

Prepared By: Mark A. Hosterman, Esquire
Marjorie A. Brown, Esquire
Wisler Pearlstine, LLP
460 Norristown Road, Suite 110
Blue Bell, PA 19422

Return To: Same as above

UPI No.: 18-4-236

**EAST COVENTRY TOWNSHIP
CHESTER COUNTY**

RESOLUTION NO. 2018-17

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF
EAST COVENTRY TOWNSHIP, CHESTER COUNTY,
PENNSYLVANIA GRANTING APPROVAL OF A
PRELIMINARY/FINAL MINOR SUBDIVISION PLAN
SUBMITTED BY KEITH BRAND AND TRACY BRAND
FOR THE PROPERTY LOCATED AT 401 EBELHARE
ROAD IN EAST COVENTRY TOWNSHIP, CHESTER
COUNTY, PENNSYLVANIA.**

WHEREAS, Keith Brand and Tracy Brand (collectively, the “Applicant”) are the owners of a tract of land containing approximately 10.51 acres situate in East Coventry Township, Chester County, Pennsylvania (the “Township”), with a street address of 401 Ebelhare Road (the “Subdivision”); and

WHEREAS, the Subdivision is more particularly shown on plans prepared by Bercek and Smith Engineering, Inc. (hereinafter, “Bercek”), consisting of three (3) sheets dated February 28, 2018, and last revised August 16, 2018 (the “Plans”); and

WHEREAS, a schedule of the individual sheets, drawing title and original dates for each sheet comprising the Plans is attached hereto as Exhibit “A” and incorporated herein by reference; and

WHEREAS, the Plans have been reviewed by the Township Historical Commission, the Chester County Planning Commission, the Township Planning Commission, the Township Engineer, the Township Planner, the Township Traffic Engineer, the Township Solicitor and other Township advisors, and have been found acceptable subject as herein below provided.

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED by the Board of Supervisors of East Coventry Township, Chester County, Pennsylvania, as follows:

SECTION A. AUTHORITY; SHORT TITLE; DEFINITIONS.

1. This Resolution is adopted pursuant to and in accordance with the Subdivision and Land Development Ordinance of 2011 (Ordinance No. 179) enacted August 8, 2011, as amended through Ordinance No. 215 enacted August 14, 2017 (collectively, the "SALDO"), as set forth in Chapter 22 (Subdivision and Land Development) of the Code of Ordinances of the Township of East Coventry.

2. This Resolution shall be known and may be cited as the "Resolution for Preliminary/Final Minor Subdivision Approval for 401 Ebelhare Road."

3. Except as may be otherwise provided herein and/or if the context clearly indicates otherwise, all words and phrases appearing in this Resolution, which also appear in the SALDO, shall have the same meanings in this Resolution as in the SALDO.

SECTION B. WAIVERS.

1. The Board of Supervisors hereby waives strict compliance with the following provisions of the SALDO, on and subject to the terms and conditions set forth in this Resolution:

a. SALDO §301.3.A, which requires that the Plans be processed as a major subdivision, in order to permit the Plans to be processed as a minor preliminary/final subdivision, on the condition that Lot 1 and Lot 2 be restricted from further subdivision by the recording of a

Declaration of Deed Restriction in form and substance satisfactory to the Township upon advice of the Township Solicitor.

b. SALDO §304.3.H, which requires that a site analysis plan be prepared providing a comprehensive analysis of existing conditions for both the Subdivision and all property within 500 feet of the Subdivision, to permit the Applicant to not show drainage basins and sub-basins, off-site vegetative cover conditions, individual trees in excess of eight inches (8") DBH and descriptions of plant community, relative age and condition, high groundwater areas, soil series types and phases (off-site) and accompanying data, ridgelines and watershed boundaries, viewsheds, geologic formations, historic resources on adjoining tracts and trails in public use on the site analysis plan within 500 feet beyond the boundary of the Subdivision.

