

RESOLUTION NO. 2430

EAST NORRITON TOWNSHIP MONTGOMERY COUNTY, PENNSYLVANIA

A RESOLUTION GRANTING CONDITIONAL, PRELIMINARY APPROVAL OF THE APPLICATION FOR LAND DEVELOPMENT OF ALBERT EINSTEIN HEALTHCARE NETWORK

The Board of Supervisors of East Norriton Township, Montgomery County, Pennsylvania, hereby resolves to grant conditional, preliminary approval of the land development application of Albert Einstein Healthcare Network ("Applicant") for a proposed hospital, medical office building and associated improvements identified in a plan set prepared by Bohler Engineering dated October 27, 2008 consisting of sheets 1 through 36 (incorporated herein by reference as if set forth at length as Exhibit "A") and in a plan set prepared by Wells Appel revised October 28, 2008 consisting of sheets L1 through L11 (incorporated herein by reference as if set forth at length as Exhibit "B") and in a plan set prepared by Traffic Planning & Design, Inc. dated August 22, 2008 consisting of sheets 1 through 4 (incorporated herein by reference as if set forth at length as Exhibit "C") conditioned upon the following being satisfied by Applicant:

1. Fulfilling all obligations and requirements of the **Pennoni Associates, Inc.**, Township Engineering Consultant, review letters dated July 31, 2008 (plan items), August 5, 2008 (traffic issues), September 9, 2008 (plan review letter), September 9, 2008 (waiver review letter), September 12, 2008 (traffic review), November 14, 2008 (plan review letter), November 14, 2008 (waiver review letter) and November 14, 2008 (Traffic Impact Study and Traffic Plan Review letter), the **Gilmore & Associates, Inc.**, Township Sewer Engineer, letters dated July 29, 2008, September 29, 2008 and November 11, 2008, the **E. Van Rieker**, Township Planner, review letters dated July 30, 2008, September 10, 2008, September 11, 2008, September 30, 2008, November 3, 2008, November 11, 2008 and November 17, 2008, **East Norriton Township Planning Commission** meeting minutes dated October 1, 2008 and October 8, 2008 and the **East Norriton Township Shade Tree Commission** meeting minutes dated December 8, 2008.
2. The Applicant shall enter into an Application and Agreement and an Improvement Fund Agreement and post financial security for all improvements to the satisfaction of the Township Engineering Consultant and the Township Solicitor. Said Agreements shall be recorded by the Applicant with the Montgomery County Recorder of Deeds.
3. The Applicant shall connect to the East Norriton Township sanitary sewer system and purchase sanitary sewer capacity equivalent to 400 EDU's, with a current value of \$1,377,600.00 (the "Tapping Fee"). The Township agrees to credit the entire Tapping Fee in consideration of Applicant's assumption of the obligation to

construct offsite sanitary sewer improvements (the "Sewer Improvements") in accordance with Alternate 5 of the draft Act 537 Special Study dated December, 2008 as may be amended during the agency review and approval process (incorporated herein by reference as if set forth at length as Exhibit "D"). The cost of designing and constructing the Sewer Improvements shall be borne as set forth in paragraph 6 below. The acquisition (including condemnation and payment of just compensation) of any and all easements necessary to effectuate the Sewer Improvements shall be the sole responsibility of the Township, however, the legal, engineering, and administrative fees related to the acquisition/condemnation shall be paid by the Applicant. However, Applicant shall contribute toward any and all acquisition/condemnation costs pursuant and limited to the Easement Fund Escrow described in paragraph 6 below. Notwithstanding anything else to the contrary contained herein, the Township has a right to reduce the scope of the Sewer Improvements in design and/or cost, a savings of which shall be to the Township's benefit relative to its exposure defined in Paragraph 6 below.

4. The Applicant shall satisfy East Norriton Township's Act 209, Traffic Impact Fee and acknowledges its estimated generation of 515 P.M. peak hour and obligation to pay a Traffic Impact Fee in the amount of \$1,093,345.00 (the "Traffic Impact Fee"). The Applicant acknowledges and agrees that the Traffic Impact Fee is correct and waives the right to perform any post-development study to adjust or contest it. The Township shall credit back to the Applicant the entire \$1,093,345.00 Traffic Impact Fee in consideration of Applicant assuming the obligation to construct the offsite roadway improvements defined in Exhibit "C" (the off-site and on-site improvements defined therein are hereinafter referred to as the "Roadway Improvements"). The cost of design and construction of the Roadway Improvements shall be borne as set forth in paragraph 6 below. Any and all condemnations necessary to effectuate the Roadway Improvements and the payment of just compensation related thereto shall be the sole responsibility of the Township, however, the legal, engineering, and administrative fees related to such condemnations shall be borne by the Applicant. However, Applicant shall contribute toward any and all acquisition/condemnation costs pursuant and limited to the Easement Fund Escrow described in paragraph 6 below.

