



APPLICATION/APPEAL TO THE ZONING HEARING BOARD

PLYMOUTH TOWNSHIP
700 BELVOIR ROAD
PLYMOUTH MEETING, PA 19462

DATE: _____

- (1) Applicant/Appellant's Name and Address: Pennsylvania Real Estate Investment Trust
2005 Market Street, Phila., PA 19103 c/o Dan Pascale
PHONE NO.: (215) 875-0419
- (2) Owner's Name and Address: Pennsylvania Real Estate Investment Trust
2005 Market Street, Phila., PA 19103 c/o Dan Pascale
PHONE NO.: (215) 875-0419
- (3) Lessee's Name and Address: N/A
(If Applicable)
- (4) Location of Premises: Germantown Pike and Hickory Road
- (5) Dimensions of Lot: 75.6 +/- acres
- (6) Present Zoning Classification of Premises: SC - Shopping Center District
- (7) The improvements thereon are: Shopping Center and two (2) story Office Building

and the present use of the land and/or building is Shopping Center

- (8) If this is an application for a SPECIAL EXCEPTION check here and state the specific sections of the PLYMOUTH TOWNSHIP ZONING ORDINANCE upon which the applicant relies:

Section 1100.E

- (9) If this is an appeal from a decision of the BUILDING INSPECTOR/ZONING OFFICER seeking a VARIANCE from the terms of the PLYMOUTH TOWNSHIP ZONING ORDINANCE check here [] and state the specific sections of the ORDINANCE as to which the VARIANCE is being sought:

N/A

- (10) The (SPECIAL EXCEPTION) (VARIANCE) requested is as follows: See Attached Addendum

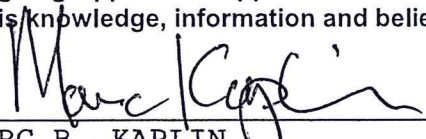
- (11) Describe what is proposed of real estate in question: See Attached Addendum

- (12) There must be attached hereto a plot plan, accurately drawn to scale, of the real estate in question, indicating the location and dimensions of the tract and improvements erected thereon as well as those proposed to be erected. ALL PLANS MUST BE FOLDED OR THE APPLICATION WILL NOT BE ACCEPTED.

(13) There must be paid herewith for a single-family dwelling and/or any structure appurtenant or accessory thereto a nonrefundable-filing fee of TWO HUNDRED DOLLARS (\$200.00) and for all other structures a nonrefundable filing fee of ONE THOUSAND DOLLARS (\$1,000.00). PLEASE MAKE CHECK PAYABLE TO "PLYMOUTH TOWNSHIP".

STATE OF PENNSYLVANIA:
SS
COUNTY OF MONTGOMERY:

Marc B. Kaplin,
Attorney for Applicant, being duly sworn/affirmed according to law, deposes and says that he is the applicant above named and that the facts set forth in the foregoing application/appeal and all documents or exhibits submitted therewith, are true and correct to the best of his knowledge, information and belief.



MARC B. KAPLIN
Attorney for Applicant

APPLICANT/APPELLANT

SWORN :
AFFIRMED AND SUBSCRIBED TO :
BEFORE ME THIS DAY OF :
September, 2020



Commonwealth of Pennsylvania - Notary Seal
DEBORAH L. ARBUCKLE, Notary Public
Montgomery County
My Commission Expires February 18, 2023
Commission Number 1003587

(OWNER'S SIGNATURE - IF APPLICABLE)

SPECIAL INSTRUCTIONS

FOR RESIDENTIAL APPLICATIONS - ORIGINAL AND FIFTEEN (15) COPIES OF THE APPLICATION AND ALL SUPPORTING PAPERS, OR FOR COMMERCIAL, INDUSTRIAL, MULTI-FAMILY APPLICATIONS - ORIGINAL AND TWENTY-FOUR (24) COPIES OF THE APPLICATION AND ALL SUPPORTING PAPERS SHALL BE FILED WITH THE ZONING OFFICER, ZONING OFFICE, PLYMOUTH TOWNSHIP, 700 BELVOIR ROAD, PLYMOUTH MEETING, PA 19462. ONLY THE ORIGINAL APPLICATION/APEAL NEED BE VERIFIED BY AFFIDAVIT.