c. SALDO §405.9, which requires that a deed of dedication and paving or other street improvements be required where lots abut an existing street, to permit the Applicant to not install the required improvements within that portion of the Ebelhare Road right-of-way abutting Lot 1 and Lot 2, and to permit the Applicant to not provide a deed of dedication for the right-of-way extending along the frontage of Lot 1 and Lot 2.

d. SALDO §406.6, which requires a deed of dedication for the ultimate right-of-way be provided by the Applicant, to permit the Applicant to not dedicate the Ebelhare Road ultimate right-of-way to the Township for the frontage of Lot 1 and Lot 2.

e. SALDO §406.7, which requires a deed of dedication, the installation of improvements and/or an escrow where the subdivision abuts an existing street of improper cartway or right-of-way, to permit the Applicant to not install the required improvements or furnish an escrow for improvements within that portion of the Ebelhare Road right-of-way

abutting Lot 1 and Lot 2, and to permit the Applicant to not provide a deed of dedication for the right-of-way extending along the frontage of Lot 1 and Lot 2.

f. SALDO §416.1, which requires the installation of curbing where sidewalks are required in order to permit the Applicant to not provide curbing along the frontage of Lot 1 and Lot 2.

g. SALDO §418.2, which requires sidewalks be installed on all collector streets in order to permit the Applicant to not construct sidewalks along the frontage of Lot 1 and Lot 2.

C. CONDITIONS OF PRELIMINARY/FINAL PLAN APPROVAL. Approval of the Plans is hereby granted subject to the following conditions:

1. The following revisions shall be made to the Plans prior to recording:

a. Add the following note to the Plans:

During the driveway permit review process, the Owner/Developer shall verify the available sight distance for traffic exiting the Lot 2 driveway looking to the right (i.e., to the west) along Ebelhare Road with respect to the existing embankment and trees/vegetation along the site frontage west of the Lot 2 driveway. If any of these features limit the available sight distance below the required sight distance, the Owner/Developer shall remove the embankment and trees/vegetation such that the sight distance requirement is met to the satisfaction of East Coventry Township.

b. Provide a sight distance profile for the exiting and left-turn entering sight distance measurements. The sight distances shown on the Plans shall be field verified by and acceptable to the Township Traffic Engineer.

c. Revise Site Analysis Note 5 to state: "easements or encumbrances".

d. Add a note to the Plans stating as follows: "A Declaration of Deed Restriction, in form and substance satisfactory to the Township Solicitor, prohibiting Lot 1 and

Lot 2 from being further subdivided, shall be recorded against Lot 1 and Lot 2 immediately following the recording of the Plans.”

e. All portions of the Waiver Request Matrix on Sheet 1 shall be completed in accordance with SALDO §305.3.B(1)(d) and shall be updated prior to recording the Plans to identify only those waivers approved by the Board of Supervisors pursuant to this Resolution. The Waiver Request box for SALDO §406.7 shall delete the reference to a “partial” waiver since a full waiver has been requested.

f. Note 14 on Sheet 1 shall be updated to include any and all zoning relief granted by the East Coventry Township Zoning Hearing Board in accordance with SALDO §304.3.A(8).

2. All signature blocks and certifications on the Plans shall be fully executed and notarized, as appropriate, prior to the Township releasing the Plans for recording at the Applicant’s expense at the Office of the Chester County Recorder of Deeds (the “Recorder’s Office”) in accordance with SALDO §305.3.B(1)(g) and SALDO §307.2.

3. Prior to the Township releasing the Plans for recording, the revised zoning information set forth on the Plans, including but not limited to the Zoning Regulations table, gross and net lot area computations, and building and impervious coverage notes shall be reviewed by and acceptable to the Township Engineer.

4. The Plans, once revised, shall be signed and sealed by the Professional Land Surveyor and/or Professional Engineer responsible for their preparation prior to the Township releasing the Plans for recording in accordance with SALDO §304.3.A(25).

5. All monuments and markers (lot pins) shall be accurately placed at all lot corners, at the intersection of all lines forming angles and at changes in direction of lines in the boundary

(perimeter) of Lot 1 and Lot 2 as required by SALDO §404.2.A. Prior to releasing the Plans for recording, all required monuments and lot pins shall be set and a certification shall be provided to the Township, acceptable in form and substance to the Township Engineer, from the Professional Land Surveyor certifying that the lot pins have been set as required.

