

BEFORE THE LANCASTER TOWNSHIP BOARD OF SUPERVISORS  
BUTLER COUNTY, PENNSYLVANIA

IN RE: Conditional Use and Preliminary                    )  
and Final Land Development Applications                )  
for Planned Unit Development by                         )  
Arden Wood, LLC, in the R-1 and R-2                    )  
Zoning District in Lancaster Township                    )

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION**

**FINDINGS OF FACT**

1. The Township of Lancaster, Butler County, Pennsylvania, (the “Township”) is a municipal corporation and a township of the second class with its municipal office at 113 Kings Alley, Harmony, Pennsylvania 16037.

2. The Applicant, Arden Wood, LLC (successor to Arden Development Corporation, collectively “Applicant” or “Arden”), 215 Executive Drive, Suite 300, Cranberry Township, Pennsylvania 16066, on or about March 20, 2018, filed an Application and Narrative with the Township for tentative and final land development plan approval ( re – approval) for a Planned Unit Development (“PUD”) (the “Application”) for the property located on the east side of Route 19 – Perry Highway, Tax Map Parcel 200-4F100-A16GD and Tax Map Parcel 200-4F100-A20A, that comprise in all 193 acres, more or less (the “Property”).

3. The Applicant previously submitted and secured approval of a PUD for the Property evidenced by Township Resolutions 05-10-01 and 06-04-04. Thereafter, the Applicant revised its plan and secured approval for the revised plan as evidenced by Township Resolution 2015-12-1. On November 15, 2017 the Applicant revised its plan and secured approval for the revised plan as evidenced by Township Resolution 2018-2-19.

4. The Application presently before the Township is a further revision to the PUDs previously approved and will be considered in view of the ordinance in effect when the original application was submitted.

5. The Application was referred to the Township Planning Commission (“Commission”) for recommendations pursuant to the provisions of the Municipalities Planning Code (“MPC”) Section 603(c)(2), (53 P.S. 10603(c)(2)) and the Township Zoning Ordinance No. 29 (“Ordinance”), Section 904.

6. On June 18, 2018, pursuant to proper public and written notice, the Township convened a public hearing on the Application. At the conclusion of the hearing the record was closed.

7. Township Ordinance No. 29, Article 6, Sections 601A through I, conditionally permits Planned Unit Developments in the MU and R-2 zoning districts where the Property is located.

8. Conditional uses are subject to the general standards found in Section 904 of the Ordinance (the use must be in harmony with the appearance and orderly development of the district in which it is situated) and the specific criteria found in Section 601.

9. The Applicant proposes a multi-lot residential development consisting of one estate home or club house; 254 single family home lots; and 72 quad units (18 quads). The development comprises a total of 327 dwelling units or 1.70 units per acre. The development is to be completed in seven (7) phases, with the access road completed as a separate project.

10. The Applicant submitted revised drawing including the Arden Woods single family site data chart and tentative plan – Arden Woods Phases 1-7.

11. The current plan contains 14 fewer units than the plan approved February 19, 2018 and does not include a community center.

12. The PUD will be constructed in seven (7) phases.

13. Public water and sanitary sewer are available at the site.

14. A PennDOT Highway Occupancy permit is required for the project.

15. By letters dated June 14, 20108, Gannett Fleming, Township Engineers, reviewed and commented on the Application.

16. The use proposed by the Applicant is conditionally permitted in the MU and R-2 zoning districts. If constructed as designed and represented by the Applicant, the PUD does not pose a threat to the general health, safety or welfare of the Township.

## CONCLUSIONS OF LAW

1. The Township has exclusive jurisdiction to hear and render final adjudications on conditional use applications. Municipalities Planning Code, Section 909.1(B)(3) and 913.2 (“MPC”).

2. In addressing an application for a conditional use, a local governing body must employ a shifting burden of persuasion. *Sheetz, Inc. v. Phoenixville Borough Council*, 804 A.2d 113 (Pa.Cmwlth.2002). First, the applicant must persuade the local governing body its proposed use is a type permitted by conditional use and the proposed use complies with the requirements in the ordinance for such a conditional use. *In re McGlynn*, 974 A.2d 525 (Pa.Cmwlth.2009). Once it does so, a presumption arises that the proposed use is consistent with the general welfare. *H.E. Rohrer, Inc. v. Zoning Hearing Bd. of Jackson Twp.*, 808 A.2d 1014 (Pa. Cmwlth.2002). The burden then shifts to any objectors to rebut the presumption by proving, to a high degree of probability, the proposed use will adversely affect the public welfare in a way not normally expected from the type of use. *Id.*

3. Under the terms of Zoning Ordinance 29 in effect at the time of the original Application, the Planned Unit Development is a conditionally permitted use in the MU and R-2 Zoning District.

