

TOWNSHIP OF LOWER MERION

**ECONOMIC REVITALIZATION
COMMITTEE**

Wednesday, November 16, 2016
6:45 PM (Approximately)

Chairperson: Tiffany O'Neill
Vice Chairperson: Cheryl B. Gelber, Steven K. Lindner

AGENDA

**1. SIXTH AMENDMENT TO THE AMENDED AND RESTATED DEVELOPMENT
AGREEMENT BETWEEN LOWER MERION TOWNSHIP AND ONE ARDMORE
ASSOCIATES**

Consider for recommendation to the Board of Commissioners approval of an amendment to certain deadlines in the Exhibit "D" Schedule of the Amended and Restated Development Agreement between Lower Merion Township and One Ardmore Associates for the Ardmore Revitalization project and authorizing the Township Manager to enter into the amended Development Agreement.

PUBLIC COMMENT



AGENDA ITEM INFORMATION

ITEM: SIXTH AMENDMENT TO THE AMENDED AND RESTATED DEVELOPMENT AGREEMENT BETWEEN LOWER MERION TOWNSHIP AND ONE ARDMORE ASSOCIATES

Consider for recommendation to the Board of Commissioners approval of an amendment to certain deadlines in the Exhibit “D” Schedule of the Amended and Restated Development Agreement between Lower Merion Township and One Ardmore Associates for the Ardmore Revitalization project and authorizing the Township Manager to enter into the amended Development Agreement.

ATTACHMENTS:

Description	Type
<input type="checkbox"/> Issue Briefing	Issue Briefing
<input type="checkbox"/> Correspondence re: Extension Request	Backup Material
<input type="checkbox"/> Sixth Amendment to Development Agreement	Backup Material

TOWNSHIP OF LOWER MERION
Economic Revitalization Committee

Issue Briefing

Topic: Amendment to the Development Agreement with Dranoff Properties

Prepared By: Angela N. Murray AICP, Assistant Director, Building & Planning

Date: November 11, 2016

I. Action To Be Considered By The Board:

Authorize execution of the Sixth Amendment to the Amended and Restated Development Agreement between Lower Merion Township and One Ardmore Associates (Dranoff Properties) (the “Development Agreement”) for the redevelopment of the Cricket Lot to extend the deadline to February 17, 2017 for funding commitments, closings and start of construction.

II. Why This Issue Requires Board Consideration:

There are several deadlines contained in the Fifth Amendment to the Development Agreement that require extension. The primary reason for this extension is that both the Redevelopment Assistance Capital Project (RACP) funding and the private financing are taking more time than originally anticipated to finalize documents and release funding for closing and construction.

III. Current Policy Or Practice (If Applicable): N/A

IV. Other Relevant Background Information:

Attached is a proposed Sixth Amendment to the Amended and Restated Development Agreement between the Township of Lower Merion and One Ardmore Associates (Dranoff Properties) last amended August 10, 2016. The previous amendment established a December 6, 2016 deadline for all funding commitments, closings and start of construction. The current estimate for a closing date is the end of December, 2016, however, because the closing process involves both private sources of funds and the public grant funds, it is complex, and that date is not yet certain. Accordingly, the requested change in deadline will ensure that if the December, 2016 deadline is missed, the new deadline will occur after the Township’s February, 2017 Board of Commissioner’s meeting and make it unlikely that another extension will be needed.

V. Impact On Township Finances:

The extension of the deadlines in the Amended and Restated Development Agreement will preserve the Township’s rights to payments and reimbursements enumerated in the Development Agreement.

VI. Staff Recommendation:

Staff recommends authorizing execution of the proposed Sixth Amendment to the Amended and Restated Development Agreement extending the deadline to February 17, 2017.



November 10, 2016

Ross Weiss

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rweiss@cozen.com

Ernie B. McNeely
Township Manager
Lower Merion Township
75 East Lancaster Avenue
Ardmore, PA 19003

**Re: One Ardmore Place
Sixth Amendment to the Development Agreement**

Dear Mr. McNeely:

We are respectfully requesting that the Township agree to a Sixth Amendment to the Development Agreement providing for an extension to February 17, 2017. The current extension was approved in the Fifth Amendment dated August 10th and expires on December 6th. You might recall that, in August, we requested a longer extension in case, notwithstanding everyone's best efforts, we would not be able to close on the project by November 16th, the last date for the Township to consider another extension. Our goal is to still close as soon as possible. No one is more anxious than my client to commence construction.

There are several reasons for requesting the extension. First and foremost, because the project is complex, it is taking longer than expected to resolve all issues of the RACP financing and private financing. For example, the resolution of some document issues with the Commonwealth takes longer than the resolution of issues at the local level. In addition, our lender and investor have requested final documents approved by the RDA, Commonwealth and Township along with their documents with One Ardmore Place. Documents with the lender and investor have regularly been exchanged, but need more time to complete.