IMPORTANT NOTICE

YOUR APPLICATION WILL BE SCHEDULED FOR A HEARING AT THE NEXT REGULARLY SCHEDULED MEETING OF THE PLYMOUTH TOWNSHIP ZONING HEARING BOARD. YOU MUST BE PREPARED TO PRESENT YOUR ENTIRE CASE AT THIS MEETING. ANY APPLICATION FOR CONTINUANCE OF THE HEARING MUST BE IN WRITING, AND YOU MUST GIVE THE REASONS FOR THE REQUEST. THE APPLICATION FOR CONTINUANCE MUST BE RECEIVED BY THE ZONING OFFICER NO LATER THAN 3:00 P.M. ON THE THURSDAY BEFORE THE ZONING HEARING. NO APPLICATIONS FOR CONTINUANCE WILL BE ACCEPTED AFTER THAT DEADLINE UNLESS THE APPLICANT APPEARS BEFORE THE ZONING HEARING BOARD TO APPLY FOR A CONTINUANCE. MORE THAN ONE REQUEST FOR A CONTINUANCE ON ANY APPLICATION MUST BE MADE IN PERSON, AND SUCH REQUESTS WILL NOT NORMALLY BE GRANTED UNLESS THERE ARE SPECIAL CIRCUMSTANCES.

DO NOT WRITE BELOW THIS LINE

CERTIFICATION OF ADVERTISEMENT

The above application/appeal was advertised in _____
On the following dates: _____ (Newspaper)

DATE POSTED ON PREMISES

ZONING OFFICER

BEFORE THE ZONING HEARING BOARD OF PLYMOUTH TOWNSHIP,
MONTGOMERY COUNTY, PENNSYLVANIA

IN RE: APPLICATION OF :
PENNSYLVANIA REAL ESTATE :
INVESTMENT TRUST FOR : No.
SPECIAL EXCEPTION :

SPECIAL EXCEPTION APPLICATION

Applicant Pennsylvania Real Estate Investment Trust. (“PREIT”), by its attorneys, Kaplin Stewart Meloff Reiter & Stein, P.C., submit this application for special exception pursuant to Section 1100.R of the Plymouth Township Zoning Ordinance (“Zoning Ordinance”) to permit an apartment building to be located on a tract of land located within the SC-Shopping Center District. In support thereof, PREIT avers as follows:

1. PREIT is the owner of the ±68.6 acre property upon which the Plymouth Meeting Mall is located (“Mall Property”).
2. PREIT also owns a ±7 acre parcel of land abutting the east side of the Mall Property which is presently improved with a two story 60,000 square foot office building that served as the offices for IKEA when IKEA was located on the Mall Property (“IKEA Parcel”).
3. PREIT proposes to demolish the existing building on the IKEA Parcel and construct an 11-story high-rise apartment building containing approximately 503 residential units (“Proposed Apartment Development”), as depicted on the Sketch Plan attached hereto as Exhibit “A”.
4. Both the Mall Property and the IKEA Parcel are located in the SC-Shopping Center zoning district.
5. Section 1103.A of the Plymouth Township Zoning Ordinance (“Zoning Ordinance”) defines a “lot” as:

One or more contiguous parcels of land, whether or not in single and separate ownership, which is or are occupied or to be occupied by one or more buildings or other structures or which is or are devoted to or to be devoted to any or all of the uses permitted by section 1100 of this Article XI, together with any accessory buildings, structures, or groups or principal buildings, or other structures or uses, and any service and parking areas, circulation and open spaces as are arranged or designed to be used in connection with such principal building or buildings, or groups of principal buildings or other structures or uses, such areas and open spaces and the area and dimensions of such lot being not less than the minimum required by this ordinance.

6. Pursuant to Section 1103.A of the Zoning Ordinance, the Mall Property and the Ikea Parcel constitute a single lot .

7. The use regulations governing the SC District are set forth in Section 1100 of the Zoning Ordinance.

8. The use regulations do not specifically identify high-rise apartments as a use permitted in the SC District. However, Section 1100.E of the Zoning Ordinance allows:

Any use of the same general character as any of the above permitted uses, when authorized as a special exception by the zoning hearing board, provided that such use shall be permitted subject to such reasonable restrictions as the zoning hearing board may determine and further provided that no trade or business shall be permitted which is either noxious or hazardous.

9. Section 1100.E of the Zoning Ordinance allows a “motel or motor court” as a use permitted by right in the SC District.