4.(a) The Applicant and the Township shall work together and with Montgomery County to achieve a 5 lane cross-section of Germantown Pike to the extent possible between North Wales Road and Whitehall Road.

4.(b) The Township has the right to reduce or increase the scope of the Roadway Improvements, the savings of which, or additional costs as the case may be, shall be the Township's with respect to the terms set forth in Paragraph 6 below. The Township's right to increase the scope of Roadway Improvements shall expire, if not exercised by written notice to Applicant, no later than June 30, 2010.

5. The Applicant shall satisfy East Norriton Township's Park and Recreation Ordinance requirements. The Township hereby accepts the Applicant's offer of a \$1,375,000.00 fee (the "Park & Rec Fee") in lieu of donation of land to satisfy said Park and Recreation Ordinance, to be paid upon final dedication of the public improvements described herein. If required by the Township immediately prior to final dedication of all public improvements associated with this project, the Applicant shall provide an interior public trail system in accordance with Township specifications (the "Future Trail") on the Property that proposes future connections to the Norristown Farm Park and/or the surrounding residential neighborhood. The Township agrees to credit all or a portion of the Park & Rec Fee in consideration of Applicant's assumption of the obligation to construct the Sewer Improvements, the Road Improvements, and Future Trail pursuant to the terms set forth hereinafter. The cost of designing and constructing the Future Trail shall be borne as set forth in Paragraph 6 below.

6. The Applicant shall post a financial guarantee of \$75,000.00 ("Easement Fund Escrow") to assist the Township in fulfilling its payment obligation for just compensation related to acquisitions necessary to accomplish the Roadway Improvements and/or Sewer Improvements, if any. To the extent such financial guarantee is not so expended, the same shall be refunded to the Applicant upon final dedication of the subject public improvements.

The Township agrees to fund an account in the amount of \$500,000.00 (the "Township Fund") to be used in accordance with the terms of this Resolution to assist in the funding of construction costs related to Roadway Improvements. In the event the actual costs of the Roadway Improvements exceeds \$4,700,000.00 (the current estimate of Roadway Improvements cost hereinafter referred to as the "Roadway Estimate"), the Township Fund shall be utilized to pay such overages.

In the event the actual cost of Sewer Improvements exceeds \$2,500,000.00 (the "Sewer Estimate") and/or Roadway Improvements exceeds \$5,200,000.00 (the sum of the Roadway Estimate, plus the Township Fund), then, in that event, Applicant shall pay the subsequent dollars necessary to complete those respective Roadway Improvements and/or Sewer Improvements up to a maximum of \$1,375,000.00 additional dollars, (the "Applicant's Overage Contribution"). The portion of the Applicant's Overage Contribution actually expended shall be credited against the otherwise applicable Park & Rec Fee. The Township shall be responsible for any further financial obligation for completion of the Roadway Improvements and/or Sewer Improvements. The Applicant's sole financial responsibility for design and construction of the Future Trail shall equal \$1,375,000.00 minus the actual amount of Applicant's Overage Contribution.

The term "cost", as used herein related to cost of improvements such as the Roadway Improvements, Sewer Improvements and Future Trail shall include the costs of construction, engineering, design, applicable fees and any other

reasonably related cost necessary for accomplishment of the subject work and construction of said improvements, with the exception of any amounts paid as just compensation for real property acquisitions and the associated legal and administrative costs associated therewith. All “costs” shall be documented by paid invoices with associated backup documentation.

