer’s review letter dated letter dated December 10, 2021; complying with the Borough’s Traffic Engineer’s review letter dated December 14, 2021; complying with the Borough Authority’s Engineer’s review letter dated December 10, 2021; complying with the Montgomery County Planning Commission’s review letter dated October 26, 2021; contributing \$50,000 to the Traffic Circle; paying a \$12,000 fee in lieu of

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the required trees; paying a fee in lieu of the required open space (to be calculated as redevelopment); and obtaining Borough Council approval of the final architectural elevations, and

2. Recommend to Borough Council that they grant the full and partial waivers within the Waiver Letter and the Additional Waivers; and

NOW, THEREFORE, BE IT ENACTED AND RESOLVED by the Pottstown Borough Council as follows:

SECTION 1. Council hereby grants preliminary/final approval of the Plans and the waivers requested in the Waiver Letter, as well as the Additional Waivers, conditioned upon the Applicant satisfying the conditions set forth below within two (2) years of the adoption of this Resolution unless such timeframe is extended upon approval of the Borough. Any extension of time granted by the Borough shall be by Resolution. Preliminary/final approval granted pursuant this Resolution shall not constitute the granting of additional deferrals or waivers except as set forth herein.

The Plans shall be only considered to have received preliminary/final approval and the waivers granted once the Borough determines that all conditions attached to said approval or grant of waivers have been resolved to the satisfaction of the Borough, and those conditions are as follows:

A. Conditions of Plan Approval. The preliminary/final approval of the Plan is subject to strict compliance with the following conditions:

- (1) Compliance with all comments and conditions set forth in the CEDARVILLE Engineering Group, LLC review letter dated December 10, 2021 to the satisfaction of the Borough's Engineer.
- (2) Compliance with all comments and conditions set forth in the Traffic Planning and Design, Inc. review letter dated December 14, 2021 to the satisfaction of the Borough's Traffic Engineer.
- (3) Compliance with all comments and conditions set forth in the Herbert, Rowland & Grubic, Inc. review letter dated December 10, 2021 to the satisfaction of the Borough Authority's Traffic Engineer.
- (4) Compliance with all comments and conditions set forth in the Montgomery County Planning Commission review letter dated October 26, 2021 to the satisfaction of the Borough's Manager.
- (5) Execution of any service or improvement agreements required by the Pottstown Borough Authority.
- (6) Approval of the Plans by the Borough's Fire Chief/Fire Marshall.
- (7) The Applicant providing to the Borough its estimated costs for the required public improvements so that the requisite amount of the financial security can be determined, to the satisfaction of the Borough, and posted pursuant to 53 P.S. 10509 prior to the recording of any plan and/or the issuance of any building, grading, or other permits, as provided herein, consistent with all requirements of the Municipalities Planning Code, as amended.
- (8) The Applicant paying to the Borough a contribution of \$50,000 to be used for the Traffic Circle or a similar off-site improvement which benefits the Subject Property.
- (9) Approval of Borough Council of the final architectural elevations.
- (10) The preparation and execution of a development agreement, the form of which shall be acceptable to the Borough Solicitor.
- (11) The preparation and execution of a financial security agreement, the form of which shall be acceptable to the Borough Solicitor
- (12) Applicant agreeing to comply with all Borough zoning, subdivision and land development, grading and other applicable ordinance requirements not specifically waived or relieved by the Zoning Hearing Board and/or Council, where appropriate.
- (13) Receipt by the Applicant of all required outside agency permits and approvals including but not limited to the Montgomery County Conservation District and the Pennsylvania Department of Environmental Protection.

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(14) Acknowledgement by the Applicant that, consistent herewith, the Applicant will not be granted any permits including but not limited to building or grading permits until (a) the record plan and all appropriate development and financial security agreements, easements, and other required legal documents are approved by the Borough and recorded with the Montgomery County Recorder of Deeds, and (b) all appropriate approvals and/or permits from Borough or other agencies for the above-mentioned project are received. Any work performed on this project without the proper permits, approvals, and agreements in place will be stopped.

(15) Applicant agreeing to address or correct any drainage and/or stormwater runoff problems that may be identified or arise as a result of land development in conformity with all statutes, ordinances and regulations in effect at the time of construction or identification of the issue, whichever is later.

(16) Applicant executing and recording a blanket easement on the site or other document in a form acceptable to the Borough Solicitor which shall permit the Borough to access all stormwater management facilities. The easement shall be noted on the Plans.