10. Section 200 of the Zoning Ordinance defines a “motel or motor court” as:

A building or a group of two (2) or more detached or semidetached buildings containing rooms *or apartments* having separate ground floor entrances provided directly or closely in connection with automobile parking or storage space serving such rooms *or apartments*, which building or group of buildings is designed, intended or used principally for the providing of sleeping accommodations for automobile travelers and is suitable for occupancy at all seasons of the year. (emphasis supplied)

11. Section 1100.E of the Zoning Ordinance allows “elderly housing/assisted living facility” as a use permitted by conditional use in the SC District.

12. Section 200 of the Zoning Ordinance defines “elderly housing/assisted living facility” as:

A multiple-family structure that shall include, without limitation, common dining and social and recreation features, special safety and convenience features designed for the needs of the elderly, such as emergency call systems, grab bars and handrails, and the provision of social services for residents which must include at least two of the following: two meals per day; transportation; housekeeping and linen service; and/or organized social activities. (emphasis supplied)

13. Section 200 of the Zoning Ordinance defines an “apartment house” as “a multiple dwelling with common outside access” and defines a “multiple dwelling” as: “a building not a single-family, duplex, twin, townhouse, triplex or quadraplex dwelling, designed for and occupied primarily for dwelling purposes by three (3) or more families living independently of one another.”

14. Based upon the applicable definitions contained in the Zoning Ordinance, an apartment house is “of the same general character” as an elderly housing/assisted living facility and/or a motel, in that:

A. Both a motel and an apartment house are permitted to contain apartments;

B. Both an elderly housing/assisted living facility and an apartment house are classified as multiple family dwellings;

C. Both an elderly housing/assisted living facility and an apartment house contain living facilities for residents.

15. Moreover, while the use regulations set forth in Section 1100 of the Zoning Ordinance do not specifically identify high-rise apartments as a use permitted in the SC District,

Section 1101.F.2(b)4, which contains the development requirements for uses in the SC district, provides specific off-street parking requirements for apartments in the SC District.

16. Similarly, Section 1101.L. of the Zoning Ordinance, which governs the maximum height of various permitted uses in the SC District, provides specific height provisions for apartments in the SC District.

17. Under established Pennsylvania law governing matters of zoning ordinance interpretation, an ordinance must be construed, if at all possible, to give effect to all of its provisions. *Mann v. Lower Makefield Township*, 634 A.2d 768 (Pa.Cmwlt.1993); *Heritage Bldg. Group, Inc. v. Plumstead Tp. Bd. of Sup'rs*, 1387 C.D. 2007, 2008 WL 9398680, at *4 (Pa. Cmwlt. May 6, 2008).

18. The principles of statutory construction require that the broadest interpretation of the Zoning Ordinance must be applied so that the property owner may have the benefit of the least restrictive use of its land. *Hafner v. Zoning Hrg. Bd. of Allen Tp.*, 974 A.2d 1204 (Pa. Cmwlt. 2009); *Burgoon v. Zoning Hrg. Bd. of Charlestown Tp., Chester County*, 277 A.2d 837, 841 (Pa. Cmwlt. 1971).

19. The Zoning Ordinance must be construed in a sensible manner. *Steeley v. Richland Township*, 875 A.2d 409, 414 (Pa.Cmwlt.2005); *Southdown Homes, L.P. v. Caln Tp. Zoning Hrg. Bd.*, 1832 C.D. 2007, 2008 WL 9399254, at *4 (Pa. Cmwlt. Aug. 14, 2008).

20. In order to apply the foregoing rules of statutory construction to all of the provisions of Section 200 and 1100 of the Zoning Ordinance in a sensible and least restrictive manner the Proposed Apartment must be determined to be “a use of the same general character” as a motel and an elderly housing/assisted living facility.

21. Moreover, unless the provisions of the Zoning Ordinance which regulate parking

and height limitations on apartments in the SC District are completely ignored (a violation of the Pennsylvania Rules of Statutory Construction) such provisions reinforce the conclusion that apartments are “of the same general character” as the other residential dwelling types permitted in the SC District and are therefore permitted by special exception.

22. The Proposed Apartment Development complies with all applicable development requirements contained in Section 1101 of the Zoning Ordinance.

23. The Proposed Apartment Development complies with all other applicable requirements of the Zoning Ordinance.

24. For all the foregoing reasons, PREIT respectfully requests that the Zoning Hearing Board approve its Application for Special Exception to construct the Proposed Apartment Development on the IKEA Parcel.

KAPLIN STEWART MELOFF REITER & STEIN, P.C.

By:



MARC B. KAPLIN, ESQUIRE
Attorneys for Applicant