

Master Plan Element Section IV

Housing Element & Fair Share Plan

Appendices Book 03

Adopted 02-04-26

Township of West Windsor | Mercer County, New Jersey



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Appendix D: Third Round Documents

Appendix D-12:
Resolution re: Meridian Walk

development, and limited construction was undertaken to grandfather and vest the rights granted in those permits.

4. Surrounding land uses consist of the Princeton Service Center and The Square at West Windsor commercial centers to the north; the Windsor Woods multifamily development to the northeast; and undeveloped wooded areas to the south and southeast.

5. The Site is identified in the Township's February 2019 Housing Element and Fair Share Plan ("HEFSP") as a site to address the Township's affordable housing obligation. The HEFSP stated that it would be rezoned to a new R-5C Affordable Housing District to permit mid-rise apartments and garden apartments at a maximum density of 10 units per acre with a minimum 25% set aside for affordable housing. Ordinance 2019-04 creating the R-5C District was adopted by the Township Council on March 18, 2019 and became effective on April 8, 2019.

JURISDICTION AND RELIEF SOUGHT

6. The subject of this application is within the jurisdiction of this Board and public notice was provided in accordance with law. The Board acted within the time required by law.

7. The applicant seeks preliminary and final major site plan approval to construct a multifamily development (the "Project") consisting of 360 garden apartment units, located in 22 buildings concentrated in the northerly portion of the Site, including 100 affordable garden apartment units, equivalent to 27.77%, exceeding the 25% required affordable unit set-aside. Of the market-rate units, all will be three-bedroom. Of the affordable units, 13 will be one-bedroom, 42 two-bedroom, and 45 three-bedroom. The 13 affordable one-bedroom units will consist of 2 very low, 3 low and 8 moderate units. The 42 affordable two-bedroom units will consist of 7 very low, 17 low and 18 moderate units. The 45 affordable three-bedroom units will consist of 3 very low, 12 low and 30 moderate units. The affordable units will be located within five buildings that will be dispersed throughout the 22 buildings. The affordable units themselves will not be in the same buildings as the market-rate units. In accordance with the R5-C District, the residential development may be in a condominium form of ownership at the discretion of the developer.

8. Also proposed are a 2,475 s.f. clubhouse, a 750 s.f. storage building that will be connected to the clubhouse by a breezeway, a pool, a play lot, a pedestrian path encircling the existing wet pond, and other related site improvements as depicted on the submitted plans. The Project will have 38.24 acres – more than 60% of the Site– of preserved open space.

9. 813 parking spaces are proposed, consisting of 177 surface spaces, 318 garage spaces and 318 driveway spaces.

10. The Project has right in and right-out vehicular access from and to U.S. Route 1 and full vehicular access to and from Old Meadow Road through easements located on the Square Property and Windsor Woods Property. Reciprocal emergency access easements for emergency vehicles are also created over the Windsor Woods Property, and additional access and landscaping easements over the Square Property.

11. A reciprocal recreation agreement is proposed with the adjacent Windsor Woods apartment complex to the east that would allow for sharing of the play lot on Lot 8 with the Windsor Woods residents in exchange for West Windsor Duck Pond residents having access to Windsor Wood's basketball court, tennis court, tot lot and playing fields.

12. A *de minimis* RSIS exception, a design waiver, and four submission waivers are requested. The exception and design waiver are as follows:

- From Section 200-189.2C(1), to exceed the number of required parking spaces required by RSIS for residential uses, 748, whereas 813 parking spaces are proposed; and
- From Section 200-31K (4), to exceed the maximum average light intensity throughout the Site, with 0.6 footcandles required whereas a 0.9 footcandle is proposed.

13. Most of the submission waivers relate to items that would be required if preliminary and final approvals were sought separately, while the application seeks these approvals concurrently.

THE APPLICANT

14. The applicant is West Windsor Duck Pond Associates, LLC. The owner, tenants-in-common WWW West Windsor, LLC and JAB West Windsor LLC, has consented to the application.

NOTICE

15. The applicant obtained a list of all property owners within 200 feet of the property that is the subject of this application from the West Windsor Township tax office.

16. The applicant filed an affidavit stating that the notice was given at least ten days in advance of the hearing date to the surrounding property owners and to the public entities required to be noticed. The applicant has also filed a proof of publication confirming that newspaper publication was made in accordance with legal requirements. Proper notice was given.

17. The notice and publication stated that the hearing would be held at the meeting of the Board scheduled for November 18, 2020.

THE HEARING

18. The public hearing on the application was heard on the date for which it was noticed. At the hearing, the applicant and all other interested parties were given the opportunity to present evidence and to be heard.

PLANS AND REPORTS SUBMITTED

19. At the hearing, the Board reviewed the following plans and reports:
- Plans entitled “Preliminary and Final Site Plans – West Windsor Duck Pond – Tax Map Sheets 13.01, 13.02, 13.02, & 13.04 - Block 8; Lots 8, 10.02, and 10.03, Township of West Windsor, Mercer County, New Jersey,” prepared by T&M Associates (Richard A. Moralle, P.E. & L.S.), dated June 8, 2020, revised through October 16, 2020, consisting of 81 sheets
 - Survey entitled “Resolved Final Boundary and Topographic Survey – Block 8, Lot 8 – West Windsor Township, Mercer County, New Jersey - ALTA/NSPA (2016) Land Title Survey,” prepared by T&M Associates (Richard A. Moralle, P.E. & L.S.), dated December 24, 2019, unrevised

- Report entitled “West Windsor Duck Pond – Boundary Survey Report – Lot 8, Block 8 – West Windsor Township, Mercer County N.J.,” prepared by T&M Associates (Richard A. Moralle, P.E. & L.S.), dated June 3, 2020, revised 9/4/20
- Architectural Plans entitled “West Windsor Duck Pond – West Windsor, NJ” consisting of Floor Plans and Elevations, prepared by Appel Design Group (Laurance D. Appel, R.A.), dated March 19, 2020, revised through October 16, 2020, consisting of 21 sheets
- Landscape Architecture Plans entitled “West Windsor Duck Pond – West Windsor, New Jersey,” prepared by Sikora Wells Appel Landscape Architecture (Joseph T. Sikora, C.L.A.), dated June 11, 2020, revised through September 4, 2020, consisting of 16 sheets, revised 9/4/20
- Several single sheet plans, dated June 8, 2020 and revised through October 16, 2020, prepared by Pennoni (Robert Melvin, AICP, PP), including:
 - Bicycle / Pedestrian Plan
 - Open Space Plan
 - Snow and Waste Removal Plan
 - Signage Plan
 - Architectural Diversity Plan
- Parking Plan 11x17” color exhibits prepared by Pennoni (Robert Melvin, AICP, PP) consisting of an aerial photograph of the site and surrounding areas with the proposed development superimposed and identifying existing and proposed easements for the development with adjoining properties, including:
 - All Easements – Duck Pond Site Area”
 - “Amended & Restated Easement Access (Block 8; Lot 10.03 to Block 8; Lot 8 and Block 8; Lots 10.02 and 54)”
 - “Amended & Restated Easement Access (Block 8; Lots 10.02 and 54 to Block 8: Lot 8)”
 - “Amended & Restated Route 1 Easement Access (2-Way) (Block 8: Lot 8 to Block 8; Lots 10.02 and 54)”
 - “Amended & Restated Easement Drainage (Block 8: Lot 8 to Block 8; Lots 10.02, 10.03 and 54)”
 - “Conditional 1-Way Access in from Meadow Road (Block 8; Lots 10.03, 10.02, 8 to Block 8; Lots 30, 17, 24)”
 - “Pedestrian Path Easement (Block 8, Lot 10.03 to Block 8, Lot 8)”
 - “Reciprocal Recreation Facilities Easement Agreement (Block 8; Lot 8 and Block 8, Lots 10.02 and 54)”
 - “2-Way Access to Route 1 (Block 8; Lot 8 to Block 8; Lot 18)”
 - “1-Way Access (Drainage) (Block 8; Lot 8 to Block 8; Lot 18)”
 - “Drainage Easement (Block 8; Lot 8 to Block 8; Lot 30)”
 - “Road Access Easement (Block 8; Lot 10.03 to Block 8; Lot 8)”
 - “Overview Plan (Duck Pond Site: Block 8, Lot 8)”
 - “Emergency Access Easement (Block 8; Lot 10.02 and 54 to Block 8; Lot 8)”
 - “Lowe’s Landscaping Easement (Block 8; Lot 10.03 to Block 8; Lot 8)”

- “Windsor Woods Landscaping Easement (Block 8; Lot 10.02 and 54 to Block 8; Lot 8)”
- Two undated 11x17” color exhibits prepared by Pennoni (Robert Melvin, AICP/PP) consisting of an overall site layout exhibit and an enlargement of the pool/clubhouse area
- Report entitled “Stormwater Management Report – West Windsor Duck Pond – Block 8, Lot 8 – West Windsor Township, Mercer County, New Jersey,” prepared by Kleinfelder, Inc. (James F. Cosgrove, Jr., P.E.), dated June 12, 2020, revised through September 4, 2020
- Report entitled “Stormwater Management Report – Supplemental Stormwater Conveyance Calculations - Preliminary and Final Site Plans – West Windsor Duck Pond Apartments – Tax Map Sheets 13.01, 13.02, 13.03, & 13.04 - Block 8; Lots 8, 10.02, and 10.03,” prepared by T&M Associates (Richard A. Moralle, P.E. & L.S.), dated June 8, 2020, revised through October 16, 2020
- Document entitled “Stormwater Management System Operations & Maintenance Manual - West Windsor Duck Pond – Block 8, Lot 8 - West Windsor Township, Mercer County, New Jersey,” prepared by Kleinfelder, Inc. (James F. Cosgrove, Jr., P.E.), dated June 12, 2020, revised through September 4, 2020
- Report entitled “Report of Geotechnical Investigation – Proposed Residential Development – 3478 Brunswick Pike – Block 8, Lot 8 - Township of West Windsor, Mercer County, New Jersey,” prepared by Dynamic Earth (Francis Van Cleve, P.E. & Peter H. Howell, P.E.), dated December 16, 2019, revised through June 11, 2020
- Report entitled “Soils Permeability Investigation Report – Proposed Residential Development – 3478 Brunswick Pike – Block 8, Lot 8 - Township of West Windsor, Mercer County, NJ,” prepared by Dynamic Earth (Patrick J. Granitzki, P.E. & Francis Van Cleve, P.E.), dated May 15, 2020, revised through June 11, 2020
- Report entitled “Sanitary Sewer Report – West Windsor Duck Pond Preliminary and Final Site Plan,” prepared by T&M Associates (Richard A. Moralle, P.E. & L.S.) dated June 5, 2020, revised through October 16, 2020
- Letter from T&M Associates (Richard A. Moralle, PE, PLS, PP, CME) to the West Windsor Township Engineering Department, dated September 2, 2020, revised through October 16, 2020
- Report entitled “Water Service Report – West Windsor Duck Pond Preliminary and Final Site Plan,” prepared by T&M Associates (Richard A. Moralle, P.E. & L.S.), dated June 5, 2020, revised through October 16, 2020
- Draft legal instruments, including:
 - One Way Access Easement Agreement between Block 8, Lot 8; Block 8, Lots 10.02 & 54; Block 8, Lot 10.03; and Block 8, Lots 17, 24 & 30
 - Conditional Access and Drainage Easement Agreement between Block 8, Lot 8 and Block 8, Lot 18
 - Amended and Restated Easement Agreement between Block 8, Lot 8; Block 8, Lot 10.03; and Block 8, Lots 10.02 & 54
 - Roadway Construction and Access with Landscaping Easement Agreement between Block 8 Lot 10.03 and Block 8, Lot 8

