

RESOLUTION NO. 26 OF 2009

A RESOLUTION OF THE BOARD OF SUPERVISORS OF MOUNT JOY TOWNSHIP, ADAMS COUNTY, PENNSYLVANIA, ADJUSTING AND CONFIRMING THE DENSITY BONUS ENTITLEMENT OF THE LINKS AT GETTYSBURG PLANNED GOLF COMMUNITY, PURSUANT TO CHAPTER 110 (ZONING), ARTICLE V (PRINCIPAL USES), SECTION 110-70. (PLANNED GOLF COMMUNITY), SUBSECTION C.(6)(i), AND RESOLUTION NO. 11 OF 2006

RECITALS

1. On October 18, 2001, and pursuant to the pertinent provisions of the Mount Joy Township Zoning Ordinance cited therein, Mount Joy Township, by its Board of Supervisors, granted a Conditional Use Approval (the "CUA") of The Links At Gettysburg Planned Golf Community (the CUA is incorporated herein by reference).
2. On May 19th, 2005, the Board of Supervisors of Mount Joy Township enacted amendments to §110-70.C.(1)(f), §110-70.C.(6)(g), and §110-70.C.(6)(i) of Chapter 110 (Zoning) of the Township's Code of Ordinances.
3. Pursuant to the amendment to §110-70.C.(6)(i), the Board of Supervisors of Mount Joy Township established, by the adoption of Resolution No. 11 of 2006 on February 16th, 2006 (effective retroactive to January 3, 2006), a "contribution amount" of Fifty-Two Thousand Seven Hundred Sixty Dollars (\$52,760.00) for each ten percent (10%) increase, or part thereof, of dwelling density [above the limitation of .8 units times project acreage; *see*: §110-70.(1)(f)] in a Planned Golf Community.
4. On February 16, 2006, the Board of Supervisors of Mount Joy Township approved the Preliminary/Final Subdivision/Land Development Plan (the "Plan") of The Links At Gettysburg Land Company, LLC for The Retreat At The Links At Gettysburg ("The Retreat"), A Condominium Development, which Plan is duly recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 90 at Page 55/Record Book 4375 at Page 214.
5. On February 16, 2006, and in conjunction with the aforementioned Plan approval, the Board of Supervisors of Mount Joy Township also established the density fee, per Resolution No. 11 of 2006, in the total amount of Four Hundred Twenty-Two Thousand Eighty Dollars (\$422,080.00), based on the maximum number of dwelling units that could be built within The Retreat, *i.e.*, 210, for a total of 462 dwelling units within The Links At Gettysburg Planned Golf Community or a project density of 1.41 density unit per acre, and also noted, *inter alia*, that: (a) "[t]his results in a 76.3% increase above the approved .80. The amount of contribution for each ten percent increase is \$52,760.00 multiplied by 8 (density increase above the approved .80) equals \$422,080.00."; and (b) "[i]n the event that the

maximum number of units is not built, the balance overpaid to the Township would be reserved for future density increases.”

6. To date, Three Hundred Thirty-One Thousand Nine Hundred Ninety-One Dollars and Forty-Nine Cents (\$331,991.49) has been paid by the Developer on account of the aforementioned \$422,080.00 density bonus “contribution amount”, including \$6,436.72 interest, for a net density bonus credit/entitlement of Three Hundred Twenty-Five Thousand Five Hundred Fifty-Four Dollars and Seventy-Seven Cents (\$325,554.77), which sum, per Resolution No. 11 of 2006, equates to an unused density bonus credit/entitlement of One Hundred Sixty-Two (162) additional dwelling units, for a total of Four Hundred Twenty-Four (424) maximum buildable dwelling units within The Links At Gettysburg Planned Golf Community, per the following proportion/formula: \underline{x} = unused density bonus credit/entitlement; 210 : [is to] \$422,080.00 as \underline{x} : [is to] \$325,554.77; (\underline{x}) (\$422,080.00) = (210)(\$325,554.77); \underline{x} = 162; also calculated as follows: a 10% increase in density costs \$52,760.00, and a 10% increase from the base of 262 units is 26.2 units (262 units x 10% = 26.2 units per 10% increase), then the per unit cost for increase is \$2,013.74. The density contribution amount paid to the Township is \$325,554.77 (not counting interest) divided by \$2,013.74 = 161.67 additional units, or 162 when rounded.

7. The approval of the Plan by the Board of Supervisors of Mount Joy Township was premised upon the Developer’s payment in full of the \$422,080.00 density bonus “contribution amount”, but the Developer has determined that a build-out of 210 dwelling units, as approved under the Plan, within The Retreat is not, and will not, be possible.

