

**BOROUGH OF WEST CHESTER**  
**CHESTER COUNTY, PENNSYLVANIA**

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF COUNCIL OF THE BOROUGH OF WEST CHESTER, CHESTER COUNTY, PENNSYLVANIA, APPROVING THE PRELIMINARY/FINAL SUBDIVISION AND LAND DEVELOPMENT PLANS SUBMITTED BY ZUKIN PROPERTIES TRUST AND STANFORD AND ELSA ZUKIN FAMILY TRUST FOR A HOTEL TO BE LOCATED ON CHESTER COUNTY TAX PARCEL NOS. 1-9-56 AND 1-9-56.1 LOCATED AT 33 AND 39 EAST GAY STREET AND FOR THE REDEVELOPMENT OF THE SPENCE BUILDING LOCATED ON CHESTER COUNTY TAX PARCEL NO. 1-9-57 AT 29 EAST GAY STREET.**

**WHEREAS**, Zukin Family Trust owns the parcel of real property at 29 East Gay Street identified as Chester County Tax Parcel No. 1-9-57 (the "Spence Building Parcel") upon which is located a certain 19<sup>th</sup> Century building known colloquially, and referred to in this Resolution as the "Spence Building"; and

**WHEREAS**, Zukin Properties Trust owns two parcels of real property at 33 East Gay Street and 39 East Gay Street identified as Chester County Tax Parcel Nos. 1-9-56.1 and 1-9-56 (collectively, the "Redevelopment Parcels") upon which is located an existing building which was formerly used as a retail store; and

**WHEREAS**, Zukin Properties Trust and Stanford and Elsa Zukin Family Trust (collectively the "Applicant") and the Borough entered an Amended and Restated Settlement Agreement dated March 20, 2019 (the "Settlement Agreement") which was approved by the Court of Common Pleas in an Order dated March 26, 2019 which resolved a local agency appeal Applicant had filed and which set forth the parties' agreement with respect to the redevelopment of the Spence Building Parcel and the Redevelopment Parcels; and

**WHEREAS**, on December 2, 2019, Applicant submitted to the Borough of West Chester an Application for Preliminary/Final Subdivision and Land Development Plan Approval (the "Application") pursuant to which Applicant seeks to reverse subdivide the Redevelopment Parcels and build thereon a building to be used as a hotel and retail and to add an addition to the Spence Building (collectively the "Development"); and

**WHEREAS**, in support of the Application, Applicant submitted to the Borough the following two plans:

- Land Development Plan for Zukin Realty- Spence Building dated May 20, 2019, last revised February 7, 2020, consisting of 5 sheets,

prepared by Edward B. Walsh and Associates (“Spence Building Plan”); and

- Land Development Plan for Zukin Realty- Hotel dated November 5, 2019, last revised February 7, 2020, consisting of 6 sheets, prepared by Edward B. Walsh and Associates (“Hotel Plan”); and

**WHEREAS**, the Spence Building Plan and the Hotel Plan were reviewed by the Borough Engineer, Pennoni Associates, Inc., who issued a review letter dated March 6, 2020 (the “Engineer Review Letter”); and

**NOW, THEREFORE, BE IT RESOLVED** that, pursuant to the Settlement Agreement and Section 508 of the Pennsylvania Municipalities Planning Code (the “MPC”), 53 P.S. §10508, and the Borough Subdivision and Land Development Ordinance (the “SLDO”), Borough Council hereby grants preliminary/final subdivision and land development approval of the Application for Preliminary/Final Subdivision and Land Development Approval for the Spence Building Plan and the Hotel Plan, subject to the conditions set forth below.

The following conditions are hereby imposed on the approval of the Application for Preliminary/Final Subdivision and Land Development Approval for the Spence Building Plan and the Hotel Plan:

1. Applicant shall comply with any outstanding comments in the Engineer Review Letter to the satisfaction of the Engineer and Council.
2. Applicant shall comply with all terms in the Settlement Agreement.
3. Applicant shall not provide any valet parking for the hotel or the uses at the Spence Building. If in the future, Applicant or its successors and assigns in title to the Spence Building Parcel or the Redevelopment Parcels, seek to offer valet parking, they must submit plans to the Borough’s Parking Director who must approve the same in writing before valet parking may commence.
4. Applicant shall obtain 55 monthly permits for parking at the Chestnut Street garage and shall pay the nighttime rate as established by Resolution of Council. The parties may agree upon a different method for Applicant to provide the number of off-street parking spaces that it is required to provide for the hotel use pursuant to the Settlement Agreement in the future, provided such method is approved by Council.