- Drainage Easement Agreement between Block 8, Lot 8 and Block 8, Lots 17, 24 & 30
- Reciprocal Recreation Facilities Easement Agreement between Block 8, Lots 10.02 & 54 and Block 8, Lot 8
- Reciprocal Emergency Access Easement Agreement between Block 8, Lots 10.02 & 54 and Block 8, Lot 8
- Pedestrian Access Easement Agreement between Block 8, Lot 10.03 and Block 8, Lot 8
- Landscaping Easement Agreement between Block 8, Lots 10.02 & 54 and Block 8, Lot 8; and
- Storm Water Management and Conservation Easement between Block 8, Lot 8 and the Township of West Windsor
- Legal descriptions with accompanying plan exhibits prepared by T&M Associates (Michael S. Finnegan, P.P., P.L.S), dated June 5, 2020, revised through September 3, 2020 (except as noted), including:
 - Description of Landscape Easement Area “A” over a Portion of Lot 10.02 in Block 8 Located in the Township of West Windsor, Mercer County, New Jersey
 - Description of Landscape Easement Area “B” over a Portion of Lot 10.02 in Block 8 Located in the Township of West Windsor, Mercer County, New Jersey
 - Description of Pedestrian Easement, Portion of Lot 10.03 in Block 8 Located in the Township of West Windsor, Mercer County, New Jersey
 - Description of Access Easement over a Portion of Lot 10.02 in Block 8 Located in the Township of West Windsor, Mercer County, New Jersey
 - Description of One-Way Access Easement over Portion of Lot 10.02 in Block 8 Located in the Township of West Windsor, Mercer County, New Jersey
 - Description of Emergency Access Easement over Portion of Lots 10.02 and 54 in Block 8 Located in the Township of West Windsor, Mercer County, New Jersey
 - Description of One-Way Access Easement over Portion of Lot 8 in Block 8 Located in the Township of West Windsor, Mercer County, New Jersey
 - Description of Access and Landscape Easement over a Portion of Lot 10.03 in Block 8 Located in the Township of West Windsor, Mercer County, New Jersey
 - Description of Water Main Easement over a Portion of Lot 10.02 in Block 8 Located in the Township of West Windsor, Mercer County, New Jersey
 - Description of One-Way Access Easement over a Portion of Lot 10.03 in Block 8 Located in the Township of West Windsor, Mercer County, New Jersey
 - Description of Access Easement over a Portion of Lot 10.03 in Block 8 Located in the Township of West Windsor, Mercer County, New Jersey
 - Description of Drainage Easement over a Portion of Lot 8 in Block 8 Located in the Township of West Windsor, Mercer County, New Jersey for Drainage from Lot 30 in Block 8, revised through October 16, 2020

- Description of Drainage Easement over a Portion of Lot 8 in Block 8 Located in the Township of West Windsor, Mercer County, New Jersey for Drainage from Lot 10.03 in Block 8, revised through October 16, 2020
 - Description of Drainage Easement over a Portion of Lot 8 in Block 8 Located in the Township of West Windsor, Mercer County, New Jersey for Drainage from Lot 18 in Block 8, revised through October 16, 2020
 - Description of Access Drive Easement over Portion of Lot 8 in Block 8 Located in the Township of West Windsor, Mercer County, New Jersey, dated September 24, 2020, unrevised
 - Description of Connector Road Easement over Portion of Lot 8 in Block 8 Located in the Township of West Windsor, Mercer County, New Jersey, dated September 24, 2020, unrevised
- Overall exhibit map prepared by T&M Associates (Michael S. Finnegan, P.P., P.L.S), dated June 8, 2020, unrevised, showing all easements
- Letter to Samuel J. Surtees, West Windsor Township Division of Land Use Manager, from Kleinfelder, Inc. (James F. Cosgrove, P.E.), referenced “Environmental Constraints and Land Use Permitting Summary on Garden Homes/Duck Pond Development Site,” dated June 12, 2020
- Letter to Samuel J. Surtees, West Windsor Township Division of Land Use Manager, from Hill Wallack LLP (Thomas F. Carroll, III), referenced “Site Plan Application of West Windsor Duck Pond Associates, LLC – Unit Count, Density and Affordable Units,” dated June 8, 2020
- Owner’s Consent letters from the following entities authorizing West Windsor Duck Pond Associates, LLC to make Site Plan application to the Board:
 - West Windsor Plaza Associates, LLC (Block 8, Lot 10.03), dated June 9, 2020
 - West Windsor Developers, LLC (Block 8, Lots 10.02 and 54), dated June 10, 2020
 - WWW West Windsor, LLC and JAB West Windsor, LLC (tenants-in-common owners of Block 8, Lot 8), dated June 9, 2020
- Color 11x17 architectural renderings showing an “Alley View” and “Courtyard View” of the proposed development, prepared by Appel Design Group, dated September 3, 2020, consisting of two sheets
- Color 11x17 architectural rendering entitled “Affordable Buildings #1, 3, 4, 13, and 14 – Entrance Alley View,” prepared by Appel Design Group, dated October 16, 2020, consisting of one sheet
- Color 11x17 architectural elevations of Market Rate Buildings #9, #8, and #7 prepared by Appel Design Group, dated March 19, 2020, revised through September 3, 2020, consisting of three sheets
- Submission letters from Pennoni to each of the Board’s professionals, dated October 16, 2020
- Document referenced “Supplement #1 – Supporting the Project Density, Affordable & Market Building Locations” prepared by Pennoni and addressed to Sam Surtees, West Windsor Township Land Use Manager, dated September 4, 2020

- Document referenced “Supplement #2 – Potential to Add 13 Affordable Units” prepared by Pennoni, addressed to Sam Surtees, West Windsor Township Land Use Manager, dated September 4, 2020
- Document referenced “Supplement #3 – Design Waiver / Exception Request” prepared by Pennoni and addressed to Sam Surtees, West Windsor Township Land Use Manager, dated October 16, 2020
- Letter from Robert F. Melvin, AICP/PP of Pennoni to Samuel J. Surtees, Manager – Division of Land Use for West Windsor Township, dated October 16, 2020, regarding proposed full address list of each unit in each building in tabular format
- Sketch entitled “Elevation and Section Diagram at Closet for Trash/Recycling and Bike Storage” prepared by Appel Design Group, dated August 11, 2020
- Letter from MRC to Bob Melvin of Pennoni, dated October 17, 2020, regarding suitability of existing and proposed playground equipment
- Memo from Mr. Muller to Sam Surtees re “Windsor Woods Apartments and Square at West Windsor Easements – MIC Question” dated 10/5/20.
- Traffic Impact Study by Dynamic Engineering, Nick Verderese, P.E. dated 7/7/17, last revised 10/16/20
- Architect cover letter from Laurence Appel P.A. dated 6/9/20
- “Will-Serve” letters from the following public utilities:
 - Public Service Electric and Gas, dated May 14, 2020
 - Verizon New Jersey, Inc., dated May 18, 2020
- Development Application Package, including
 - Development Application form
 - Site Plan Checklist
 - Environmental Impact Statement Worksheet
 - Green Development Practices Checklist

TOWNSHIP REPORTS

20. At the hearing, the Board considered the following reports presented by Township officials and bodies and consultants to the Board:

- Memorandum from David Novak, P.P. to the Board dated November 10, 2020
- Memorandum from Dan Dobromilsky, L.L.A. to the Board dated November 9, 2020
- Memorandum from Francis A. Guzik, P.E. to the Board dated November 10, 2020
- Memorandum from Jeffrey A. L’Amoreaux, P.E. to the Board dated November 10, 2020
- Memorandum from Timothy M. Lynch, West Windsor Township Fire & Emergency Services, dated November 10, 2020
- Memorandum from West Windsor Affordable Housing Committee to the Board dated November 9, 2020
- Memorandum from Christopher B. Jepson, P.E. to the Board dated November 9, 2020

EXHIBITS

21. At the hearing, the Board considered the following exhibits that were introduced as evidence during the course of the hearing:

- Exhibit A-1 – color-rendered illustrative site plan by Pennoni, undated
- Exhibit A-2 – color rendering of buildings; color palette; chart showing where the palettes will land by Pennoni Associates, dated 6/8/2020, last revised 10/16/20
- Exhibit A-3 –market Building 4, color-rendered by Appel Design Group dated 3/19/20, last revised 9/3/20
- Exhibit A-4 – market Building 8, color rendered by Appel Design Group dated 3/19/20, last revised 9/3/20
- Exhibit A-5 – market Building 5, color rendered by Appel Design Group dated 3/19/20, last revised 9/3/20
- Exhibit A-6 – market Building floor plan (Sheet PB1) by Appel Design Group, dated 3/19/20, last revised 6/9/20.
- Exhibit A-7 – affordable units floor plan (Sheet PB6) by Appel Design Group, dated 3/19/20, last revised 10/16/20
- Exhibit A-8 – market unit, courtyard view, color-rendered by Appel Design Group dated 9/3/20
- Exhibit A-9 – affordable unit, entrance alley view, color-rendered by Appel Design Gorup dated 10/16/20
- Exhibit A-10 – perspective view down alley by Appel Design Group dated 9/3/20
- Exhibit A-11 – recreation and open space on site – location map and photos by Pennoni Associates, dated 6/8/20, last revised 10/16/20
- Exhibit A-12 – overall site plan (Sheet CSP-1) by T&M Associates dated 10/16/20
- Exhibit A-13 – parking plan by Pennoni Associates, dates 6/8/2020, last revised 10/16/20
- Exhibit A-14 – signage plan by Pennoni Associates, dated 6/8/2020, last revised 10/16/20
- Exhibit A-15 – bike storage analysis by Appel Design Group, dated 8/11/20

TESTIMONY AND PUBLIC INPUT

22. The testimony presented by and on behalf of the applicant and advice by Board consultants were given by the following persons:

Thomas F. Carroll, Esq. represented the applicant. Robert Melvin, A.I.C.P., P.P., its planner, Anthony Marchetta, P.P., a specialist in financing of affordable housing for sale

units; Richard A. Moralle, P.E. and James F. Cosgrove, Jr., P.E., its engineers; Nicholas Verderese, P.E., its traffic engineer; Lawrence Appel, R.A., its architect; and Joseph T. Sikora, C.L.A., its landscape architect were sworn in. Messrs. Melvin, Marchetta, Verderese and Appel testified on the applicant's behalf.

The following Township staff and professionals gave advice to the Board at the hearing: Francis Guzik, P.E.; Dan Dobromilsky, L.L.A.; David Novak, P.P.; Jeffrey A. L'Amoreaux, P.E.; Christopher B. Jepson, P.E.; and Gerald J. Muller, Esq.

23. The statements of the members of the public made during the course of the hearing may be summarized as follows:

Alison Miller stated that she was satisfied with the Marchetta explanation of why, given the possibility for homeowner mortgage financing of affordable units, the affordable units and market units in this instance could not be integrated in the same buildings.

