

RESOLUTION NO. R-15-2019

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF KENSINGTON TO APPROVE AN EASEMENT AGREEMENT WITH SHI-III SOLERA KENSINGTON OWNER, LLC, OWNER OF 10500 ST. PAUL STREET AND 10540 METROPOLITAN AVENUE, FOR USE AND MAINTENANCE OF LAND ADJACENT TO THE ST. PAUL STREET RIGHT-OF-WAY ON THE PART OF THE TOWN, AND FOR MAINTENANCE OF SIDEWALK IN THE PUBLIC RIGHT-OF-WAY BY SHI-III SOLERA KENSINGTON OWNER, LLC.

Whereas, SHI-III Solera Kensington Owner, LLC, (“Solera”) owner of 10500 St. Paul Street and 10540 Metropolitan Avenue, has applied for a site plan to allow the construction of a five (5) story senior living facility, and associated support and amenity facilities, and to adapt and re-use the historic buildings located along St. Paul Street for residential amenities and/or street-activating retail/service use (“Project”); and

Whereas, the entirety of St. Paul Street abutting the Property is a public right-of-way under the jurisdiction and control of the Town, per dedication on Plat No. 24, filed January 24, 1898; and

Whereas, St. Paul Street is an approximately 51-foot wide public right-of-way made up of a 22-foot drive aisle, on-street vehicular parking spaces along the western boundary, and other streetscape improvements (including lighting, sidewalks etc.); and

Whereas, the Project's Site Plan No. 820180180 (“Site Plan”) as approved by the Montgomery County Planning Board includes Condition No. 15(f) of the Site Plan Resolution, which requires that the Certified Site Plan "show the location of a public improvement easement over the portion of Public Parking along St. Paul Street that is located on the Property" and shows nine (9) parking spaces for the Public Parking for use by the public; and

Whereas, a portion of the existing on-street public parking (“Public Parking”) on St. Paul Street that is controlled by the Town encroaches onto the Property; and

Whereas, a portion of the public open space area approved in the Site Plan for the Project, encroaches into the public right-of-way of St. Paul Street that is under the jurisdiction of the Town; and

Whereas, Solera and the Town intend to retain the Public Parking for the use of the public in conformance with the Site Plan; and

Whereas, Solera, to comply with Condition No. 15(f), seeks to grant an easement on a portion of the Property (the "Easement Area"), and make certain agreements with the Town, as set forth in an Easement Agreement, which is attached to this Resolution and incorporated herein in substantially the form attached; and

Whereas, the Town, by execution of the Agreement grants an easement to Solera on a portion of the St. Paul Street right-of-way, attached hereto and made a part hereof (the "Sidewalk Easement Area"), and makes certain agreements with the Applicant; and

Whereas; the Agreement requires generally that Solera install and maintain those improvements on the Property and in the Sidewalk Easement Area, and that the Town continue to maintain those improvements in the Easement Area; and

Whereas, in exercising jurisdiction and control of the Easement Area, the Town retains the ability to regulate the parking spaces by permit, time limit and/or or meter, and to change the number or use of the spaces and the geographic area covered thereby if necessary. This Easement Agreement does not otherwise alter the Town's rights with respect to regulation and control of the Town's right-of-way.

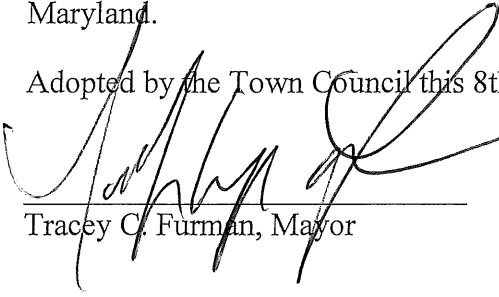
Now Therefore Be It Resolved by the Mayor and Town Council of Kensington that the Easement Agreement with Solera, in substantially the form attached, be and it is hereby approved; and it is further

Resolved, that the Sidewalk Easement as described in Exhibit C to the Easement Agreement be and it is hereby granted to Solera, its successors and assigns; and it is further

Resolved, that the Town be and it is hereby authorized to accept the Easement from Solera as described in Exhibit B to the Easement Agreement; and it is further

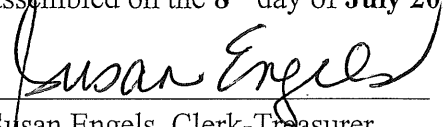
Resolved, that the Mayor is authorized to sign the said Easement Agreement, and it is directed that the said Easement Agreement be recorded among the land records for Montgomery County, Maryland.

Adopted by the Town Council this 8th day of July, 2019.



Tracey C. Furman, Mayor

THIS IS TO CERTIFY is to certify that the foregoing Resolution was adopted by the Town Council in public meeting assembled on the 8th day of July 2019.



Susan Engels, Clerk-Treasurer