

Zoning Proviso Agreement

This Agreement is made this ____ day of November, 2017 by and between KenCrest Services, Inc. (“KenCrest”) a Pennsylvania non-profit, with an address at 960A Harvest Drive, Suite 100, Blue Bell, PA 19422, the East Falls Community Council (“East Falls”), a registered community organization (“RCO”) in Philadelphia PA, with an address at P.O. Box 12672, Philadelphia, PA 19129, and _____.

WHEREAS, KenCrest is the owner of a property located at 3625 McMichael Street (a/k/a 3132 Midvale Ave.), Philadelphia, PA 19129, hereinafter referred to as the “Property”;

WHEREAS, since 1989, KenCrest has owned, occupied and used the Property related to its mission of providing various services to disabled children, teens and adults;

WHEREAS, KenCrest filed and has pending an Appeal to the Philadelphia Zoning Board of Adjustment (“ZBA”) at Calendar No. 31828 (a/k/a L&I Application No. 796015), seeking approval to use the Property as a group home for up to 6 children needing ongoing nursing care.

WHEREAS, East Falls has been designated by the Philadelphia Planning Commission as the coordinating RCO with standing in the pending Zoning Appeal before the ZBA;

WHEREAS, in meeting with East Falls, certain issues and concerns were identified relating to KenCrest’s proposal for the Property.

WHEREAS, KenCrest and East Falls have reached agreement on certain conditions related to KenCrest’s use of the Property related to the pending ZBA Appeal.

WHEREAS, _____ attended the meeting, and indicated an interest in being Parties to this Agreement.

NOW THEREFORE, intending to be legally bound hereby, the Parties hereto agree as follows:

1. If approved by the ZBA, KenCrest will use the Property as a residential group home for children needing residential nursing care (“Nursing Care Residence”) as part of KenCrest’s non-profit mission.
2. The Nursing Care Residence will be available for occupancy by no more than six (6) children who require ongoing nursing care, which care will not constitute drug treatment or rehabilitation.
3. The Nursing Care Residence will generally be staffed at all times by two (2) certified nurses and one aide as needed to provide care to the children residing at the facility.

4. Exterior lighting at the Property will be residential in nature, and will include existing lighting that will remain, plus certain new lighting to be installed in substantial conformance with the Plans attached hereto at Exhibit _____. These Plans, if approved by the ZBA (the "ZBA Plans"), will be deemed to be part of this Agreement. Lighting will be directed or shielded as necessary to minimize any lighting impacts on neighboring properties or adjoining streets.
5. The existing hedging along Midvale and McMichael Streets will remain. Other landscaping and fencing existing at the Property will remain in place and/or be added in substantial conformity with the ZBA Plans, and/or with applicable zoning requirements.
6. Mechanical systems and equipment for the Medical Home will be installed in locations as depicted on the Plans, and will be screened from view so as not to be visible from surrounding streets or properties. The screening will include sound dampening materials to minimize any noise emanating from such mechanical equipment and systems.
7. The on-site parking spaces in the new driveway at the Property will be utilized primarily as parking for KenCrest vehicles and nursing/staff. Other staff and visitors to the Property will be instructed to park on Midvale and McMichael Streets adjacent to the Property whenever possible.
8. This Agreement, when executed, will be submitted by KenCrest as part of its record at the ZBA hearing. KenCrest will indicate to the ZBA that it should consider the Agreement as binding on the Property and KenCrest.
9. The interpretation, performance and enforcement of all rights and obligations arising under this Agreement shall be governed by the laws of the Commonwealth of Pennsylvania.
10. The provisions of this Agreement shall be covenants running with the land, subject to the terms and conditions of this Agreement.
11. The Parties hereto hereby declare that the rights and obligations created herein accrue to the KenCrest, East Falls, and _____, and any heir, successor, or assignee thereof.
12. This Agreement will become effective upon execution by all parties, and the issuance of a non-appealable Zoning Permit by L&I approving KenCrest's application/appeal.
13. This Agreement may be amended only by a writing signed by the Parties hereto.

14. This Agreement may be executed in counterparts.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the Parties have signed and sealed this document as of the day and year first above written.

KenCrest Services, Inc.

By: _____
Title: _____

East Falls Community Council

By: _____
Title: _____

By: _____
Title: _____