FINDINGS AND CONCLUSIONS RE: PRELIMINARY AND FINAL MAJOR SITE PLAN APPROVAL

24. The Site is part of the Township's court-approved HEFSP prepared in accordance with a Settlement Agreement between the Township and Fair Share Housing Center, entered on October 9, 2018, as amended, setting forth the Township's affordable housing obligations and mechanisms to satisfy them. The Township rezoned the Site, with the passage of Ordinance 2019-04, to a new R-5C Residence Affordable Housing District to permit a gross density of 10 units per acre and 25% affordable housing set-aside, which was proposed by this application. The applicant is voluntarily increasing the set-aside to 27.77% and has submitted an application substantially in accordance with the zoning requirements that seeks no variances and only minor waiver approval and *di minimis* RSIS exception, as further noted below. Given this background and the importance of meeting the Township's affordable housing obligations, to which this project makes a significant contribution, the Board starts with a keen interest to ensure that the project is designed in such a way as to merit approval.

25. The Board appreciates that the applicant is providing more than the required 25% affordable unit set-aside. It was noted that the proposed 100 affordable units is 57 units less than the 157 affordable units presented in the concept plan for the Site in the HEFSP. This may be explained by the fact that the Project presented quite substantially reduces the

overall density of the development from that in the concept plan to ensure, the applicant contended, a realistic opportunity to construct an inclusionary affordable housing project in the current market conditions, whereas the percentage of affordable units is actually now greater. The Project meets the required bedroom distribution for affordable units.

26. Concern was expressed that the affordable units and market units are not being integrated within the same buildings. The applicant demonstrated that the affordable unit buildings are dispersed among all the buildings taking into consideration the location of amenities and open space so that the affordable units benefit equally from these aspects.

27. The applicant proposes 813 parking spaces, of which 636 will be in a garage or tandem driveway and the remaining 177 will be surface spaces, including 6 ADA-accessible, available to visitors and the affordable housing residents who do not have access to a garage or driveway.

28. The area of construction of the residential units and two access points is generally the same as was previously approved in the Prior Approval. Additionally, the environmental permitting to allow the extent of the proposed development was obtained by the prior developer for the Prior Approval, and limited site construction was undertaken to grandfather and vest those approvals. No further environmental permitting from NJDEP is anticipated.

29. The project will disturb more than one acre of land and result in the addition of more than one quarter of an acre of new impervious surfaces. Therefore, the applicant must meet all aspects of the storm water management ordinance, which the Board finds the applicant has done satisfactorily. The Board particularly appreciates the inclusion of three rain gardens in the Project, which will serve as valuable storm water quality structures as well as an aesthetic enhancement for the Site.

30. The Board finds that the proposed plan offers an efficient layout and design to create a functional inclusionary development with vehicular and pedestrian connections to adjoining residential and commercial properties, such as the Square Property shopping center. It promotes walkability and a small-scale neighborhood character, with consideration given to the preservation and conservation of woodland natural features, and avoids boredom of visually repeated elements in its design, as required by ordinance. It offers residents an active recreation area with features such as a pool, pedestrian path around the wetpond, and children's play areas.

Residents will, by virtue of the reciprocal recreation agreement, also have access to the basketball court, tennis court, tot lot and playing field recreational amenities at the Windsor Woods Apartments, as will the residents of that development similarly have access to the Duck Pond Project play lot.

31. The Board finds that the development will benefit the community with the enhancement of the economy, new residents to support existing retail establishments, and the provision of a significant number of affordable housing units.

32. As is described in detail in a September 11, 2020 email from Kevin J. Moore, Esq., an attorney for the applicant, the R-5C zoning ordinance relating to the Duck Pond inclusionary development requires that easements be granted by the owner of the Windsor Woods Apartments property for vehicular access and emergency access in favor of the Duck Pond Property, such easements totaling 6,499 square feet, and by the owner of the Square at West Windsor property for vehicular access (three easements) and pedestrian access in favor of the Duck Pond Property, such easements totaling 10,900 square feet. As confirmed in an October 5, 2020 memorandum from Gerald J. Muller, Esq., attorney for the Board, said easements do not benefit the grantors, and the impervious cover that will be installed within them should not be counted for maximum impervious coverage purposes if there are future development applications for the Windsor Woods Apartments property and Square at West Windsor property.

33. The Board further recognizes that *N.J.S.A. 40A:26A-11.3.a* requires a local unit operating a municipal sewerage facility, such as the West Windsor Township, to provide a 50% percent reduction in the fees related to new sewer connections charged for affordable units in inclusionary projects, such as the Project, and that *N.J.S.A. 40A:31-11.3.a* requires a local unit operating a municipal water supply facility to provide a 50% percent reduction in the fees related to new water connections charged for affordable units in inclusionary projects, such as the Project.

34. Findings and conclusions re: preliminary and final major site plan approval. The Board finds that, with waivers granted and conditions imposed, the applicant has met all Township major site plan standards. Preliminary and final site plan approval, accordingly, is granted.

FINDINGS AND CONCLUSIONS RE: WAIVERS AND *DE MINIMIS* RSIS EXCEPTION

35. The application necessitates a *de minimis* exception from RSIS requirements, a design waiver, and four submission waivers. The Board's action on them are as follows:

a. De Minimis Exception. From Section 200-189.2C(1), which provides that the RSIS govern the required number of parking spaces. 748 parking spaces are required, whereas 813 parking spaces are proposed.

De minimis exception granted. The Board finds that the number and proposed location of the excess parking spaces are acceptable. The 65 parking spaces in excess of the RSIS requirement support the neighborhood with visitor parking, handicap accessible parking and parking with EV charging stations while maintaining the walkability and aesthetic of the layout. These spaces are dispersed throughout the Site to provide convenient locations for these elements. Given these reasons, an exception from the RSIS requirement is reasonable. Permitting no more than 748 parking spaces would be impracticable because the irregular shape of the Site necessitates dispersing the parking spaces, which necessitates providing more overall spaces in order to provide the necessary occupant, handicap and EV parking. This exception is therefore granted.

b. Waiver. From Section 200-31K(4), which requires an average 0.6 footcandle in residential areas whereas average footcandles of 0.9 are proposed.

Waiver granted. The proposed lighting is necessary to eliminate dark spots on roadways and sidewalks, resulting in better-lit, safer residential areas. The excess in required footcandles at these locations is minimal and will not negatively impact the Site or surrounding neighborhood. For these reasons, the Board finds this waiver request to be reasonable and within the general purpose and intent of the ordinance, which is to provide adequate and safe lighting. Literal enforcement of this requirement would exact undue hardship upon the applicant because it would require the lighting plan to be redesigned, which is not feasible without impacting the safety of the Site or compromising appropriate levels of visibility. This waiver is therefore granted.

c. Submission waivers. Three submission requirements for which waivers or partial waivers are sought, as described below, pertain when preliminary and final approvals are sought separately, whereas preliminary and final approval are sought concurrently. The other submission requirement for which a waiver is sought is to provide metes and bounds for all wetlands, whereas no such metes and bounds have been provided because the wetlands are contained in an already recorded conservation easement. Given this, the Board finds these waiver requests to be reasonable and within the general purposes and intent of the ordinance. Literal enforcement of these requirements would exact undue hardship upon the applicant by requiring information that does not pertain to this application or is already available. Accordingly, these waivers are granted.

Waiver granted: From Section 200-13C(9), which requires all wetlands areas to be depicted on plans with metes and bounds and an NJDEP LOI indicating the presence or absence of Freshwater Wetlands, whereas no such metes and bounds or LOI have been provided.

All wetlands on the Site are within the conservation easement, which was recorded as part of the previous development and environmental permitting.

Waiver granted: From Section 200-14C(1)(a), which requires submission of the approved preliminary site plan, whereas no separate preliminary site plan is submitted.

Not applicable when preliminary and final approvals are sought together.

Waiver granted for partial submission waiver: From Section 200-14C(1)(b)[1], which requires final plans for site development and site improvement, including those construction details as may be specified at the time of preliminary approval, whereas such construction details have not been provided.

Not applicable when preliminary and final approvals are sought together.

Waiver granted: From Section 200-14C(1)(b)[5], which requires a final landscape plan, whereas such plan has not been submitted.

Not applicable when preliminary and final approvals are sought together.

CONDITIONS REQUIRED

36. The Board finds that, in order to address the concerns expressed during the course of the hearing and to limit the relief to that reasonably necessary to satisfy the applicant's legitimate requirements, the relief granted is subject to the following conditions:

Site plan

a. A corrective variable width easement within the subject Lot 8 shall be granted, subject to the approval of the Township Engineer and Board Attorney, centered on the as-built location of the sanitary sewer trunkline piping and structures for the portion of the sewer trunkline easement located along the driveway coming into the subject site from Route 1.

Note: A portion of the corrective easement described in this condition shall be located on Lot 18, resulting in a "variable-width" Lot 8 easement. The remainder of the easement shall be obtained from the Lot 18 property owner (Onyx 3490, LLC) as part of that developer's proposed redevelopment plans for Lot 18. Obtaining an easement on Lot 18 is not the responsibility of the applicant and not a condition of this approval.

b. Retaining walls, as shown on the site plans, shall be constructed around the Site, including at the northerly embankment of the pond where the sidewalk to Building 21 is located, around the rain garden perimeters, and along most of the common property line with Windsor Woods. A note shall be added to the plans providing that detailed designs of retaining walls shall be submitted for review and approval by the Township Engineer as part of the building permit application.

c. A note shall be added to the plans providing that any imported soil (including topsoil) shall be tested for contaminants and proven to meet the limits permissible for residential use.

d. The Architectural Diversity Plan shall be revised to show the correct number of units on the Site Plan.

e. A provision for snow storage and removal shall be added to the plans.

Landscaping & Environmental

f. The applicant shall confirm that dedication of the Township Greenbelt and conservation easement done as part of the Prior Approval is complete, or shall complete them, subject to the approval of the Township Engineer and Board Attorney. The Board recognizes that obligations imposed on the applicant with respect to the Township Greenbelt must be consistent with the previously recorded conservation easements benefitting the New Jersey Department of Environmental Protection and the Delaware and Raritan Canal Commission of the State of New Jersey.

g. Masonry walls, constructed to a height of approximately eight foot around the refuse compactors, shall be implemented in lieu of fencing around the refuse compactors.

h. Low level planting shall be provided at the monument sign at U.S. Route 1 and along the street side facades of buildings #2, 4, 5, 7, 10, 14, 18, and 19.

i. Landscape modifications and additions, and maintenance and irrigation (if any) specifications/details shall be subject to final review with resolution compliance and site plan acceptance.

j. Garages and driveways shall not be used for purposes that preclude parking of resident's vehicles. Residents must primarily use their garage and driveway to park said vehicles. For residents who do not require parking for personal vehicles, in such case the garages may be used for secondary purposes. This restriction shall be included in governing documents and/or leases.

Traffic, circulation, and parking

k. The Traffic Impact Study cover shall be revised to include Lots 10.02 and 54.

l. Street names signs shall be mounted on the streetlight poles at the intersection corners.