5. Applicant shall provide to the Borough a time-stamped copy of the recorded Spence Building Façade Preservation Declaration prior to the issuance of a certificate of occupancy for the Spence Building.
6. Applicant shall revise the Spence Building Plan and Hotel Plan to adhere to the landscaping requirements in the SLDO, including but not limited to providing street trees in accordance with Section 97-32. Applicant shall meet with the Tree Commission who shall provide recommendations on the proposed street trees that Applicant shall install.
7. Applicant shall plant all new street trees using an engineered tree well system, such as Silva Cell, to provide for optimal root growth potential with reduced potential for root damage to sidewalks, paving and underground utilities as required in Section 97-32.B and the Design Guidelines adopted as an Appendix to the recently adopted SLDO.
8. The Borough shall not issue a building permit for redevelopment of the Spence Building Parcel or the Redevelopment Parcels until the Borough Engineer has confirmed that Applicant has complied with any outstanding conditions set forth in the Engineer Review Letter that states, “shall be confirmed by the Borough during the building permit stage.”
9. Applicant shall pay the following fees to the Borough prior to the release of the Final Plans for recording:
  - (a) \$10,000.00 to be used by the Borough for traffic improvements;
  - (b) \$5,000.00 to be used for wayfinding signs directing hotel patrons to the Chestnut Street Garage; and
  - (c) \$40,000.00 as the development impact fee required by the Settlement Agreement and to be used by the Borough in its discretion.
10. Applicant shall revise the post construction stormwater management plan and the Stormwater Management Best Management Practices Operations and Maintenance Agreement to include maintenance obligations consistent with the manufacturer’s specifications for long term maintenance of the green roof which will be installed on the roof of the hotel.

11. Applicant shall comply with the Conditional Use Decision and Order dated December 16, 2009 as such Decision was amended in the Settlement Agreement.
12. This Resolution of approval does not grant approval for any signs. Applicant shall be required to submit an application for any signs that it proposes to install on the Spence Building Parcel and Redevelopment Parcels and obtain necessary permits and approval before the installation of any signs.
13. Applicant shall obtain all necessary approvals for sanitary sewage facilities planning necessary for the Development pursuant to applicable law.
14. Applicant shall secure from the Borough Wastewater Department all necessary sanitary sewer capacity necessary for the Development including, without limitation, payment of the necessary tapping fees for such capacity pursuant to Chapter 89 of the Borough Code.
15. The Development shall be served by public water supply from Aqua Pennsylvania.
16. Applicant shall obtain and provide to the Borough all necessary outside agency permits needed to develop the Spence Building Parcel and the Redevelopment Parcels consistent with the Spence Building Plan and Hotel Plan.
17. Within thirty (30) days of the date of this Resolution, Applicant shall pay all required review fees and shall reimburse the Borough for the costs of its professional consultants, including solicitor and engineer incurred during the review and approval process related to the Application.
18. Applicant shall comply with all applicable federal, state and local statutes, codes, ordinances, rules and regulations and shall obtain all approvals, certificates, licenses and permits required with regard to the Development.
19. Prior to the release of the final plans for recording, Applicant shall execute and deliver to the Borough the following documents in form customarily accepted by the Borough:
  - (a) Land Development Agreement;

- (b) Financial Security Agreement (with financial security as determined pursuant to Section 509 of the MPC, 53 P.S. § 10509); and
- (c) Stormwater Management Best Management Practices Operations and Maintenance Agreement.

**RESOLVED**, this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

ATTEST:

**BOROUGH COUNCIL FOR THE  
BOROUGH OF WEST CHESTER**

\_\_\_\_\_  
Michael A. Perrone, Secretary

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Michael Galey, President

\_\_\_\_\_  
Donald Braceland, Vice-President

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Denise Polk, Council Member

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Michael Stefano, Council Member

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William J. Scott, Council Member

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Bernie Flynn, Council Member

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Nick Allen, Council Member