4. The fact that a use is permitted as a conditional use evidences a legislative decision that the particular type of use is not adverse to the public interest, per se. Once the applicant has brought himself within the standards of the ordinance, the application must be granted unless the protestants present sufficient evidence that the use will present a substantial threat to the community. *Visionquest National, Ltd. v. Board of Supervisors of Honey Brook Township*, 569 A.2d 915 (Pa. 1990).

5. In allowing a conditional use, the Township may attach such reasonable conditions and safeguards, in addition to those expressed in the zoning ordinance, as it deems necessary to implement the purposes of the MPC and the zoning ordinance. MPC, Section 913.2(A); Ordinance No. 29, Section 904.

6. Specific performance standards for Planned Unit Developments are set forth in Ordinance No. 29 at Section 601.

## DECISION

The Township hereby grants Arden Wood, LLC, conditional use approval and tentative and final land development approval for a Planned Unit Development at the Property as detailed in the Application and Narrative and as depicted in the drawings prepared by Sheffler & Company, Inc., dated January 15, 2018 (the “Plan”), subject to the following terms and conditions:

### I. General Standards:

1. The land development shall not have a negative impact on the existing neighborhood or development in terms of air and water quality, noise, illumination and glare, restrictions to natural light and air circulation or other hazardous conditions that could endanger surrounding residents or impair the use of surrounding properties.

2. The land development shall provide for safe, adequate vehicular and pedestrian access. It may not result in undue traffic congestion and hazardous conditions on adjacent streets and shall provide for safe and efficient internal circulation and sufficient off-street parking and loading.

3. The land development shall provide for sanitary sewage disposal, water supply, stormwater management and solid and toxic waste storage and disposal.

4. The land development shall provide landscaping, screening and buffer areas sufficient to protect the use, enjoyment and development of adjacent properties.

### II. Specific Requirements:

1. The Plan shall be in single, legal as well as equitable, ownership prior to approval of the final development plan (601(C)(3)).

2. The Plan shall connect to public sewer and water facilities (601 (D)(1)).

3. The Applicant shall provide within the planned development a storm drainage system which shall be of sufficient size and design to collect, carry off and dispose of all predictable surface water runoff. (601(D)(3)).

4. The Applicant shall submit a landscape plan that sufficiently screens the Plan from adjacent properties. (601 (E)(2)(h)).

5. The Applicant shall submit a projected scheduling of phases showing the proposed times within which each phase is to be constructed. (601(E)(3)).
6. Residential density shall not exceed 1.70 units per gross acre of land within the Plan.
7. Every single family dwelling shall have access to a public street, court, walk or other area dedicated to public use. No structure or group of structures shall be erected within twenty (20) feet of any other structure or group of structures. (601 (F)(2)(a)).
8. There shall be a yard setback of at least twenty (20) feet along the perimeter of each planned unit development tract and adjacent to all adjoining roads. (601 (F)(2)(b)).
9. Building height shall be limited to three (3) stories. (601 (F)(2)(c)).
10. The proposed location and arrangement of structures shall not be detrimental to existing or prospective adjacent structures or to existing or prospective development of the neighborhood. (601 (F)(2)(e)).
11. A maximum of seventy-five percent (75%) of the total gross land area shall be devoted to residential use. (601 (F)(3)(a)(1)).
12. A minimum of twenty percent (20%) of the total gross land area shall be devoted to open air recreational uses and other usable open space. Open space shall not include useable open space which is available for use by the general public or by persons who do not reside in the residence or groups of residences in proximity to it. (601 (F)(3)(a)(3)).
13. A minimum of five percent (5%) of the total gross land area shall be devoted to passive or undisturbed open space such as sloped lands, watercourses or wooded lands. (601 (F)(3)(a)(5)).
14. Open spaces between structures, including those spaces being used as public or private recreational areas, shall be protected by adequate covenants running with the land or by conveyances or dedications. (601 (F)(3)(a)(6)).
15. The Applicant shall submit for review and approval as to form by the Township Solicitor instruments setting forth a plan or manner of permanent care and maintenance of such open spaces, recreational areas and community owned facilities. (601 (F)(3)(a)(6)).
16. The Applicant shall provide for an organization or trust for ownership and maintenance of the recreation areas or open spaces. (601 (F)(3)(a)(6)).

17. If the common open space is deeded to a homeowners association or a non-profit corporation established for that purpose, the Applicant shall file a declaration of covenants and restrictions that will govern the association. The provisions shall include, but shall not be limited to the following:

- A. Membership must be mandatory for each home buyer;
- B. The open space restrictions must be permanent, not just for a period of years;
- C. The association must be responsible for liability insurance, local taxes, and the maintenance of recreational and other facilities;
- D. Homeowners must pay their pro rata share of the cost; the assessment levied by the association can become a lien on the property;
- E. The association must be able to adjust the assessment to meet changed needs.