- m. On-street parking shall be provided in the immediate vicinity of units that do not have garages in accordance with the parking management plans submitted as Exhibit A-13.
- n. The last driveway on E Alley shall be widened to accommodate a K-turn and exit.
- o. STOP signs, stop bars, crosswalks and double yellow pavement markings shall be used sparingly, and the applicant shall work with the Township's Traffic Consultant to reduce the pavement markings and develop a simpler design.
- p. The W1-1aR sign in advance of the curve in the outbound direction does not conform as designed and shall be replaced with a W1-1R/W13-1P combination for consistency.
- q. Locations of the D3-1 signs on Sheets 12-15 and 65 of the plan set shall be added, and the sizes of the signs for the street names provided.
- r. The R7-8P Van Accessible plaque and R7-8 Reserved Handicapped Parking sign shall, on the sign details on Sheet 65, be shown relative to each other such that the plaque beneath the sign is wider.
- s. The designated parking spaces for affordable units shall be adjacent to each other as shown on the proposed parking management plan submitted as Exhibit A-13.
- t. The signage plan shall indicate how affordable parking spaces are reserved. This information shall be provided using signs, not markings on the pavement.
- u. The signage plan shall indicate how visitor parking spaces are reserved. This information shall be provided using markings on the pavement, not signs.

Affordable Housing

- v. The 13 affordable units above the 25% set aside requirement shall be provided and shall be moderate-income units.

w. The fee for amenities shall be no greater for affordable units than for the market units.

x. A preference as far as possible shall, during the initial lottery and initial affirmative marketing period, be given to veterans applying for the affordable units, and an agreement between the Township and applicant shall provide for a fair and reasonable methodology for reaching out to veterans to offer a preference in the initial lottery process. The applicant, jointly with the Administrative Agent, shall establish the percentage of affordable units to which the veteran's preference applies.

Other

y. The forms of easements and agreements shall be subject to the review and approval of the Board Attorney.

z. Detailed grading of all handicapped ramps and accessible routes to each building entrance at 10-scale minimum shall be submitted during the resolution compliance process and shall be subject to the approval of the Township Engineer.

aa. Proposed elevations at both sides of ramps, landings and accessible routes shall be provided to show compliant cross-slopes as well as running slopes.

bb. A construction cost estimate prepared by the applicant's engineer shall be submitted for review and approval by the Township Engineer to determine the amounts of guarantees and fees required to be posted with the Township. Performance guarantee and construction inspection escrow fees shall be posted to the extent required by law.

cc. All Township sanitary sewer and connection details shall be provided on the plans in accordance with Section 200-91.

dd. A note shall be added to the plans providing for detailed engineering designs of the ultimate connection of the Township sanitary sewer to the Duck Pond Run Interceptor line, proposed to be effected by reconstruction of a 21-foot deep existing manhole, shall be provided for review and approval prior to construction.

ee. The invert of the proposed “invert in” of the reconstructed 21-ft-deep existing manhole shall be revised as necessary to indicate an elevation of 56.4 feet.

ff. The applicant shall provide to the Engineering Department, via both hard copy and electronic format, approved site plans being submitted for signature. Following construction, the applicant shall provide via both hard copy and electronic format as-built surveys upon project completion. Additionally, electronic copies of the Stormwater Management report and maintenance plan shall be provided.

gg. The following approvals and permits shall be obtained if necessary:

- Mercer County Planning Board
- Mercer County Soil Conservation District
- Delaware and Raritan Canal Commission
- NJDEP - TWA Permit

CONCLUSION

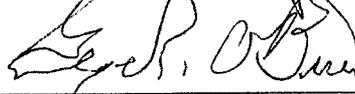
Based on the foregoing, the Board at its November 18, 2020 meeting voted to approve the plans with revisions made therein and as supplemented and modified by the exhibits and to grant the relief identified above subject to the conditions and to be revised in accordance with the conditions set forth herein.

This resolution of memorialization was adopted on January 13, 2021 by a vote of Members who voted to grant the relief sought by the applicant.

The date of decision shall be November 18, 2020 except that the date of the adoption of this memorializing resolution is the date of decision for purposes of (1) mailing a copy of the decision to the applicant within 10 days of the date of the decision; (2) filing a copy of the decision with the administrative officer; and (3) publication of a notice of this decision. The date of the publication of the notice of decision shall be the date of the commencement of the vesting protection period.

We do hereby certify that the foregoing resolution was adopted by the Planning Board at its regular meeting held on January 13, 2021. This resolution memorializes

formal action taken by the Board at its regular meeting held
November 18, 2020.

 1/18/21

Gene R. O'Brien, Chair

 1/18/21

Lisa Komjati, Secretary

Gene O'Brien, Chair – Yea
Michael Karp, Vice Chair – Absent
Simon Pankove – Absent
Sue Appelget – Absent
Anis Baig – Yea
Linda Gevers – Yea
Curtis Hoberman – Yea
Michael Huey – Yea
Hemant Marathe – Yea
Allen Schectel, Alternate I – Absent
Jyotika Bahree, Alternate II – Absent

Appendix D-13:
Resolution re: Lofts at Princeton Junction

WEST WINDSOR TOWNSHIP PLANNING BOARD

<hr/>	)	FINDINGS OF FACT
In the Matter of the Application of	)	AND
<u>Palladium Realty LLC for Preliminary and</u>	)	CONCLUSIONS OF LAW
<u>Final Major Site Plan and Subdivision</u>	)	File No. PB 19-15
<u>Approval (Phases 1 & 2) and Preliminary</u>	)	Block 9, Lot 12.01 and Lot 12.03
<u>Major Site Plan Approval (Phases 3 & 4)</u>	)	Block 9.03, Lot 12.02
with Waivers	)	Approval granted:
<hr/>	)	August 26, 2020

Be it resolved by the Planning Board of the Township of West Windsor that the action of this Board on August 26, 2020 in this matter is hereby memorialized by the adoption of this written decision setting forth the Board's findings and conclusions.

BACKGROUND

1. The site ("Site"), consisting of approximately 58.79 acres on Block 9, Lots 12.01 and 12.03, and Block 9.03, Lot 12.02, is located in the northwesterly portion of the Township, near the intersection of US Route 1 and Meadow Road, in the PMN-1 District.
2. Block 9, Lot 12.01, consisting of approximately 25.57 acres and irregularly shaped, comprises the northwesterly portion of the Site, undeveloped and largely farmland with a wooded area near its westerly corner. It is a corner lot with frontage along US Route 1 North, Carnegie Center Drive, Meadow Road Connector, Meadow Road, and an off-ramp connecting Meadow Road to Route 1.
3. Block 9, Lot 12.03, consisting of approximately 5.01 acres, and roughly rectangular in shape, comprises the northeasterly portion of the Site, undeveloped and largely wooded and partially constrained by wetlands. It is a corner lot with frontage along Meadow Road and Meadow Road Connector.

4. Block 9.03, Lot 12.02, consisting of approximately 28.2 acres, irregular in shape, comprises the southerly portion of the Site, undeveloped and containing areas of farmland and wooded areas and a stormwater basin. It is a corner lot with frontage along Meadow Road and Old Meadow Road. Wetland areas exist near its northwesterly and southerly corners, while a flood hazard area is also located near its southerly corner.

5. Surrounding land uses consist of MarketFair, On the Border, Brick House Tavern, Hyatt Place hotel, Residence Inn hotel, and additional commercial uses to the northwest; the Carnegie Center office development to the northeast; open space to the east; and the Square at West Windsor shopping center and the Windsor Woods multifamily development to the south and east.

6. The Site is identified in the Township's Housing Element and Fair Share Plan ("HEFSP") as a site to address the Township's affordable housing obligation. According to the HEFSP, the Township intended to rezone the Site to encourage a mix of uses, including nonresidential, residential, and a limited service hotel. The HEFSP envisioned that 656 dwelling units would be located on the Site, of which 164 would be reserved as affordable units.

JURISDICTION AND RELIEF SOUGHT

7. The subject of this application is within the jurisdiction of this Board. The Board acted within the time required by law.

8. The applicant seeks preliminary and final major site plan and subdivision approval for Phases 1 and 2 and preliminary major site plan approval for Phases 3 and 4 of a planned mixed use development consisting of 656 multi-family residential units; a 130-room hotel with liquor license; 16,000 s.f. retail space; and a 6,915 s.f. restaurant (the "Project").

9. The main components of the Project are as follows:

Multi-family development

Six hundred and fifty-six dwelling units are proposed, of which 164, equal to 25% required by the ordinance, are to be affordable units. The proposed distribution of bedrooms is a mix of 1-, 2-, and 3-bedroom units.

Twenty-nine residential buildings are proposed. Eight different residential building templates are proposed, with building heights varying from 3 to 4 stories. Their facades will generally consist of brick, fiber cement siding, and metal

panels, with accents of metal and cement. Two clubhouses are also proposed, Clubhouse North, to be located on Block 9, Lot 12.01, and Clubhouse South, to be located on Block 9.03, Lot 12.02.

The architectural plan divides the multifamily portion of the Site into the “north” and “south” areas. The north area will contain 356 units, the south 300 units. The southerly portion will not be constructed until 2025 at the earliest.

Hotel and restaurant

A sixty-foot high, 100,673 s.f., five-story hotel is proposed, to be located in the northwesterly corner of the Site. It will contain 130 rooms, with 150 beds, to serve both transient and extended stays. It will offer an indoor pool, meeting room, lounge, dining room, food prep room, and a motion room (fitness center) and have administrative and maintenance spaces. The roof will feature an indoor/outdoor bar area with seating for 210. The façade of the hotel will be mainly Exterior Insulation and Finish Systems (EIFS) finishes of a variety of colors, as well as metal and cement paneling accents.

The proposed 6,915 s.f. restaurant with 250 seating capacity is to lie immediately west of the hotel and be connected to the hotel.

Retail buildings

Two retail buildings are proposed to be located in the northwesterly corner of the Site, each to have a footprint of 8,000 s.f.

Subdivision

Block 9, Lot 12.01 is to be subdivided. Proposed Lot 12.011 will be approximately 4.13 acres and will contain the hotel and restaurant. The remainder of Lot 12.01, proposed Lot 12.012, will contain the 356 dwelling units and 16,000 s.f. of retail. An easement of approximately 1.06 acres (46,180 s.f.) for the hotel parking area is to be located on proposed Lot 12.012.

10. The Four Phases of the Project are as follows:

Phase 1. Preliminary and Final Major Site Plan and Subdivision includes the 130-room hotel on proposed Lot 12.011, together with associated parking areas, utilities, drainage basin and access driveways outside of proposed Lot 12.011.

Phase 2. Preliminary and Final Major Site Plan and Subdivision includes the 356 north residential units, of which 267 will be market rate and 89 affordable, in 12 buildings and a clubhouse building, together with associated parking areas, utilities, drainage basin and access driveways. Phase 2 will have direct access to Carnegie Center Drive and Meadow Road.

Phase 3. Preliminary Major Site Plan for the two retail buildings each 8,000 s.f. and the 6,915 s.f. restaurant pad.

Phase 4. Preliminary Major Site Plan for the remaining 300 south residential units in 17 buildings of which 225 units will be market rate and 75 affordable. This Phase also includes parking areas, a clubhouse building, detention basin, access driveways and utilities. Access to Phase 4 will be provided by Old Meadow Road and Meadow Road.