6. The Applicant shall obtain all of the following zoning relief from the East Coventry Township Zoning Hearing Board prior to the recording of the Plans:

a. A variance from Zoning Ordinance §502.1.A, which requires that any structure used for the housing of livestock or poultry is located not less than 100 feet from any lot line. The Plans indicate a distance to the side lot line of 49 feet from the barn and 27 feet from the end of the southernmost retaining wall.

b. A variance from Zoning Ordinance §503.1.A, which requires a minimum lot width of 200 feet. The Plans provide for a minimum lot width of 100 feet along Ebelhare Road for Lot #2.

c. A variance from Zoning Ordinance §1319.1.A, which requires that no barn or similar structure shall be erected nearer to any lot line than 100 feet. The Plans indicate a distance to the side lot line of 49 feet from the barn and 27 feet from the end of the southernmost retaining wall.

d. A variance from Zoning Ordinance §1321.2, which prohibits the creation of interior lots. If variance relief is granted, the Zoning Hearing Board decision should clearly state the earlier decision granting frontage of 129 feet is either vacated or amended to reflect approval of only 100 feet of frontage along Lot #2.

7. The Zoning Plan submitted by the Applicant to the Zoning Hearing Board shall contain the following note: "Adequate sight distance, per the applicable standards, will be

provided by the Applicant, and detailed sight distance measurements acceptable to the Township Traffic Engineer will be included on the subdivision plans prior to recording same.”

8. Since a waiver from SALDO §301.3.A is being granted to permit the Plans to be processed as a minor preliminary/final subdivision, an Historic Resources Impact Study shall not be required per SALDO §304.3.F.(5).

9. Prior to the recording of the Plans, the Applicant shall obtain from PADEP either (i) a letter stating that the project does not meet the definition of a subdivision and that sewage facilities planning is therefore not required, (ii) an approved sewage facilities planning module, or (iii) an approved sewage facilities planning module exemption as required by SALDO §421.1.

10. Prior to the Township releasing the Plans for recording, a title insurance company engaged by the Applicant (the “Title Insurer”) shall prepare and record at the Applicant’s expense a Deed of Correction or Special Warranty Deed (the “Corrective Deed”), as appropriate, from the Estate of Harry S. Barndt, his heirs or assigns, as grantor, to Keith Brand and Tracy Brand, husband and wife, as grantees, granting and conveying fee simple title in perpetuity to the lands extending from the centerline of Ebelhare Road to the boundary of the Subdivision, constituting the legal and ultimate right-of-ways along Lot 1 and Lot 2 that remain in the Estate of Harry S. Barndt. The Corrective Deed shall be satisfactory in form and substance to the Township Engineer and the Township Solicitor.

11. A Declaration of Deed Restriction relating to Lot 1 and Lot 2, in form and substance acceptable to the Township Solicitor, shall be executed and delivered by the Applicant and recorded in the Recorder’s Office on the same date as and immediately following the recording of the Plans. The Declaration of Deed Restriction shall: (a) prohibit the further

subdivision of all or any portion of Lot 1 or Lot 2; and (b) name the Township as the sole beneficiary of the deed restriction.

12. Prior to the issuance of a building permit for construction on Lot 2, a Stormwater Best Management Practices (BMPs) and Conveyances Operation and Maintenance Agreement ("BMP Agreement"), in form and substance acceptable to the Township Solicitor, shall be executed and delivered by Keith Brand and Tracy Brand, as Grantors, to the Township, as Grantee, and shall be recorded at the Applicant's expense in the Recorder's Office pursuant to SWMO §§142.F(2) and 173 and SWMO Appendix E. The BMP Agreement shall grant and convey to the Township, its contractors, agents, successors and assigns, a blanket access and maintenance easement in perpetuity to enter upon any portion of Lot 2 for purposes of inspecting, maintaining, repairing and replacing all stormwater management facilities installed on Lot 2 in the event that the Applicant or owner of Lot 2 fails to do so. A copy of the recording receipt shall be provided to the Township before any work associated with Lot 2 shall commence.