601(F)(3)(a)(6).

18. The Applicant shall enter into a Developer's Agreement with the Township that shall include submission of a performance and maintenance bond for the Plan.

19. The Applicant shall construct mid-point turn-arounds and snow chutes as indicated on the Revised Master Layout Plan C 200 with Exhibits A through D, January 15, 2018 and approved by the Board February 19, 2018.

20. Sidewalks shall be constructed along both sides of the streets in the development with the exception of the entrance drive at Phase I off of Route 19 where there are no residences on either side of the entrance road. For that section (the southern portion of Arden Drive between Route 19 and Phase I) a sidewalk shall be constructed on only one side of Arden Drive.

21. The existing access to the RE Gas Development, LLC (the "Dorsch Gas Well") shall not be used to access the Dorsch Gas Well. The sole access to the Dorsch Gas Well shall be restricted to the main Arden Woods access roadway that intersects Route 19. The roadway shall be bonded by RE Gas Development, LLC.

22. Each building lot and each quad residence (72) shall be assessed a \$2,000.00 fee at the time of building permit issuance which fee shall be used for onsite improvements and other transportation capital improvements necessitated by and attributable to the Plan.

23. The Applicant shall be solely responsible for the cost of improvements for the entrance into the development from Salt Works Road, which improvements shall be subject to approval by the Township Engineer.

24. The Applicant shall maintain the existing screening/buffer area and/or install screening/buffer area along all lots that are adjacent to Salt Works Road.

25. The Applicant shall provide snow chute easements, reasonably satisfactory to the Township, at each cul-de-sac street, each such easement to become part of the road right-of-way.

26. The Applicant shall comply with the PennDOT requirements to widen Route 19 to provide a southbound left turning lane into the development at the Arden Woods access roadway.

27. The Applicant shall provide the Township with a copy of the approval letters from the Butler County Planning Commission and the Butler County Conservation District for the Erosion and Sedimentation Control Plan.

28. The Applicant shall provide copies of the NPDES permit from the Pennsylvania Department of Environment Protection (“DEP”) and all other approvals required by DEP.

29. The Applicant shall submit full and complete plan drawings, including but not limited to, landscape drawings showing plantings and buffering, road cross-sections, easements, stormwater management and grading as required by Township Ordinances.

30. The Applicant shall be solely responsible for the installation of fire hydrants the entire length of the main water service line. Prior to final plan approval, the Applicant shall submit the proposed fire hydrant locations to the Harmony Fire District for review and approval. The Applicant shall provide the Township with a copy of the approval certification.

31. The Applicant shall install the main sanitary sewer service lines for the development. The Applicant shall be responsible for all costs related to the design, construction, permitting and bonding of the main sanitary sewer lines. Prior to final approval, the Applicant shall submit the design plan for the proposed sanitary sewer system to the Western Butler County Authority for its approval.

32. The Applicant shall be responsible in perpetuity for any street lighting, landscape lighting, street lighting at home-sites, or any other lighting pertaining to the development. The Township does not have any ownership, express or implied, of the lighting in the development and will not have any responsibilities therefore, including but not limited to, that the Township will not be responsible for any billing for the electricity/lighting for the development.

33. All road names must approved by the County of Butler.

34. The Applicant must provide evidence of PennDot approval to connect to the existing storm sewer.

35. Any utility crossings in the roadway that occur after the roadway is installed will need to be bored or utilize flowable fill as backfill.

36. An operation and maintenance agreement covering all stormwater management facilities shall be recorded with the Stormwater Management Site Plan.

37. The PUDs approved by Township Resolutions No. 05-10-01; No. 06-04-4; No. 2015-12-1; and No. 2018-2-19 shall be withdrawn by the Applicant and shall be of no further force and effect.

38. If any blasting occurs on the site, the developer shall contact the Township and any neighboring residents at least 72 hours in advance.

39. No building permits shall be issued on Phase I until the Residential Street is constructed to Township standards.

40. No street parking shall be permitted on the roadways.

**APPEALS TO COURT**

All appeals to this Decision shall be taken to the Butler County Court of Common Pleas and shall be filed within thirty (30) days after the date of this written Decision.

ATTEST:

LANCASTER TOWNSHIP  
BOARD OF SUPERVISORS

\_\_\_\_\_  
Township Secretary

By: \_\_\_\_\_  
Chairman

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Dated: \_\_\_\_\_, 2018