11. Six design waivers are sought:

- From Section 200-28D(2)(b), to exceed the minimum number of required parking spaces for residential uses, 1,277, whereas 1,286 parking spaces are proposed.
- From Section 200-28D(2)(b), to exceed the minimum number of required parking spaces for retail uses, 80, whereas 123 parking spaces are proposed.
- From Section 200-29J, to not provide a deceleration lane where access to a parking area of 100 or more spaces is proposed.
- From Section 200-30A, to reduce the required wall to wall separation between structures as follows:

Between buildings 5 & 6 - 75 feet required vs 47.9 feet proposed
Between buildings 15 & 16 - 75 feet required vs 53.9 feet proposed
Between buildings 16 & 17 - 75 feet required vs 54 feet proposed
Between buildings 24 & 25 - 75 feet required vs 53.4 feet proposed
Between buildings 25 & 26 - 75 feet required vs 53.1 feet proposed
Between buildings 23 & 28 - 75 feet required vs 53 feet proposed
Between buildings 28 & 29 - 75 feet required vs 53 feet proposed
Between buildings 19 & 20 - 75 feet required vs 67.5 feet proposed

- From Section 200-31K (1),(2),(4), to exceed the maximum average light intensity as follows:

parking lots: 0.5 footcandles required vs 0.8 - 1.1 proposed
intersections: 3.0 footcandles required vs 3.3 - 4.2 proposed
residential areas: 0.6 footcandles required vs .9 - 1.3 proposed

- From Section 200-36C(3)(c)[5], to not provide a tennis court.

12. Pursuant to MLUL *N.J.S.A.* 40:55D-49 and 52, the applicant seeks extended vesting of the preliminary and final approvals, as further set forth in the Findings.

THE APPLICANT

13. The applicant is Palladium Realty, LLC, which is also the owner.

NOTICE

14. The applicant obtained a list of all property owners within 200 feet of the property that is the subject of this application from the West Windsor Township tax office.

15. The applicant filed an affidavit stating that the notice was given at least ten days in advance of the hearing date to the surrounding property owners and to the public entities required to be noticed. The applicant has also filed a proof of publication confirming that newspaper publication was made in accordance with legal requirements. Proper notice was given.

16. The notice and publication stated that the hearing would be held at the meeting of the Board scheduled for August 26, 2020.

THE HEARING

17. The public hearing on the application was heard on the date for which it was noticed. At the hearing, the applicant and all other interested parties were given the opportunity to present evidence and to be heard.

PLANS PRESENTED

18. At the hearing, the Board reviewed the following plans:

- Site Plan set entitled “Preliminary & Major Subdivision and Preliminary and Final Major Site Plan for Proposed Hotel (Phase I) and Proposed Residential Development (Phase 2) and Preliminary Major Site Plan for Proposed Retail & Restaurant (Phase 3) & Proposed Residential Development (Phase 4), Princeton Executive Park” prepared by Bowman Consulting (Geoffrey Lanza, P.E.), dated May 3, 2019 (no revision date), consisting of 49 sheets:

- Cover Sheet (Sheet 1)
 - General Notes and Zoning Plan (Sheet 2)
 - Constraints Map (Sheet 3)
 - Demolition Plan (Sheet 4)
 - Tree Removal Plan (Sheet 5)
 - Phasing Plan (Sheet 6)
 - Overall Site Plan (Sheet 7)
 - Layout and Dimensioning Plan (Sheets 8-11)
 - Overall Grading Plan (Sheet 12)
 - Overall Utilities Plan (Sheet 13)
 - Grading and Utilities Plan (Sheets 14-17)
 - Grading – Hotel Plan Enlargement (Sheet 18)
 - ADA Grading – Residential Plan (Sheet 19)
 - Profiles (Sheets 20-26)
 - Overall Soil Erosion & Sediment Control Plan (Sheet 27)
 - Soil Erosion & Sediment Control Plan (Sheets 28-31)
 - Soil Erosion and Sediment Control Notes & Details (Sheets 32-33)
 - Traffic Signage Plan (Sheet 34)
 - WB-50 Truck Turning Plan (Sheet 35)
 - Garbage Truck Turning Plan (Sheets 36-39)
 - Fire Truck Turning Plan (Sheets 40-43)
 - Fire Hydrant Location Plan (Sheet 44)
 - Construction Details (Sheets 45-47)
 - West Windsor Standard Sanitary Sewer Details (Sheets 48-49)
- Landscape Architecture Plans prepared by Melillo + Bauer Associates, dated March 27, 2020, consisting of 25 sheets:
 - Cover
 - Overall Landscape Plan (L-1)
 - Circulation Plan – North (L-1A)
 - Circulation Plan – South (L-1B)
 - Landscape Plan (L-2 – L-6)
 - Overall Lighting Plan (L-7A)
 - Overall Security Lighting Plan (L-7B)
 - Lighting Plan & Details (L-7 – L-11)
 - Typical Unit Planting (L-12 – L-13)
 - Enlargement Plan (L-14 – L-16)
 - Site Details (L-17 – L-19)
 - Planning Details & Notes (L-20)
- Architectural Plan prepared by Lessard Design, dated May 17, 2019, revised March 27, 2020, consisting of 19 sheets:
 - Cover
 - Program Analysis and Summary (G.01)
 - Illustrative Site Plan (A.101)
 - Parking Distribution Diagram (A.102)

- COAH Distribution Diagram (A.103)
 - Floor Plans Plex Buildings (A1, A2) (A.111)
 - Floor Plans Plex Buildings (B1, B2) (A.112)
 - Floor Plans Plex Building C (A.113)
 - Floor Plans Flats Building D1 (A.114)
 - Floor Plans Flats Building D2 (A. 115)
 - Floor Plans Flats Building D3 (A. 116)
 - Elevations Buildings (A1, A2) (A.201)
 - Elevations Buildings (B1, B2) (A.202)
 - Elevations Buildings C (A.203)
 - Elevations Buildings D1 (A.204)
 - Elevations Buildings D2 (A.205)
 - Elevations Buildings D3 (A.206)
 - Club House Floor Plans and Elevations (A.207)
 - Material Board (A.208)
- Architectural Plan prepared by Base4, dated June 12, 2019 (no revision date), consisting of five sheets:
 - Floor Plans (A2.1-A2.3)
 - Elevations (A3.1-A3.2)
- Preliminary/Final Major Subdivision Plan prepared by Bowman Consulting (Martin F. Tirella, P.L.S.), dated March 27, 2020
 - Land survey prepared by Stires Associates, P.A. (Richard Mathews, P.L.S.), dated March 27, 2020
 - Topographic survey prepared by Stires Associates P.A. (Richard Mathews, P.L.S.), dated March 17, 2020
 - Wetlands Map prepared by Stires Associates, P.A. (Richard Mathews, P.L.S.), dated June 21, 2016
 - Tree Plan prepared by Stires Associates, P.A. (Richard Mathews, P.L.S.), dated March 27, 2020
 - Striping Plan prepared by Stires Associates, P.A. (Richard Mathews, P.L.S.), dated March 17, 2020

TOWNSHIP REPORTS

19. At the hearing, the Board considered the following reports presented by Township officials and bodies and consultants to the Board:

- Memorandum from David Novak, P.P. to the Board dated June 8, 2020
- Memorandum from Dan Dobromilsky, L.L.A. to the Board dated June 8, 2020
- Memorandum from Francis A. Guzik, P.E. to the Board dated June 8, 2020
- Memoranda from James L. Kochenour, P.E. to the Board dated June 8, 2020

- Memorandum from Timothy M. Lynch, West Windsor Township Fire & Emergency Services, dated June 9, 2020
- Memorandum from West Windsor Technical Review Committee to the Board dated June 10, 2020
- Memorandum from Christopher B. Jepson, P.E. to the Board dated June 8, 2020

EXHIBITS AND APPLICANT'S REPORTS

20. At the hearing, the Board considered the following reports prepared by the applicant's consultants and advisors and the following exhibits that were introduced as evidence during the course of the hearing:

- Exhibit A-1 – Sheet 3 of 49 – Constraints Map
- Exhibit A-2 – Sheet 7 of 49 – Overall Site Plan
- Exhibit A-3 – Sheet 6 of 49 – Phasing Plan
- Exhibit A-4 – Sheet 13 of 49 – Overall Utility Plan
- Exhibit A-5 – Sheet 1 of 1 – Major subdivision Plan for Hotel and Right-of-Way for Roundabout
- Exhibit A-6 – Overall landscape plans
- Exhibit A-7 – North Village Amenity Area
- Exhibit A-8 – South Village Amenity Area
- Exhibit A-9 – Colored version of Sheet L-1A in plan set for North Village
- Exhibit A-10 – Colored version of L-1B in plan set for South Village
- Exhibit A-11 – Section Location Plan – Site Sections
- Exhibit A-12 – Site Sections 1 and 2
- Exhibit A-13 – Site Sections 3 and 4 in North Village by Meadow Road Connector
- Exhibit A-14 – Site Sections 5 and 6 off Meadow Road to Building 25
- Exhibit A-15 – Building elevations A1 + A2, Sheet A02
- Exhibit A-16 – Building D, Sheet A03
- Exhibit A-17 – Clubhouse elevation, Sheet A04
- Exhibit A-18 – MV01 – material board
- Exhibit A-19 – MV02 – siding material
- Exhibit A-20 – Plan of Hotel
- Exhibit A-21 – Elevations, Sheet A3.2
- Exhibit A-22 – Floor Plans, Sheet A2.1
- Exhibit A-23 – Floor Plans, Sheet A2.2
- Exhibit A-24 – Floor Plans, Sheet A2.3
- Development Application
- Site Plan Checklist, dated March 3, 2020
- Subdivision Checklist, dated March 27, 2020
- West Windsor Township Environmental Impact Statement Worksheet

- Revised West Windsor Township Green Development Practices Checklist, dated April 23, 2020
- Stormwater Management Report – Princeton Executive Park – Phase 1 - Block 9, Lots 12.01 and 12.02; Block 9.03, Lot 12.02, prepared by Bowman Consulting, dated May 16, 2019, revised March 16, 2020
- Stormwater Management Measures Maintenance Plan and Field Manuals – Princeton Executive Park – Block 9, Lots 12.01 and 12.02; Block 9.03, Lot 12.02, prepared by Bowman Consulting, dated October 18, 2019, revised March 20, 2020
- Major Development Stormwater Summary
- Sanitary Sewer Design Report – Princeton Executive Park - Block 9, Lots 12.01 and 12.02; Block 9.03, Lot 12.02, prepared by Bowman Consulting (R. Michael McKenna, P.E.), dated October 18, 2019, revised April 22, 2020
- West Windsor Fire & Emergency Services Site Plan Requirements
- Letter dated March 27, 2020 from Geoffrey Lanza, P.E., Bowman Consulting, to Samuel J. Surtees
- Letter of Interpretation: Line Verification – File No. 1113-05-0006.2, issued by NJDEP, dated January 12, 2017

TESTIMONY AND PUBLIC INPUT

21. The testimony presented by and on behalf of the applicant and advice by Board consultants were given by the following persons:

Ronald L. Shimanowitz, Esq. represented the applicant. Thomas Golden, its Professional Planner and Vice-President of Development; James Talerico, Senior Director of Development with the Briad Group, which seeks to facilitate approval of the hotel; Jamie Giurintano, P.E., its engineer; Craig W. Peregoy, P.E., its traffic engineer; Thomas S. Carmen, L.L.A., its landscape architect; Jerry Simon, R.A., its architect; and Charles Jordan, R.A., Briad Group hotel architect, testified on the applicant's behalf.

The following Township staff and professionals gave advice to the Board at the hearing: David Novak, P.P.; Ian Hill, P.E.; Dan Dobromilsky, L.L.A.; Samuel Surtees, P.P., Land Use Manager; Jeff L'Amoreaux, P.E.; and Gerald J. Muller, Esq.