Since August, we have had almost weekly conference calls with staff and several meetings at the Township Building to review the Township documents and the exhibits to those documents. We are close to completing them, enabling us to submit them to the investor and lender for their final review and approval. We also appeared before the Montgomery County Redevelopment Authority in October. The RDA reviewed all documents and authorized their execution.

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Ernie B. McNeely
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Please place this request on the Commissioner's agenda for its Wednesday, November 16th, meeting.

Very truly yours,

COZEN O'CONNOR

By: Ross Weiss

RW/hgd

cc: Robert E. Duncan - via email
Angela Murray - via email
Gilbert P. High, Jr., Esquire - via email
David M. Scolnic, Esquire - via email
Carl E. Dranoff - via email
David Lebor, Esquire - via email
Mike Asnes - via email
Sheila Sutton - via email
Steve Nonnemaker - via email

SIXTH AMENDMENT TO AMENDED AND RESTATED DEVELOPMENT AGREEMENT

THIS SIXTH AMENDMENT TO AMENDED AND RESTATED DEVELOPMENT AGREEMENT (this “Amendment”) is executed and made effective as of this ____ day of _____, 2016 (the “Effective Date”), by and between **TOWNSHIP OF LOWER MERION**, a Township of the First Class organized and existing under the laws of the Commonwealth of Pennsylvania (the “Township”) and **ONE ARDMORE ASSOCIATES, L.P.**, a limited partnership organized and existing under the laws of the Commonwealth of Pennsylvania (“One Ardmore”).

BACKGROUND:

The Township and Dranoff Properties, Inc. (“Dranoff”) entered into that certain Amended and Restated Development Agreement dated January 4, 2013, as amended by that certain Amendment to Amended and Restated Development Agreement dated June 28, 2013, that certain Second Amendment to Amended and Restated Development Agreement dated November 12, 2014, that certain Third Amendment to Amended and Restated Development Agreement dated March 18, 2015, that certain Fourth Amendment to Amended and Restated Development Agreement dated October 16, 2015 and that certain Fifth Amendment to Amended and Restated Development Agreement dated August 10, 2016 (collectively, the “Agreement”), pursuant to which the Township and Dranoff set forth their agreements regarding the planning, design, development, construction and operation of the Cricket Portion of the Project, as defined in the Agreement.

Pursuant to that certain Assignment and Assumption of Amended and Restated Development Agreement by and between Dranoff and One Ardmore, made on February 10, 2015 but effective as of October 9, 2014, Dranoff assigned all of its right, title and interest in and to the Agreement to One Ardmore, and One Ardmore assumed all of the obligations of Dranoff under the Agreement.

The Township and One Ardmore desire to extend certain deadlines contained in the Agreement.

NOW, THEREFORE, for One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, agree as follows:

1. The Background provisions set forth above are hereby incorporated herein by reference as if set forth in full in the body of this Amendment. All capitalized terms used but not defined herein shall have the meanings set forth in the Agreement.

2. The following deadlines are hereby extended as set forth below:

Description	Location in Agreement	Extended Deadline
Commitments for all financing necessary for Cricket Portion of the Project	Exhibit D	February 17, 2016

Receipt of Building Permit	Section 2.4(a) and Exhibit D	February 17, 2016
Settlement on Cricket Lot and Financing	Section 2.4(a) and Exhibit D	February 17, 2016
Commencement of Construction	Exhibit D	February 17, 2016

3. Time is of the essence with respect to all provisions of this Amendment, subject to the provisions of Section 2.1 of the Agreement.

4. Except as and to the extent modified by this Amendment, all of the terms, conditions and provisions of the Agreement shall remain unmodified and unchanged and are hereby reaffirmed, ratified and confirmed and shall remain in full force and effect. Without limiting generality of the foregoing, the parties hereto specifically reaffirm that nothing in the Agreement or this Amendment limits the Township's rights to grant land development approvals and other approvals for land use consistent with the Pennsylvania Municipalities Planning Code, Lower Merion Township Zoning Code and all other Laws, in the ordinary course and according to the Township's practice and procedure.

5. This Amendment may be executed in a number of identical counterparts, each of which constitutes an original, and all of which constitute, collectively, one agreement; provided, however, that in making proof of this Amendment, it shall not be necessary for any party to produce or account for more than one such counterpart.

6. This Amendment shall be binding on and inure to the benefit of the parties hereto and their respective successors and assigns. This Amendment shall be governed by the laws of the Commonwealth of Pennsylvania.

IN WITNESS WHEREOF, each of the parties hereto has executed this Amendment as of the day and year first above written.

TOWNSHIP OF LOWER MERION

By: _____
Name: _____
Title: _____

ONE ARDMORE ASSOCIATES, L.P.

By: ONE ARDMORE GP CORP., its general partner

By: _____
Name: _____
Title: _____