7. The Applicant and the Township shall work together to pursue any federal, state or county economic stimulus and recovery funds which may become available during the course of this project to which this project may prove eligible.
8. The Applicant shall provide an Operation and Maintenance Agreement to ensure proper operation and maintenance of the stormwater management facilities and appurtenances and best management practices and appurtenances (“BMPs”) for review and approval by the Township Engineering Consultant and the Township Solicitor. The Applicant shall enter into said Agreement with the Township and record said Agreement with the Montgomery County Recorder of Deeds.
9. The Applicant shall enter into an Easement Agreement permitting the Township access to all stormwater management facilities and appurtenances and BMPs for the purpose of inspecting, maintaining, repairing and/or replacing said facilities and appurtenances in the event that the applicant fails to do so. The Agreement shall be subject to review and approval by the Township Engineering Consultant and the Township Solicitor and the Applicant shall record said Agreement with the Montgomery County Recorder of Deeds.
10. The Applicant shall dedicate any and all sanitary sewer facilities and appurtenances requested by the Township free and clear of liens and encumbrances. The Applicant shall enter into an Easement Agreement permitting the Township access to all sanitary sewer facilities and appurtenances which will be dedicated to the Township for the purpose of inspecting, maintaining, repairing and/or replacing said facilities and appurtenances. The Agreement shall be subject to review and approval by the Township Sewer Engineer and the Township Solicitor, and the Applicant shall record said Agreement with the Montgomery County Recorder of Deeds.
11. The Applicant shall be responsible for payment of all Township Consultant fees related to this project.
12. The Applicant shall provide a lot consolidation plan as part of a final land development plan submission and record the same along with the final record plans.
13. The Applicant shall engage an acoustical consultant to specify materials and methods to reduce the impact to surrounding residential homes from noise generating activity in the loading dock.

14. The Applicant shall be responsible for obtaining any and all permits and/or approvals required by regulatory authorities or agencies having jurisdiction over this project including, but not limited to the following: Army Corps of Engineers, Federal Aviation Administration, Pennsylvania Department of Environmental Protection, Pennsylvania Department of Transportation, Montgomery County Roads and Bridges and Montgomery County Conservation District.
15. The record plan shall contain a note requiring that the crisis access driveway (emergency access driveway) to Whitehall Road shall only be utilized at the direction of the Police Chief or Fire Chief or their duly authorized representative.
16. A method of locating and identifying the Williams Transcontinental gas pipeline and the Pennsylvania American Water easements, which will clearly define the easement area and alert construction personnel to the easement's presence for the duration of the construction phase of the project, shall be proposed in the final land development plan submission. A means of identifying the easement shall be maintained to the satisfaction of the Township Engineering Consultant.
17. The Applicant shall include proposed signage in the final land development plans that will promote efficient access to the site and efficient circulation within the site for both vehicular and pedestrian traffic.
18. The Applicant agrees to restrict the hours during which deliveries may be received by the hospital and medical office building, and restrict the hours during which trash and medical wastes may be picked up from the hospital and medical office building as per the testimony of the Applicant's representatives introduced at the public hearings on this application.

Waivers granted:

1. §175-35.A(1) A waiver from the requirement that no plan shall be smaller than that provided by a scale of 100 feet to the inch.
2. §175-35.C(5) A waiver from the requirement to provide measured distances from the center line of streets to buildings and existing trees on the preliminary land development plan.
3. §175-35.E(1) A waiver from the requirement to provide cross sections and center-line profiles for each proposed or widened street shown on the preliminary plan, including profiles for proposed sanitary sewers and storm drains, showing manholes, inlets and catch basins on the preliminary land development plan.
4. §175-35.E(2) A waiver from the requirement to provide the design of any bridge, culvert or other structure and appurtenance that may be required on the preliminary land development plan.

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EXHIBIT LIST

- Exhibit "A" Bohler Engineering plan set dated 10/28/08, Sheets 1 through 36.
- Exhibit "B" Wells Appel plan set dated 10/28/08, Sheets L1 through L11.
- Exhibit "C" Traffic Planning & Design, Inc. plan set dated 8/22/08, Sheets 1 through 4.
- Exhibit "D" Draft Act 537 Special Study dated 12/08 including attached "Figure 2"

5. §175-35.H A waiver from the requirement to show the designated haul route to be used for the delivery of all supplies and materials to the job site on the preliminary land development plan.
6. §175-35.I(4) A waiver from the requirement to place a note on the plan specifying a fee that has been offered in lieu of the required donation of land in accordance with the Park and Recreation Ordinance.

The Township acknowledges that the Applicant may request additional waivers from various provisions of the Township's Subdivision and Land Development Ordinance. Additional waiver requests will be considered at final land development plan approval.

DULY PRESENTED AND ADOPTED the Board of Supervisors of East Norriton Township, Montgomery County, Pennsylvania, in public meeting held this 23rd day of December, 2008.



BOARD OF SUPERVISOR
EAST NORRITON TOWNSHIP

By: Lewis K. McQuirms
Lewis K. McQuirms, Chairman

Attest: Helmuth J. H. Baerwald
Helmuth J. H. Baerwald, Secretary

The above conditions are agreed to by Richard Montalban for Albert Einstein Healthcare Network, this 23rd day of December, 2008.

By: Richard Montalban