22. The statements of the members of the public made during the course of the hearing may be summarized as follows:

Alison Miller expressed concern that there was not sufficient secure indoor bicycle parking for the affordable units.

John Church requested clarification of the definition of “limited service hotel.”

FINDINGS AND CONCLUSIONS RE: PRELIMINARY AND FINAL MAJOR SITE PLAN AND SUBDIVISION APPROVAL (PHASES 1 AND 2) AND PRELIMINARY MAJOR SITE PLAN APPROVAL (PHASES 3 AND 4)

23. The Board notes that the Site is part of the Township’s court-approved HEFSP prepared in accordance with a Settlement Agreement between the Township and Fair Share Housing Center, entered on October 9, 2018, as amended, setting forth the Township’s affordable housing obligations. This backdrop of affordable housing and the Township’s carefully negotiated and court-approved goals to meet its affordable housing obligations, while not dispositive of this Board’s decision, sensitizes the decision making somewhat differently than an ordinary development approval would, as the Board starts with a keen interest to ensure that the project is designed in such as way as to merit approval.

24. The proposed development is permitted in the PMN-1 District, but the Board must still make mandatory findings for a planned development, as required by Section 200-194.3B(1) of the ordinance and *N.J.S.A.* 40:55D-45. These statutorily required findings are as follows, and the Board’s conclusion as to each follow below:

- (a) That the departures by the proposed development from zoning regulations otherwise applicable to the subject property conform to the zoning ordinance standards pursuant to subsection 52c. of this act;
- (b) That the proposals for maintenance and conservation of the common open space are reliable, and the amount, location and purpose of the common open space are adequate;
- (c) That provisions through physical design of the proposed development for public services, control over vehicular and pedestrian traffic, and the amenities of light and air, recreation and visual enjoyment are adequate;
- (d) That the proposed planned development will not have an unreasonably adverse impact upon the area in which it is proposed to be established;
- (e) In the case of a proposed development which contemplates construction over a period of years, that the terms and conditions intended to protect the interests of the public and of the residents, occupants and owners of the proposed development in the total

completion of the development are adequate.

Departures from zoning regulations (N.J.S.A. 40:55D-45(a))

25. The proposed plan does not depart from any zoning controls of the PMN-1 District regulations. This criterion is therefore satisfied.

Maintenance and conservation of common open space (N.J.S.A. 40:55D-45(b))

26. The applicant proposes a variety of open space facilities, including Green Belt preservation areas and an extensive, project-wide bike way and sidewalks, community gardens and a 10,000 s.f. public activity space on Block 9, Lot 12.01 that will serve as the terminus of the Carnegie Center Green Way. With a 37% improvement coverage at buildout, 63%, or 37 acres, will remain or be in some form of open space. 43 retail parking stalls will be banked to further increase green space. An extensive area of the south residential parcel will be dedicated to the Township Green Belt, and onsite wetlands and wetlands transition areas will be protected by conservation easements and/or deed restrictions. Given this, the Board finds that this criterion is satisfied.

Adequate provision for public services, control over vehicular and pedestrian traffic, light and air, and recreation and visual enjoyment (N.J.S.A. 40:55D-45(c))

27. Subject to the conditions addressing these criteria, the Board finds that the requirements of these criteria have been met, as follows:

(a) Public services. The residential units will be serviced by the Township and by utility companies serving West Windsor. Public services will be delivered via connections to existing infrastructure located in Meadow Road, Carnegie Center Drive and Old Meadow Road.

(b) Vehicular and pedestrian traffic. The proposed plan offers a well-designed pedestrian and vehicular circulation plan. An extensive internal sidewalk network and a perimeter bike path connects the north and south parcels to the adjoining streets, nearby offices and retail uses, and Township open spaces. Safe and secure bicycle parking is proposed. A roundabout is proposed, consistent with the requirements of the PMN-1 District, to safely and efficiently accommodate traffic generated by the project, as well as by through traffic that uses the Meadow Road/Route 1 interchange. Right-of-way

dedication is proposed along Old Meadow Road and the Meadow Road connector, as required by the Township engineer, to ensure that adequate turning radii, traffic lanes and road alignment are provided per Township standards.

(c) Light and air. Most building setbacks are met, ensuring adequate light and air, and where building to building setback compliance is not provided, extensive landscaping is provided as a buffer. Discrete architectural design and carefully chosen building materials are proposed to enhance the visual enjoyment of residents and passersby.

(d) Recreation and visual enjoyment. In addition to the open space facilities described above that will enhance recreational and visual enjoyment, a variety of recreational facilities is proposed, including two clubhouses, pools, dog runs, barbeque areas, and playgrounds.

No unreasonably adverse impact upon the site plan area (N.J.S.A. 40:55D-45(d))

28. The zoning requirements are substantively met. The development is next to major roadways and largely removed from other residential neighborhoods. The proposed roadway improvements are designed to ensure that traffic within the site and through the area will flow efficiently. Wetlands, flood hazard areas and the Township Green Belts will be protected and even expanded. The project is to utilize existing infrastructure. The noise and soil impacts, as described in the Environmental Impact Statement submitted by the applicant, are expected to be limited and of short duration. Accordingly, the Board finds that this criterion is satisfied.

The protection of interests during multi-year construction of development (N.J.S.A. 40:55D-45(e))

29. The Board notes that the applicant met with Township staff numerous times to assure compliance with Township ordinances and best practices in the phasing of this project. Phases 1 and 2 may be done simultaneously after all permits are secured. Phase 4 construction will not begin prior to January 1, 2025.

30. The phases are designed in accordance with market demand, allowing time for the market to absorb the new residential units. This creates certain challenges insofar as each area of the Site as temporarily completed must be able to stand on its own with respect to vehicular and pedestrian circulation, parking, and lighting and safety features and could require temporary interim improvements to be designed and installed until the next phase receives final approval and construction begins. The applicant satisfactorily demonstrated that utilities, including sewer and all stormwater management requirements, will be satisfied based upon the construction of the phases being approved herein.

31. To show that sufficient parking would be provided with each phase of development, the applicant provided a breakdown of parking spaces by phase. Further protections will be ensured by the execution by the applicant of a Developer's Agreement and by the posting of performance and maintenance guarantees. With respect to affordable housing, Condition 39tt additionally provides that the buildout of the units will, to the extent reasonably practicable, be proportionate to the income mix of the affordable units, such that, for example, the lowest income units will not be left for last. As the number of buildings exceeds the number of very low income units, not every building will contain a very low income unit. The Board finds that this criterion is therefore satisfied.

Affordable Housing

32. The proposed plan meets the ordinance requirements (Section 200-194.3(1)) of a 25% set aside for low and moderate-income housing meeting all applicable standards and requirements, including those of UHAC, for affordable units. The applicant will meet the UHAC requirements for bedroom distributions that (i) the combined number of efficiency and one-bedroom units is no greater than 20% of the total; (ii) at least 30% are two-bedroom units; and (iii) at least 20% are three-bedroom units. It will also meet the ordinance requirement in Section 200-194.3(1) that at least 50% of the affordable units be for low-income households, and at least 13% shall be for very low-income households. Finally, Section 200-194.1 requires that the affordable units must be reasonably dispersed throughout each residential component phased in accordance with the affordable housing construction schedule set forth in *N.J.A.C. 5:97-6.4(d)*. The map submitted by the applicant in the architectural plans identifying the locations of the affordable units was especially helpful in this respect, demonstrating that the dispersal requirement has been satisfied. Finally, the Board finds the proposed affordable housing accommodations to be reasonably attractive and appropriate, taking into account the needs of individuals who will qualify for the units, as well as the applicant's interest to develop a

commercially viable facility. Based on the foregoing, the Board finds that the applicant's plan for the provision of affordable housing in this project is adequate.

Stormwater Management

33. The project will disturb more than one acre of land and result in the addition of more than one quarter of new impervious surfaces. Therefore, the applicant must meet all aspects of the stormwater management ordinance, which the Board finds the applicant has done satisfactorily. Subject to the applicant meeting the Conditions relating to stormwater management, the Board finds the stormwater management plan acceptable.

Other Considerations

34. Pursuant to *N.J.S.A.* 40:55D-49 and 52, the applicant initially requested an extended vesting period of 10 years, but its representative, Mr. Golden, stated at the hearing that a vesting period of 15 years was preferred. Finding the request reasonable, the Board approved a compromise of a 12-year vesting period.

35. The Board finds that the Project meets the bulk standards for the PMN-1 District. The Project also meets the intent and purpose of the PMN-1 District, to encourage a mix or residential development in conjunction with appropriately scaled, compatible commercial development consisting of retail sales and services, a hotel, corporate suites, general and administrative offices, fitness and instructional studios, and similar uses with convenient access to Route 1 and to the Princeton Junction train station and surrounding employment centers and a 25% set aside of dwelling units for affordable housing.

36. The Board finds that the proposed plan offers a sensible and efficient layout to create a functional mixed-use neighborhood near existing employment and retail centers. Although the gross density will be high relative to other neighborhoods in West Windsor, the design includes ample space for outdoor recreation, extensive walkways, and opportunities to hike or jog through natural areas. The Board appreciates that the applicant, through numerous technical review meetings with Township staff, diligently addressed numerous comments and concerns regarding code compliance and design details. The landscape design offers planting, berming and other improvements to conform to Township standards, including street and parking lot trees, stormwater, recreation, and pedestrian area landscape architectural enhancement. The proposed plantings offer an appropriate and attractive mix of

species to create seasonal interest, spatial definition and visual buffering. Although there will be some short term disturbance from the construction, this is more than outweighed by the benefits of the development, which is the enhancement of the economy, new job opportunities and new residents to support existing local retail establishments, and the provision of a significant number of affordable housing units.

37. Findings and conclusions re: preliminary and final major site plan and subdivision approval (phases 1 and 2) and preliminary major site plan approval (phases 3 and 4). The Board finds that, with waivers granted and conditions imposed, the applicant has met all Township major site plan and subdivision standards. Preliminary and final major site plan and subdivision approval for phases 1 and 2 and preliminary major site plan approval for phases 3 and 4, accordingly, are granted.

FINDINGS AND CONCLUSIONS RE: WAIVERS

38. The application necessitates six design waivers. The waivers and Board's action on them are as follows:

a. Waiver. From Section 200-28D(2)(b), which requires a demonstration of necessity where the minimum off-street parking requirement is exceeded for residential uses. 1,277 parking spaces are required, whereas 1,286 parking spaces are proposed.

Waiver granted. The exceedance of proposed parking spaces for the residential uses, 3, on the south parcel, is *de minimus*. Six of these spaces are on the north parcel, 3 on the south, thus not all concentrated in the same area. The Board finds that the number and proposed location of the excess parking spaces are acceptable and that permitting no more than 1,277 spaces would work undue hardship on the applicant by requiring a redesign of the parking layout. The deviation is minimal and will result in more parking than is required. It will therefore not impair the intent and purpose of the zone plan and zoning ordinance, which is to provide an adequate amount of parking spaces. This waiver is therefore granted.

b. Waiver. From Section 200-28D(2)(b), which requires a demonstration of necessity where the minimum off-street parking requirement is exceeded for retail uses. Eighty parking spaces are required, whereas 123 parking spaces are proposed.

