

**SWARTHMORE BOROUGH
DELAWARE COUNTY, PENNSYLVANIA**

RESOLUTION No. 03-2023

**A RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH
OF SWARTHMORE, DELAWARE COUNTY, PENNSYLVANIA,
GRANTING PRELIMINARY/FINAL LOT CONSOLIDATION AND
LAND DEVELOPMENT PLAN APPROVAL FOR THE PROPOSED
CONDOMINIUM BUILDING PROJECT AT 102 & 110 PARK AVENUE
SUBJECT TO CERTAIN CONDITIONS**

WHEREAS, 110 Park Avenue Owner, LLC (hereinafter referred to as “Developer”) is the equitable owner and developer of certain properties known as 102-110 Park Avenue, which is situate in the Borough of Swarthmore (collectively referred to as the “Property”); and

WHEREAS, Developer desires to demolish all or part of four existing structures on the Property and develop a condominium building on the Property with associated driveway, pedestrian facilities, landscaping, and stormwater management facilities (the “Development”) pursuant to Section 508 of the Pennsylvania Municipalities Planning Code; and

WHEREAS, Developer desires to obtain preliminary/final approval from the Borough of Swarthmore of the Lot Consolidation and Land Development Plan prepared by H. Gilroy Damon Associates, Inc., dated October 25, 2022, consisting of Sheets C-1 through C-6 and Landscape and Lighting Plans prepared by Bernardon (5 sheets) dated November 2021, revised October 25, 2022 (collectively, the “Plan”); and

WHEREAS, the Plan has been reviewed by the Swarthmore Borough Planning Commission which recommended approval; and

WHEREAS, the Plan has been reviewed by the Delaware County Planning Commission which recommended approval; and

WHEREAS, the Developer applied to the Borough Council for a conditional use to allow for the demolition of all or a portion of the existing structures on the Property, and the Borough Council approved such conditional use allowing the demolition.

NOW THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Swarthmore, Delaware County, Pennsylvania, that the Plan is hereby approved subject to the following terms and conditions:

1. Prior to execution of the Plan by the Borough, Developer shall address, to the satisfaction of the Borough Engineer and Borough Solicitor, the comments raised in the review letter of Pennoni Associates, Inc. dated December 11, 2022 (the “Borough Engineer’s Letter”) in the manner set forth in the Damon response letter emailed to William Webb, Borough Manager, on December 14, 2022, or in an alternative manner satisfactory to the Borough Engineer and

Borough Solicitor. The Borough Engineer's Review Letter is incorporated herein by reference as though set forth in its entirety.¹

2. Developer shall make a contribution of \$10,000 to the Borough on account of wear and tear to Borough streets resulting from Developer's heavy equipment.

3. Developer shall execute and record a Stormwater Management Facilities Operations and Maintenance Agreement against the Property consistent with the requirements of the Borough's Stormwater Maintenance Ordinance.

4. Prior to the commencement of construction, Developer shall provide copies to the Borough of any and all permits and approvals required by/from any agency, authority or governmental body having jurisdiction in any manner over the Development.

5. Prior to the Borough's execution of the Plan, Developer shall submit a bond, irrevocable letter of credit or restrictive or escrow account in such lending institutions or other financial security satisfactory to the Borough as financial security for improvements specified by the Borough Engineer in an amount satisfactory to the Borough Engineer and in a form satisfactory to the Borough Solicitor. Additionally, Developer shall execute an agreement to govern the terms of the financial security pursuant to the MPC and subject to the satisfaction of the Borough Solicitor.

6. Prior to the Borough's execution of the Plan, Developer shall execute a Land Development Agreement subject to the satisfaction of the Borough Solicitor, which shall provide, inter alia, that Developer shall indemnify and defend the Borough from any and all claims for the cost of the demolition activity on the Property and the construction of the Development.

7. Demolition activity may not commence until the Developer has satisfied all of the conditions set forth in the Decision and Order of the Borough Council dated March 6, 2023 (the "CU Decision") relating to the Developer's application for a conditional use, all of which are incorporated herein by reference. The CU Decision is incorporated herein by reference as though set forth in its entirety.

8. During demolition and construction, unless specifically authorized otherwise by the Borough Manager, Developer's workforce shall not park in or on public streets or parking lots in the Borough of Swarthmore. If Developer is not able to find a location within the Borough which is approved and permitted by the Borough Manager for the parking of Developer's workforce, Developer shall provide an off-street parking lot for Developer's workforce at all times during the demolition and construction phases of the Development, and Developer shall shuttle such workforce to and from the Property on each work day. Except as deemed necessary for material delivery and/or installing by the Borough Manager, and with proper permits if applicable, Developer shall not store any equipment or vehicles in or on the public streets or parking lots in the Borough of Swarthmore.