(17) Applicant executing and recording a Stormwater Management BMP Operations and Maintenance Agreement in a form acceptable to the Borough Solicitor.

(18) Acknowledgement by the Applicant that the Plans shall be considered to have received preliminary/final approval once consultants and/or staff appointed by the Council determine that any and all conditions attached to said approval have been resolved to the satisfaction of staff, and any substantial changes to the approved Plans will require the submission of an amended land development plan consistent with the requirement of the Municipalities Planning Code, as amended.

(19) Applicant replenishing and maintaining the escrow established to reimburse the Borough for all reasonable legal, engineering, inspection, and other fees related to review, approval, and compliance with the Plans and Borough Ordinances, as permitted by the Municipalities Planning Code, as amended.

B. Conditions of Grant of Waivers. The grant of the requested waivers is generally conditioned upon the Applicant receiving preliminary/final approval consistent herewith; provided, however, that the following requested waivers are also conditioned upon the following specific conditions:

(1) The requested waiver concerning § 22-503(A), § 22-504, § 22-505.1, and § 22-508.1 related to the total number of shade trees required to be planted is also specifically conditioned upon the Applicant paying to the Borough a fee in lieu of the required shade trees in the amount of \$6,000.00, and

(2) The requested waiver concerning § 22-504.4, § 22-A505.1, and § 22A505.3 related to preservation of open space and recreational facilities is also specifically conditioned upon the Applicant paying to the Borough a fee in lieu of the required open space and recreational facilities in the amount of acceptable to the Borough which shall be based on the redevelopment of the Subject Property.

SECTION 2. The conditions set forth in Section 1 above shall be accepted by the Applicant, in writing, within thirty (30) days from the date of receipt of this Resolution.

SECTION 3. This Resolution shall become effective on the date upon which the conditions are accepted by the Applicant in writing. In the event that the executed Resolution is not delivered to the Borough within thirty (30) days of receipt, then the conditional preliminary/final approval granted pursuant hereto shall become null and void, the waivers requested shall be deemed denied, and the Plans shall be denied for failure to comply with the SALDO for the reasons set forth in the CEDARVILLE Engineering Group, LLC engineering review letter December 10, 2021; Traffic Planning and Design, Inc. review letter dated December 14, 2021; Herbert, Rowland & Grubic, Inc.

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review letter dated December 10, 2021; and the Montgomery County Planning Commission review letter dated October 26, 2021.

SECTION 4. Any substantial change to the Plans inconsistent herewith shall require the submission of an amended land development plan, as per the requirements of the Municipalities Planning Code, as amended.

IN WITNESS WHEREOF, I hereby certify that this Resolution was adopted by Pottstown Borough's Council this 10th day of January, 2022.

Councilor Procsal noted that some will miss Friendly's but this will be a great addition to the Borough.

Motion carried: 5 ayes.

g. Master Traffic Ordinance - Motion by Councilor Lebedynsky, seconded by Councilor Lindsay to authorize the Solicitor to prepare and advertise an amendment to the Master Traffic Ordinance establishing various stop sign intersections. Motion carried: 5 ayes.

h. Sewer Ordinance Amendment – Motion by Councilor Lebedynsky, seconded by Councilor Procsal to authorize the Solicitor to prepare and advertise an amendment to the Sewer Ordinance. Motion carried: 5 ayes.

i. Deputization to Collect Taxes - Motion by Lindsay, seconded by Councilor Vanni to adopt a Resolution accepting deputization by the Elected Tax Collector to the Borough of Pottstown, for the purposes of collecting Borough and County Real Estate Taxes

RESOLUTION NO. 2022-4

A RESOLUTION OF THE BURGESS AND TOWN COUNCIL OF THE BOROUGH OF POTTSTOWN ACCEPTING DEPUTIZATION BY THE ELECTED TAX COLLECTOR FOR THE PURPOSES OF COLLECTING BOROUGH AND COUNTY REAL ESTATE TAXES

WHEREAS, the elected Tax Collector of the Borough of Pottstown, being appointed for the term beginning January 1, 2022, has chosen to deputize the Borough for the collection of all Borough and Montgomery County taxes; and

WHEREAS, the elected Tax Collector desires to deputize for the period beginning January 1, 2022 and ending December 31, 2025; and

WHEREAS, the Borough has opted to accept such deputization for the collection of Borough and County taxes during the said period; and

WHEREAS, it is in the best interest of the Borough of Pottstown to approve the proposed deputization.