Waiver granted. The exceedance of proposed parking spaces for the retail uses, 43, will be banked, which will give the applicant flexibility to determine if 80 spaces is sufficient without increasing the impervious coverage and detracting from open space on the Site. Literal enforcement of this ordinance provision would create undue hardship because, if demand for retail parking spaces is determined to be greater than 80 spaces, the applicant would have to seek waiver relief and redesign its parking plan. Granting the waiver will not impair the intent of the ordinance, which is to provide adequate parking, as adequate parking is being provided. Accordingly, this waiver is granted.

c. Waiver. From Section 200-29J, which requires the provision of an acceleration or deceleration lane for access to a parking area of more than 100 spaces, whereas no such lane is being provided.

Waiver granted. The applicant's traffic engineer indicated that no deceleration lanes are necessary and it is safe not to have them, a determination with which the Township's traffic consultant agreed. Accordingly, the Board finds this waiver request to be reasonable and within the intent and purpose of the ordinance, which is to provide safe access to parking lots through the provision of deceleration lanes. Accordingly, this waiver is granted.

d. Waiver: From Section 200-30A, which requires wall to wall separation between structures of at least 75 feet, whereas the following distances have been proposed:

Between buildings 5 & 6 - 75 feet required vs 47.9 feet proposed
Between buildings 15 & 16 - 75 feet required vs 53.9 feet proposed
Between buildings 16 & 17 - 75 feet required vs 54 feet proposed
Between buildings 24 & 25 - 75 feet required vs 53.4 feet proposed
Between buildings 25 & 26 - 75 feet required vs 53.1 feet proposed
Between buildings 23 & 28 - 75 feet required vs 53 feet proposed
Between buildings 28 & 29 - 75 feet required vs 53 feet proposed
Between buildings 19 & 20 - 75 feet required vs 67.5 feet proposed

Waiver granted. Mr. Golden testified that the separation between buildings for which the waiver is requested will be addressed by buffering between the buildings. The Board is satisfied that such buffering will minimize the impact of having less space between the buildings and that granting the waiver will allow for a better site design. Literal enforcement of this ordinance provision would be impracticable as it would require a redesign of the site, resulting in

potentially less space for residential development. The deviation will not impair the intent and purpose of the zone plan and zoning ordinance, which is to ensure adequate distance between buildings. While less distance is being provided between the buildings, the provision of buffering will ensure privacy for the residence and significantly lessen the impact of the deviation. Accordingly, this waiver is granted.

e. Waivers. From Section 200-31K(1), which requires intensity in footcandles of an average of 0.5 throughout parking lots whereas average footcandles of 0.8 – 1.1 are proposed; from Section 200-31K(2), which requires a 3.0 footcandle at intersections whereas average footcandles of 3.3-4.2 are proposed; and from Section 200-31K(4), which requires an average intensity in footcandles of 0.6 in residential areas whereas 0.9 is proposed for the north parcel and 1.3 is proposed for the south parcel.

Waiver granted. The proposed lighting will result in a better-lit, safer site but not an overly-lit site, and no increased negative impact is anticipated from the proposed lighting plan. All lights will be shielded to restrict the maximum apex angle of the cone of illumination to 150 degrees, and the lighting system will be placed on a timer such that all but security lighting will shut off by 11:00 p.m. Hotel parking lot lights will be on a photocell and will remain on at night for 24-hour security. Footcandles at the property line do not exceed 1.0, except where the property line crosses a vehicular intersection. For these reasons, the Board finds this waiver request to be reasonable and within the general purpose and intent of the ordinance, which is to provide adequate and safe lighting. Literal enforcement of this requirement would exact undue hardship upon the applicant because it would require the lighting plan to be redesigned, which is not feasible without impacting the safety of the site or compromising appropriate levels of visibility. This waiver is therefore granted.

f. Waiver. From Section 200-36C(3)(c)[5], which requires a tennis court for each 100 dwellings, whereas none is proposed.

Waiver granted. The Board finds this waiver request to be reasonable given that there is little or no demand for tennis and the applicant is proposing a variety of other recreational facilities, including pools, bocce ball, dog runs, and playgrounds, all of which provide an opportunity for residents and visitors to get exercise and enjoy the outdoors. Literal enforcement of this requirement would exact undue hardship upon the applicant by requiring tennis courts to be installed that take up a lot of space and are not likely to get much use, while the space can be better used for the other recreational facilities being proposed. For these

reasons, the Board finds this waiver request to be reasonable and within the general purpose and intent of the ordinance, which is to provide recreational facilities for residential developments, which the Project will do. Accordingly, this waiver is granted.

CONDITIONS REQUIRED

39. The Board finds that, in order to address the concerns expressed during the course of the hearing and to limit the relief to that reasonably necessary to satisfy the applicant's legitimate requirements, the relief granted is subject to the following conditions:

Site plan and subdivision

- a. Street addresses and unit numbering will be undertaken as part of Resolution compliance.
- b. Five monuments proposed to be set along the southeast lot line of the new lot, which is coincident with the northwesterly curb line of Proposed Road "A," shall be set as offset monuments due to the proposed curb.
- c. The plans shall be revised to indicate that the right-of-way dedications associated with the roundabout construction on Meadow Road are to benefit West Windsor Township.
- d. All required cross-easements on Lot 12.02, Block 9.03 for the benefit of Lot 12.01, Block 9 for storm water and sanitary sewer shall be formalized and subject to review and approval of the Township Engineer and Board Attorney.
- e. Utility and stormwater management easements as required shall be granted to the Township, subject to review and approval of the Township Engineer and Board Attorney.
- f. The applicant shall use the street addressing and the building and unit numbering as assigned by the Township Engineer's office.
- g. The discrepancy in the number or numbering of buildings between the site plan and architectural plans shall be corrected. This condition relates to Buildings 23 and 28.

Landscaping & Environmental

- h. The applicant shall consider more use of Green Development design and constructions options going forward.
- i. The reforestation plan shall be added to the plan set.
- j. The applicant shall do soil testing and soil remediation if necessary.
- k. To the extent necessary, the landscape plans shall be supplemented to provide full or complete plans for areas that could receive final approval. Detailed plans for the recreation centers shall be subject to review of the Landscape Architect at the time of building permit application to assure consistency with any approvals and standards.

Traffic, circulation, and parking

- l. The 43 banked parking spaces shall be paved and used at the Township's request or in the applicant's discretion.
- m. One or more of the transverse crosswalks on the southerly parcel shall be constructed as a "speed table" traffic calming device that provides for curblin drainage.
- n. With respect to the ADA-Accessible Parking Table on Sheet 2, the layout in the Phase 3 retail area shall be revised to include an additional accessible parking space and the required number of accessible parking spaces shall be corrected in the table for each portion of the entire project.
- o. An ADA-accessible parking space shall be added to the parking lot located to the immediate east of the proposed hotel.
- p. The requirements of Section 200-27D with respect to loading areas shall be addressed at the time of application for final approval for areas of proposed commercial uses.
- q. The applicant shall submit a plan identifying all traffic regulations to be enforced as part of Title 39 Regulation enforcement and in which areas of the Site in Phases 1

and 2 such regulations will apply, particularly with respect to No Parking areas. A similar requirement with respect to Phases 3 and 4 shall be made of the applicant at the time of application for final approval of those phases.

r. The Township shall, if circumstances warrant, have the option, 12 months after opening of the proposed driveway from the northern portion of the Site to Meadow Road, to construct a mountable or landscaped median in Meadow Road to reinforce right-in/right-out movements at the driveway to the northern portion of the Site.

s. The left turn lane into the Site at the proposed driveway from the northern portion of the Site to Meadow Road shall be lengthened to a full storage length of 120 feet.

t. The roundabout at Meadow Road and Meadow Road Connector shall be striped and signed in accordance with Figures 3C-3 and 3C-4 of the Manual on Uniform Traffic Control Devices, 2009 Edition. Detailed roadway plans and signing/stripping plans for the roundabout shall be subject to the review and approval of the Township's Traffic Consultant.

u. The applicant shall evaluate the addition of a departure lane on westbound Meadow Road to avoid confusion at the roundabout exit and shall incorporate the same into construction if warranted.

v. Timing modifications in the form of draft timing directives shall be prepared for the Meadow Road signals at the US Route 1 ramps and offered to NJDOT for its consideration.

w. Traffic projected for the adjacent proposed Duck Pond Associates development shall be considered in the design of the roundabout by preparation of capacity analyses reflecting such traffic and that is consistent with the proposed lane geometry.

x. The applicant shall provide information that would justify the internal trip capture applied to the 300 units on the south parcel.

y. Information shall be provided regarding the proximity adjustment factor derived for each land use to land use trips within the Site, and, where proximity adjustments were not applied, the applicant shall provide the justification for the non-use of the proximity adjustment factors for the estimation of the internal trip capture.

z. Information shall be provided regarding the timing for the construction of the proposed roundabout. If the roundabout is not in place prior to the opening of any or all of the north parcel land uses, the applicant shall provide additional Synchro analysis that would represent the phased construction of the Site.

aa. The applicant shall make an off-tract, fair-share financial contribution for off-tract roadway improvements to the Township's Capital Improvement Program.

bb. Turn-around provisions at dead-end aisles, which would include a 10-foot deep back-up area, shall be provided for the locations near Buildings 14 and 20, and the plans shall be amended to include these two locations. This will result in the loss of six parking spaces.

cc. The four-leg intersection on the north parcel nearest the northern clubhouse shall be controlled with a four-way STOP sign configuration rather than the three-way configuration proposed.

dd. The plan set shall be modified to show loading areas for the retail pads at the time of application for final approval for areas of proposed commercial uses in accordance with condition p.

ee. Pedestrian signals and push buttons shall be provided at the crossings across the east approach of Meadow Road at the US Route 1 Northbound off-ramp, which shall be coordinated with NJDOT.

ff. All proposed crosswalks shall be located as close to an intersection as possible, within six feet of an intersecting curbline extended.

gg. Pedestrian crossing signing consisting of a W11-2 sign with a W16-7p(L) plaque beneath it shall be provided for the crossing at the south access road for the roundabout near Buildings 13 and 15.

hh. The construction details shall be updated to show rectangular rapid flashing beacons.

ii. Parking spaces shall be reserved as electric charging stations as follows: 5% for retail spaces; 2 spaces for the hotel; and for the remaining spaces, the applicant shall work with the Township Landscape Architect to formulate a plan acceptable to him. He shall keep the Environmental Commission apprised of the plan.

Stormwater management

jj. A Phase 2-specific storm water management report (or combined Phase 1 and 2 report) must be submitted for review by the Township Engineer.

kk. Each subsequent application for final approval (i.e. Phases 3 and 4) must be accompanied by a phase-specific storm water management report.

ll. The 43 banked parking spaces shall be treated as built for purposes of stormwater management calculations.

Utilities

mm. The Final Site Plan drawing shall clearly identify all piping and manholes that will be installed (both in plain view and in the profiles) to support the Final Site Plan development and those that are to be deferred under a separate TWA permit. Infrastructure that is part of a future phase TWA application shall be “greyed out” or otherwise identified as not being part of the current proposal for construction of Phases 1 and 2.

Emergency services

nn. Standpipes shall be installed in each stair tower floor landing and shall have 2.5 inch National Standard thread hose outlets.

oo. The standpipes shall be tied into the fire sprinkler piping so that there will be only one fire department connection.

pp. If the applicant is required by the Construction Code official to conduct a radio signal strength survey of the building while it is under construction, a radio signal amplification system shall be installed if it is deemed necessary.

qq. A lock box to allow immediate access by the Fire Department shall be installed on the front of the buildings.

rr. The fire department connection that supports the fire sprinkler system shall be at the front of the building.

ss. The number of trees in close proximity to the buildings shall be limited so as not to restrict access by the fire department.