13. Prior to the Township releasing the Plans for recording, the Applicant shall pay and/or reimburse the Township for all fees, charges and costs of the Township, the Township Engineer, the Township Planner, the Township Traffic Engineer, the Township Solicitor and other Township consultants, relating to the preparation and/or review of the Plans, the legal descriptions, the Corrective Deed, and any other documentation required by this Resolution to be delivered prior to recording the Plans.

14. Prior to the issuance of a building permit for construction on Lot 2, the Applicant shall pay to the Township a transportation impact fee based upon one (1) PM peak hour trip at the then-existing rate, which shall be payable to East Coventry Township for deposit into the

Township Traffic Impact Fee Fund, pursuant to the East Coventry Township Transportation Impact Fee Ordinance §305.

15. All recording costs and applicable taxes and fees, if any, shall be paid by the Applicant.

16. Consistent with Section 509(b) of the Pennsylvania Municipalities Planning Code (as amended), the completion of all conditions and the payment of all applicable fees must be accomplished within ninety (90) days of the date of this Resolution unless a written extension is granted by the Township. Until the conditions have been satisfied and the applicable fees have been paid, the Plans shall not be signed nor recorded. In the event that the conditions have not been satisfied and the fees have not been paid within ninety (90) days of the date of this Resolution, or any written extension thereof, this contingent subdivision approval shall expire and be deemed to have been revoked.

17. Under the provisions of the Pennsylvania Municipalities Planning Code, the Applicant has the right to accept or reject conditions imposed by the Board of Supervisors upon preliminary/final approval. The Applicant shall signify its acceptance of the conditions contained herein by signing a copy of this Resolution and returning it to the Township within thirty (30) days of the date of this Resolution. In the event execution of this Resolution is not delivered to the Township office by 12:00 p.m. on October 10, 2018, or if the Township receives written notice of an appeal or rejection of any of the conditions set forth herein within thirty (30) days from the date of this Resolution, this approval and the waivers granted in Section B of this Resolution (which waivers are granted contingent upon the acceptance of the conditions set forth herein) shall be deemed to be automatically rescinded and revoked and the application shall be

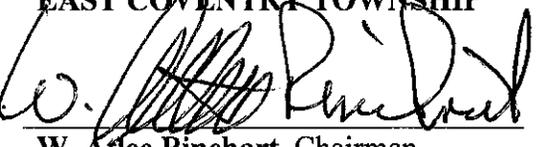
considered denied based upon the failure to fully comply with the conditions set forth in this Section C, all as authorized by Section 508 of the Pennsylvania Municipalities Planning Code.

SECTION D. EFFECTIVE DATE. This Resolution shall be effective immediately upon the adoption hereof.

APPROVED at the public meeting of the East Coventry Township Board of Supervisors held on September 10, 2018.

EAST COVENTRY TOWNSHIP

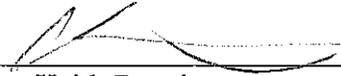
Attest: 
Bernard A. Rodgers, Secretary

By: 
W. Atlee Rinehart, Chairman

By signing below, the Applicant accepts and consents to all of the terms and conditions of approval contained in the foregoing Resolution Granting Preliminary/Final Minor Subdivision Approval.

APPLICANT:

Date: 9/17/18

By: 
Keith Brand

Date: 9/17/18

By: 
Tracy Brand

EXHIBIT "A"

**ENUMERATION OF THE APPROVED SUBDIVISION PLANS
FOR 401 EBELHARE ROAD**

Sheet No.	Drawing Title	Original Date	Last Revised Date
1	SITE CONTEXT / TITLE PLAN	2/28/2018	8/16/2018
2	SUBDIVISION PLAN	2/28/2018	8/16/2018
3	SIGHT DISTANCE PROFILES PLAN	2/28/18	8/16/18