NOW, THEREFORE, BE IT RESOLVED by the Pottstown Borough Council as follows:

SECTION 1. The Resolution is hereby approved and the proper officers are authorized to execute same on behalf of the Borough.

SECTION 2. The Borough does hereby accept deputization from the elected Tax Collector.

SECTION 3. The proper officers of the Borough are hereby authorized to execute all documents necessary to secure the approval of Montgomery County to the action of the Tax Collector and deputizing the Borough for the collection of Borough and County taxes.

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ENACTED AND RESOLVED THIS 10th day of January 2022.

Motion carried: 5 ayes.

j. Fee Schedule Amendment - Motion by Councilor Lebedynsky, seconded by Councilor Procsal to adopt a Resolution amending the Fee Schedule associated with Right to Know fees, Police Department services, Public Works services and Water, Sewer and Trash fees.

RESOLUTION NO. 2022 – 5

A RESOLUTION AMENDING THE FEE SCHEDULE OF THE BOROUGH OF POTTSTOWN RELATED TO FEES ASSOCIATED WITH RIGHT TO KNOW REQUESTS, POLICE DEPARTMENT SERVICES, PUBLIC WORKS DEPARTMENT SERVICES, SERVICES FOR WATER, SEWER AND TRASH.

WHEREAS, the Burgess and Town Council of the Borough of Pottstown has adopted a comprehensive Fee Resolution on July 10, 1995; and
WHEREAS, the Borough periodically reviews the Fee Schedule to determine if additions and/or amendments to the Fee Schedule are necessary and proper; and
WHEREAS, based upon recommendation of various department heads of the Borough of Pottstown, the Borough of Pottstown desires to revise and amend its Fee Schedule to amend certain fees and to establish other fees.

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED by the Burgess and Town Council of the Borough of Pottstown, as follows:

SECTION 1. Fees associated with police and special police service fees are hereby amended as set forth below:

Barricade Fees:

Small Wooden Barricade - \$ 3.00

Large Wooden Barricade - \$ 5.00

Metal Barricade - \$ 5.00

Lighted Barricade charge – (Deleted)

Delivery and Removal of Barricade Fees:

\$ 25.00 for event with use of pick-up truck for delivery/removal

\$ 50.00 for event with use of pick-up truck and trailer

\$ 100.00 for event with use of loader

SECTION 2. The following fees associated with Right to Know Requests are hereby amended as follows:

- a) Black and white copies – cost per page \$0.25 per copy up to 1,000 pages; \$0.20 per copy above 1,000 pages
- b) Color copies – cost per page \$0.50 per copy
- c) Specialized Documents – actual cost
- d) CD/DVD – actual cost; not to exceed \$1.00 per disc
- e) Flash drive – actual cost
- f) Facsimile – actual cost
- g) Other media – actual cost
- h) Conversion to paper - \$0.25 per page

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- i) Postage – actual cost of USPS first-class postage
- j) Certification - \$5.00 per document/record

SECTION 3. The following fees associated with public work services, sewer services, water services and trash services shall be amended and/or created to read as follows:

Public Work Services

Snowblower - \$ 60.00 per hour

DD. Sewer Service Fees

8. Service call after normal work hours (customer problem in building) - \$ 60.00 per hr.

MM. Trash Service Fees

7. Mattress Bag x-King (78” width x 12” x 90” length) - \$6.75 per bag

OO. Water Service Fees

9. Service call after normal work hours (Customer problem) - \$ 60.00

SECTION 4. All future modifications of these fees and other fees established by the comprehensive Fee Schedule should be made by Resolution from time to time, duly adopted by the Burgess and Town Council of the Borough of Pottstown. All other fees as set forth in the Borough Fee Schedule are reaffirmed.

SECTION 5. This Resolution shall become effective immediately upon enactment.

ENACTED and RESOLVED this 10th day of January 2022.