8. To date, only one (1) condominium building containing 13 units has been constructed by the Developer within The Retreat, and the total number of dwelling units constructed, to date, within The Links At Gettysburg Planned Golf Community is substantially less than the originally-approved 262 maximum permitted dwelling units under the CUA.

9. The Board of Supervisors of Mount Joy Township and the Developer have acknowledged and agreed that the aforementioned unused density bonus credit/entitlement of 162 dwelling units can and shall be reserved for future density increases within The Links At Gettysburg Planned Golf Community, but, with the exception of the 13 units within the aforementioned already-constructed condominium building, the approval of the Plan must be voided relative to the construction of any additional dwelling units within The Retreat.

NOW, THEREFORE, BE IT RESOLVED, and it is hereby **RESOLVED**, with the above Recitals incorporated herein by reference and deemed essential parts hereof, as follows:

A. With the exception of the 13 units within the aforementioned already-constructed condominium building within The Retreat, the approval of the Plan must be, and is hereby, voided relative to the construction of any additional dwelling units within The

Retreat. In view of the voiding of the Plan and the reservation of the Developer's aforementioned unused density bonus credit/entitlement, as set forth hereinbelow, there shall be no liability for the payment of the balance of the \$422,080.00 density bonus "contribution amount".

B. The Developer's aforementioned unused density bonus credit/entitlement of One Hundred Sixty-Two (162) dwelling units, for a total of Four Hundred Twenty-Four (424) maximum buildable dwelling units within The Links At Gettysburg Planned Golf Community, can and shall be, and is hereby, reserved for future density increases within The Links At Gettysburg Planned Golf Community. Such unused density bonus credit/entitlement for One Hundred Sixty-Two (162) dwelling units and such total of Four Hundred Twenty-Four (424) maximum buildable dwelling units within The Links At Gettysburg Planned Golf Community shall inure to the use and benefit of The Links At Gettysburg, L.L.C.

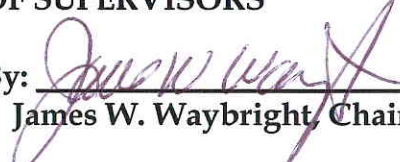
DULY ADOPTED in public session duly convened this 17th day of December, 2009, effective immediately.

ATTEST:

TOWNSHIP OF MOUNT JOY,
ADAMS COUNTY, PENNSYLVANIA

MOUNT JOY TOWNSHIP BOARD
OF SUPERVISORS


Brenda J. Dayhoff, Secretary

By: 
James W. Waybright, Chairman

(SEAL)

17th Intending to be legally bound, the present Resolution is accepted and agreed to this day of December, 2009.

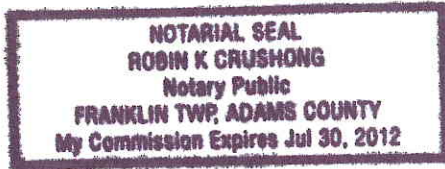
The Links At Gettysburg, L.L.C.

By: 
Richard A. Klein,
Managing Member

COMMONWEALTH OF PENNSYLVANIA :
: SS:
COUNTY OF ADAMS :

On this, the 17th day of December, 2009, before me, the undersigned Notary Public in and for the above Commonwealth and County, personally appeared James W. Waybright, who acknowledged that he is the **Chairman of the Board of Supervisors of Mount Joy Township**, and that for and on behalf of the said Township, after first having been duly authorized by said Township's governing body so to do, and as its act and deed, he acknowledged that he executed the foregoing **Resolution No. 26 of 2009**, and desires the same to be recorded as such.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



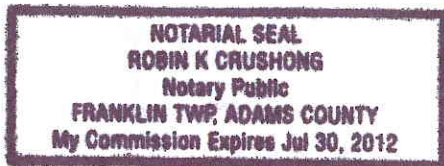
Robin K. Crushong
Notary Public

(OFFICIAL SEAL)

COMMONWEALTH OF PENNSYLVANIA :
: SS:
COUNTY OF ADAMS :

On this, the 17th day of December, 2009, before me, the undersigned Notary Public in and for the above Commonwealth and County, personally appeared Richard A. Klein, who acknowledged that he is the **Managing Member of The Links At Gettysburg, L.L.C.**, and that for and on behalf of the said Company, after first having been duly authorized so to do, and as its act and deed, he acknowledged that he executed the foregoing **Resolution No. 26 of 2009**, and desires the same to be recorded as such.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



Robin K. Crushong
Notary Public

(OFFICIAL SEAL)