



RESOLUTION NO. 2015-32

**APPROVAL OF THIRD AMENDMENT OF FINAL PLAN FOR PHASES I & IA OF
SECTOR ONE OF PRD PLAN FOR ELLIS PRESERVE TOWN CENTER
(RELATING TO HOTEL AND ADJUSTING ORIENTATION OF BUILDING 29)**

WHEREAS, the Board of Supervisors of Newtown Township recite the following:

I. Introduction

1. This land development application is submitted by BPG Development Company/Equus Capital Partners, Ltd. (“**Applicant**”), successor in interest to BPG Real Estate Investors – Straw Party 1, L.P., et al. (“**BPG**”);

2. On March 9, 2015, the Board of Supervisors approved the Resolution No. 2015-13 entitled Approval of Amendment of Final Plans for Phases I and IA of Sector One (“Amended Final Plan”). Resolution No. 2015-13 and its attachment are attached as Exhibit A. The March 9, 2015 approved Amendment of Final Plans for Phases I and IA was the second amendment to the Final Plans for Phases I and IA.

3. The approval of the Amended Final Plan had a number of conditions, including but not limited to submission of further planning documents for the hotel when a hotelier had contracted with applicant.

4. On October 26, 2015 and November 6, 2015, Applicant submitted to the Township an Application for approval of Amended Final Planned Residential Development Plans for Phases I and IA of Phase Sector 1, pages 1 through 38, revision Nos. 14 and 15, respectively, last revised November 6, 2015, prepared by Bohler Engineering. This is the third proposed amendment to the Final Plans for Phases I and IA. The application and supporting submissions are referred to

as the (“**Application**”), seeking final approval of the hotel, as well as requesting adjustments to the orientation of building 29 so outside diners are located further away from Rt. 3, which represent changes to the approved Amended Plan.

II. Review of the current Application

5. The Township Engineer reviewed the Application and made comments in the form of a review letter dated November 6, 2015. The review letter is attached as Exhibit B.

6. Applicant’s engineer responded to the Township Engineer review letter on November 12, 2015. The response letter is attached as Exhibit C.

7. The Newtown Township Fire Marshall reviewed the Application and made comments in the form of a review letter dated November 14, 2015. The review letter is attached as Exhibit D.

8. On November 12, 2015, the Newtown Township Planning Commission considered the Application and recommended approval subject to certain conditions. The Planning Commission minutes are attached as Exhibit E.

9. On November 19, 2015, the Delaware County Planning Commission reviewed the Application and recommended approval, subject to certain conditions. The review letter is attached as Exhibit F.

10. The applicant has also provided a conceptual rendering of vegetative screening of the existing retaining wall along Clyde Lane and Winding Way, dated October 26, 2015, attached as Exhibit G.

11. The Developer and the Township have engaged in additional discussions to clarify various conditions and requirements of this approval, including but not limited to reduction of the size of the retaining wall consistent with the materials provided at the November 23, 2015 meeting

and landscaping to screen the large existing retaining wall on Clyde Lane and Winding Way, and compliance with Exhibits B through G and unless changed herein, Approval Resolution 2015-13.

12. The Applicant provided three renderings at the Supervisors meeting, marked LP-1 through 3 and dated November 23, 2013 which are attached to this resolution as Exhibit H.

III. Resolution

NOW THEREFORE, the Board of Supervisors of Newtown Township hereby RESOLVES:

a) The recitals set forth above are incorporated herein by reference.

b) The Application, while containing changes from the Amended Tentative Plan Approval and the Second Amended Final Phase I Plan, is generally consistent with the said Plans and any changes contained therein are not contrary to the public interest, provided the conditions set forth below are met to the satisfaction of the Township Engineer, and therefore a public hearing is not required in accordance with Newtown Code Section 172-100.36.G(1), and H(2). and

c) The Application is approved, subject to:

i) Applicant must comply with all conditions and promises set forth or incorporated in the Approval Resolution 2015-13 except as modified by the current Application;

ii) Applicant must comply with all comments, conditions and assurances set forth in Exhibits B through G, to the satisfaction of the Township Engineer;

iii) Applicant modifying the plan as to the proposed retaining wall adjacent to the Wawa consistent with the materials provided at the November 23, 2015 meeting such that there will be no retaining wall on the north side of the Wawa and maximum wall height to the west of the Wawa will 8' which will be landscaped

iv) Applicant will incorporate traffic calming measures in the drive aisle to the south of the Wawa

v.) Applicant will amend the landscape plan to provide vegetative screening to closely approximate the renderings in LP1-3, which screening trees will be 12-14' in height and street trees provided will be no less than 12' in height. ;

vi) Applicant obtaining approval from the Newtown Township Municipal Authority for sanitary sewer connection and design and enter into such agreements for connection and treatment as are required by the Municipal Authority;

vii) Applicant will execute a Stormwater Management and Maintenance Agreement and contribute to the Township Stormwater Management Maintenance Fund;

viii) Applicant shall obtain an NPDES permit for stormwater discharge;

ix) Applicant will use best efforts to coordinate with Hilton to improve the façade and to coordinate with other facades in Phase I and to provide updates to the Township on these best efforts.

in street medians, applicant will use best efforts to consider non grass ground cover to minimize maintenance and unsightliness that occurs between grass cuttings

d. Applicant shall comply in all respects with all applicable Township Codes, ordinances and regulations, as well as any applicable County, State or Federal regulations;

e. Applicant shall amend the existing Developer's and Escrow Agreements for Phase I and IA with the Township as required by the Township Solicitor as necessary to incorporate the changes herein and provide financial security for same; and

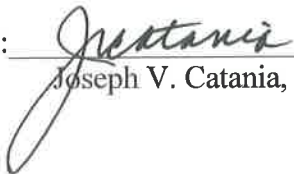
f. This Approval is contingent upon payment of all outstanding professional fees/escrow replenishment, prior to filing with the recorder of deeds, except as properly challenged in accordance with the MPC.

RESOLVED, this 14th day of December, 2015, at a public meeting of the Board of Supervisors.

BOARD OF SUPERVISORS
NEWTOWN TOWNSHIP

ATTESTED


Stephen M. Nease, Secretary

BY: 
Joseph V. Catania, Chairman