¹ It has been determined that §1288.21 Recreational and Open Space Land is not applicable to this Development and therefore no fee-in-lieu of open space is required.

9. If, at any time at least six (6) months prior to the estimated completion of construction of the Development, the Borough Council votes to approve the reconfiguration of on-street parking spaces on Park Avenue (for example replacing pull-in parking spaces with parallel parking spaces), Developer shall at its sole expense install parking meters or kiosks supplied by the Borough and restripe parking spaces along the entire Park Avenue frontage of the Property consistent with the Borough Council's reconfiguration decision.

10. Developer shall provide thirty-two (32) native species trees with a DBH of not less than 2 ½ inches for planting both on and off of the Property. The mix of tree species and number of each such species shall be subject to the approval of the Borough Manager. Developer shall plant no less than five (5) of such trees on the Property and the remainder shall be planted at such other sites in the Borough as the Borough Manager may direct.

11. Developer shall enhance the safety controls of the one-lane combined exit/entry driveway connecting the parking lot to Park Avenue by (a) installing windows or creating an opening on the eastern façade of the building, which opening shall have a bottom elevation no higher than 2'6" above the concrete walk and a height and width no less than 5' to permit sidewalk visibility at the northeast corner of the building; (b) installing sidewalk monitoring cameras, a warning sign visible to vehicle drivers exiting the parking lot and audible and visual warnings for pedestrians; (c) installing a gate system; and (d) posting interior signage notifying exiting motorists that they are entering a pedestrian crossing.

12. Developer shall either (a) construct a green roof on the building; or (b) install solar panels on the roof of the building, in such manner as shall be satisfactory to the Borough Engineer.

13. Until such time as the Building Code Official issues a building permit for the Development, the Borough reserves the right to require Developer to construct a sidewalk cut-out loading zone parking space for vehicles making deliveries to the building on the Property.

14. For purposes of limiting parking congestion in the neighborhood, Developer shall provide the option to its residents to purchase parking lifts that allow for a second car in a resident's parking space.

15. The Borough Manager may establish temporary traffic, parking restrictions and crosswalks during demolition and construction. Developer shall bear the costs of painting crosswalks, installing barriers and/or signage, as needed.

16. Developer shall install wiring in the garage that shall allow residents to opt in for purchasing EV charging stations and provide its residents the option of purchasing an EV charging station to be installed at the resident's parking spot.

17. Developer shall construct pedestrian access between its courtyard and the alley running along the west property line of the Property (albeit not ADA compliant) to the

satisfaction of the Borough Engineer. The applicant agrees that it will use down lighting in the alleyway and courtyard to effectively light the space in a gentle manner.

18. The cost of accomplishing, satisfying and meeting all of the terms and conditions and requirements of the Plan, notes on the Plan, and this Resolution shall be borne entirely by Developer and shall be at no cost to the Borough.

19. Under the provisions of the MPC, Developer has the right to accept or reject conditions imposed by the Borough Council upon final approval. In the absence of an appeal filed in writing by Developer within thirty (30) days from the date of this resolution, the conditions set forth herein shall be deemed to have been accepted by Developer. If the Borough receives written notice of Developer's appeal or rejection of any of the conditions set forth herein within thirty (30) days from the date of this resolution, this approval shall be deemed to have been rescinded and the application denied.

20. Developer shall also provide a copy of the Final Plan in digital format acceptable to the Borough Engineer.

21. Developer acknowledges that should Developer fail to comply with any of the conditions set forth herein that the Borough shall be entitled to enforce the conditions through equitable action for injunctive relief (without limitation on other remedies).

22. In the event this Plan approval and the CU Decision become final and unappealable, Developer shall withdraw the conditional use application for the demolition of all existing structures on the Property including the entirety of the Celia building which Developer filed on or about November 24, 2021 and which was initially heard by Borough Council at a hearing held on May 19, 2022, consistent with the letter dated October 21, 2022 from Developer's attorney to the Borough Manager.

23. The following two (2) Subdivision and Land Development Ordinance waivers requested on Sheet C-2 of the Plan are approved:

(a) From Section 1286.06 to submit a Preliminary/Final Plan in lieu of a Preliminary Plan; and

(b) From Section 1286.08(d)(2) to provide a traffic impact study with a reduced study area.

DULY ADOPTED this 13th day of March, 2023, by the Borough Council of the Borough of Swarthmore, Delaware County, Pennsylvania, in lawful session duly assembled.



Mary J. Walk, Council President

ATTEST: 

William Webb, Borough Manager/Secretary