Motion carried: 5 ayes.

k. Assignment and Assumption with Support Agreement – Motion by Councilor Lebedynsky, seconded by Councilor Procsal to approve and authorize execution of the Assignment and Assumption with Support Agreement among the Pottstown Borough Authority, the Borough of Pottstown, Upper Pottsgrove Township and Pennsylvania-American Water Company to allow PAWC to assume the rights, title, interest, duties and obligations of the Township under the Service Agreement as amended and modified by terms and conditions set forth in this Agreement. Motion carried: 5 ayes.

l. Settlement Agreement - Motion by Councilor Procsal, seconded by Councilor Lebedynsky to approve and authorize execution of the Settlement Agreement and Release among the Pottstown Borough Authority, the Borough of Pottstown and Upper Pottsgrove Township to settle the litigation initiated by Upper Pottsgrove Township in the Montgomery County Court of Common Pleas. Motion carried: 5 ayes.

m. Credit Enhancement Agreement - Motion by Councilor Lebedynsky, seconded by Councilor Lindsay to approve and authorize execution of the Credit Enhancement Agreement between the Borough of Pottstown and the Pottstown Borough Authority authorizing the payment of \$85,000 from the Authority to the Borough, pursuant to the Borough’s agreement to provide credit enhancement to the Authority, subject to the approval of the Solicitor. Motion carried: 5 ayes.

n. Reading Gravity Races - Motion by Councilor Lebedynsky, seconded by Councilor Lindsay to grant the request of Reading Gravity Racing to hold its Soap Box Races on March 13, 2022 and October 9, 2022 (rain dates March 20 and October 16), resulting in the closing of Wilson Street from 11:00 a.m. – 6:00 p.m., subject to review and approval of the Police and Fire Departments. Motion carried: 5 ayes.

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o. Pottstown Bike Race - Motion by Councilor Lindsay, seconded by Councilor Vanni to grant the request of the Pottstown Criterium to hold its June 11, 2022 Pottstown Bike Race, resulting in the closure of several streets in the East End of the Borough, from 8:00 a.m. – 8:00 p.m., subject to review of the Police and Fire Departments. Motion carried: 5 ayes.

p. Blighted Property Review – Motion by Councilor Procsal, seconded by Councilor Lebedynsky to reappoint Kevin Brown, Brian Hydier, Deb Penrod and Ryan Procsal to the Blighted Property Review Committee for one-year terms to expire December 31, 2022. Motion carried: 5 ayes.

q. Pottstown Borough Authority - Motion by Councilor Lebedynsky, seconded by Councilor Lindsay to reappoint Jeffrey Chomnuk to the Pottstown Borough Authority for a five-year term to expire January 1, 2027. Motion carried: 5 ayes.

r. Zoning Hearing Board - Motion by Councilor Procsal, seconded by Councilor Lindsay to adopt a Resolution appointing an individual to the Zoning Hearing Board for a three-year term to expire January 1, 2025 and to appoint an individual to the alternate position for a term to expire January 1, 2024.

RESOLUTION NO. 2022 – 6

A RESOLUTION APPOINTING JAY HARP AS A MEMBER OF THE POTTSTOWN BOROUGH ZONING HEARING BOARD FOR A TERM OF THREE (3) YEARS AND APPOINTING N/A AS AN ALTERNATE MEMBER OF THE ZONING HEARING BOARD FOR A TERM OF THREE (3) YEARS.

WHEREAS, Article IX of the Pennsylvania Municipalities Planning Code and Section 901 of the Pottstown Borough Zoning Ordinance authorizes Borough Council to appoint, by Resolution, members of the Pottstown Borough Zoning Hearing Board.

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED by the Burgess and Town Council of the Borough of Pottstown, Montgomery County, Pennsylvania, as follows:

1. Jay Harp is hereby appointed to the Pottstown Borough Zoning Hearing Board for a three (3) year term, expiring January 1, 2025.
2. N/A is hereby appointed to the Pottstown Borough Zoning Hearing Board as an alternate member for a three (3) year term, expiring January 1, 2024.
3. That the said member and alternate member shall participate in all proceedings of the Pottstown Borough Zoning Hearing Board to the same and full extent as provided by law.

ENACTED AND RESOLVED this 10th day of January, A.D. 2022.

Motion carried: 5 ayes.

REPORT OF BILLS – Motion by Councilor Lebedynsky, seconded by Councilor Lindsay to pay the outstanding bills in the amount \$3,715,420.46. Motion carried: 5 ayes.

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ANNOUNCEMENTS

Mayor Henrick urged all to wear masks and practice social distancing. She also commended health care workers for their time and efforts during the COVID pandemic.

President Weand wished all good health and a Happy New Year.

ADJOURNMENT

President Weand adjourned the meeting at 7:30 p.m.

Submitted by,

Justin M. Keller
Borough Manager