Affordable Housing

tt. The buildout of the affordable units shall, to the extent reasonably practicable, be proportionate to the income mix of the affordable units, such that, for example, the lowest income units shall not be left for last.

uu. Parking shall be free for all the affordable households.

vv. There shall be no charges to amenities for the affordable housing units.

ww. In accordance with UHAC, 13% of the affordable units shall be very low income.

Other

xx. A construction cost estimate prepared by the applicant's engineer shall be submitted for review and approval by the Township Engineer to determine the amounts of guarantees and fees required to be posted with the Township. For both on-site and off-site improvements, performance guarantee and construction inspection escrow fees shall be posted to the extent required by law.

yy. Separate metes and bounds descriptions and closure calculations for any proposed lots, easements and dedications, shall be submitted for review and approval.

zz. The applicant shall provide, via both hard copy and electronic format, approved site plans being submitted for signature, and as-built surveys upon project completion.

aaa. The applicant shall provide electronic copies of its stormwater management report and BMP Operation and Maintenance Manual, along with all maps applicable to the same, once those are approved by the Township Engineer.

bbb. The following approvals shall be obtained:

- Mercer County Planning Board
- Mercer County Soil Conservation District and State 5G-3 Construction Discharge Permit
- Delaware and Raritan Canal Commission
- NJDEP (TWA Permit, Wetlands General Permit, Transition Area Waiver-Buffer Averaging)

CONCLUSION

Based on the foregoing, the Board at its August 26, 2020 meeting voted to approve the plans with revisions made therein and as supplemented and modified by the exhibits and to grant the relief identified above subject to the conditions and to be revised in accordance with the conditions set forth herein.

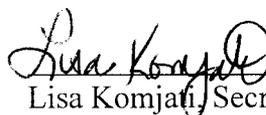
This resolution of memorialization was adopted on December 9, 2020 by a vote of who voted to grant the relief sought by the applicant.

The date of decision shall be August 26, 2020 except that the date of the adoption of this memorializing resolution is the date of decision for purposes of (1) mailing a copy of the decision to the applicant within 10 days of the date of the decision; (2) filing a copy of the decision with the administrative officer; and (3) publication of a notice of this decision. The date of the publication of the notice of decision shall be the date of the commencement of the vesting protection period.

We do hereby certify that the foregoing resolution was adopted by the Planning Board at its regular meeting held on December 9, 2020. This resolution memorializes formal action taken by the Board at its regular meeting held August 26, 2020.

 12/9/20

Gene R. O'Brien, Chair

 12/14/20

Lisa Komjati, Secretary

Gene O'Brien, Chair – Yea
Michael Karp, Vice Chair – Absent
Sue Appelget – Absent
Anis Baig – Yea
Linda Geever – Yea
Curtis Hoberman – Yea
Michael Huey – Absent
Hemant Marathe – Yea
Simon Pankove – Absent
Allen Schectel, Alternate I – Absent
Jyotika Bahree, Alternate II – Absent

Appendix D-14:
Resolution re: VCC Princeton Junction

**RESOLUTION OF MEMORIALIZATION
WEST WINDSOR TOWNSHIP ZONING BOARD OF ADJUSTMENT**

In the Matter of the Application by VCC Princeton Junction, LLC for a d-1 Use Variance for a Child Care Center, 47 Princeton-Hightstown Road; Block 12.04, Lot 18 West Windsor Township Tax Map.

Resolution in File No. ZB 18-05

BE IT RESOLVED by the West Windsor Township Zoning Board of Adjustment (hereinafter referred to as the “Board”) that the following findings of fact and basis for the decision approving the above-referenced application by the Board on January 3, 2019 is hereby memorialized.

FINDINGS

FINDINGS REGARDING THE APPLICANT:

1. VCC Princeton Junction, LLC (hereinafter referred to as the “Applicant”) is the owner of 47 Princeton-Hightstown Road, also designated as Block 12.04, Lot 18 on the West Windsor Township Tax Map (hereinafter referred to as the “Property”).

FINDINGS REGARDING THE NATURE OF THE APPLICATION AND RELIEF SOUGHT:

2. The Applicant proposes constructing a mixed-use development within the RP-7 Princeton Junction Redevelopment Zoning District. The development proposed by the Applicant involves the construction of a two-story building consisting of 10,890 square feet of commercial space on the first floor and 12 apartment units on the second floor. This building is located on the northside of the Property. On the southside of the Property, the Applicant proposes constructing a 12,870 square foot one-story building which will be used for child care and early childhood development. For the child care and early childhood development center, the Applicant seeks the following relief:
 - A. Section 200-266. A. (2) Land Use Ordinance (“LUO”) sets forth the permitted principal uses in the RP-7 Zoning District. Child care and early childhood development centers are not permitted principal uses within the district. The Applicant therefore requires a d-1 use variance for the proposed child care and early childhood development center.

FINDINGS REGARDING THE BOARD'S JURISDICTION:

3. As indicated above, the Applicant requires a d-1 use variance for the proposed child care and early childhood development center. The Board has jurisdiction over this application pursuant to N.J.S.A. 40:55D-70d(1) of the New Jersey Municipal Land Use Law.

NOTICE OF PUBLICATION:

- A. The Applicant obtained a list of all property owners within 200 feet of the Property from West Windsor Township.
- B. The Applicant served notice of the application upon all of said owners at least 10 days prior to the hearing on January 3, 2019 and also published notice of the hearing in a newspaper of general circulation within the Township of West Windsor, both of which as required by law.
- C. The Applicant has filed with the Board Secretary Proof of Notice and Proof of Publication indicating that Notice was provided to the aforementioned property owners and all required utilities at least 10 days in advance of the January 3, 2019 hearing on the application.

HEARING:

4. A public hearing was held on the application by the Board on January 3, 2019. The Applicant and all other interested parties were given an opportunity to present evidence and to be heard.

WITNESSES:

5. At the hearing, the Board considered testimony from the following witnesses:
 - A. Brian Birks, Learning Care Group.
 - B. Julia G. Algeo, PE, Maser Consulting, PA, Applicant's Civil Engineer.
 - C. Karl A. Pehnke, PE, Langan Engineering and Environmental Services, Inc., Applicant's Traffic Consultant.
 - D. Paul Grygiel, PP, Phillips Preiss Grygiel Lenehy Hughes, Applicant's Planning Consultant.
 - E. Samuel J. Surtees, Manager, West Windsor Township, Land Use Division.
 - F. James L. Kochenour, PE, Arora & Associates, PC, Board Traffic Consultant.
 - G. David Novak, PP/AICP, Burgis Associates, Inc., Board Planning Consultant.
 - H. Anthony W. Catana, AIA, Spiezle Architectural Group, Inc., Applicant's Architect.

- I. Daniel Dobromilsky, LLA/PP/LTE, West Windsor Township Landscape Architect.
- J. Ian L. Hill, PE, Van Cleef Engineering Associates, LLC, Board's Civil Engineer.
- K. Thomas Calabria, Chairman, West Windsor Township Affordable Housing Committee.

STAFF AND BOARD REPORTS:

6. The Board also considered the following staff reports:

- A. Burgis Associates, Inc. memorandum dated December 18, 2018.
- B. Arora & Associates, PC report dated December 21, 2018.
- C. Van Cleef Engineering Associates, LLC report dated December 18, 2018.
- D. Daniel Dobromilsky, LLA/PP/LTE report dated December 19, 2018.
- E. Mason, Griffin & Pierson, PC report dated December 17, 2018.

EXHIBITS:

7. The Board considered the following exhibits:

Exhibit A-1: Aerial photograph dated January 3, 2019 of Block 12.04, Lot 18 West Windsor Township Tax Map prepared by Maser Consulting, PA.

Exhibit A-2: Plan entitled: "Use Variance Plan for 47 Princeton-Hightstown Road, Block 12.04, Lot 18 West Windsor Township, Mercer County, New Jersey: Dimension Plan Exhibit" prepared by Maser Consulting, PA dated January 3, 2019.

Exhibit A-3: Rendering of Child Care and Early Childhood Development Center West Facade prepared by Spiezle Architectural Group, Inc. (undated).

Exhibit A-4: Material Board of facade treatment of Child Care and Early Childhood Development center building.

Exhibit A-5: Color rendering of Child Care and Early Childhood Development Center facade prepared by Spiezle Architectural Group, Inc. (undated).

Exhibit A-6: Plans entitled: "Use Variance Plan for 47 Princeton-Hightstown Road, West Windsor Township: Floor Plan – Daycare Center" prepared by Spiezle Architectural Group, Inc. dated November 16, 2018 (Drawing No. A1.2).

Exhibit A-7: Color Rendered Entrance Approach prepared by Spiezle Architectural Group, Inc. (undated).

Exhibit A-8: Color Rendered Child Care and Early Childhood Development Center Entry prepared by Spiezle Architectural Group, Inc. (undated).

Exhibit A-9: Color Rendered Commercial/Residential West Facade prepared by Spiezle Architectural Group, Inc. (undated).

Exhibit A-10: Plans Entitled: “Use Variance Plan for 47 Princeton-Hightstown Road, West Windsor Township: Floor Plans Commercial/Residential” prepared by Spiezle Architectural Group, Inc. dated November 16, 2018 (Drawing No.: A1.1).

Exhibit A-11: Colored Rendered Commercial/Residential Facade prepared by Spiezle Architectural Group, Inc. (undated).

Exhibit A-12: E-mail message dated October 30, 2018 confirming all three affordable units to be built on the Property are to be one-bedroom units.

Exhibit A-13: Colored Rendered Building Facade Analysis prepared by Spiezle Architectural Group, Inc. (undated).

Exhibit A-14: Plan Entitled: “Use Variance Plan for 47 Princeton-Hightstown Road, West Windsor Township: Elevations-Commercial Building” prepared by Spiezle Architectural Group, Inc. dated November 16, 2018 (Drawing No. A1.3).

Exhibit B-1: Rendering of proposed development on adjacent Princeton Ascend Development (Block 12.04, Lot 25 West Windsor Township Tax Map).

FINDINGS BASED ON THE HEARING AND TESTIMONY:

8. Based upon all of the testimony presented, a review of the application materials, a review of the staff reports, consideration of the exhibits presented, the Board makes the following findings:
 - A. The Applicant was represented by Kevin J. Moore, Esq., Sills, Cummis & Gross, PC.
 - B. The Applicant is the owner of the Property.
 - C. The Property is located in the RP-7 Redevelopment Zoning District.
 - D. The Property is located in the northerly portion of the Township near the intersection of Princeton-Hightstown Road and Cranbury Road. The Property has a total area of 95,072 square feet and is generally rectangular in shape. The Property has frontage on Princeton-Hightstown Road. The Property was previously developed with a one-story bank building which has been razed. Within the RP-7 Zone wherein the Property is located, the Property is surrounded by commercial uses to the west; a mixed-use project (Princeton Ascend) consisting of commercial space and residential

units to the north near the existing Rite-Aid Building; office uses to the south; and a private access road to Carlton Plan to the east.

- E. The Applicant is proposing to construct a mixed-use building which will be located within the northerly half of the site. The first floor of this building would contain 10,890 square feet of commercial space. The second floor would have 12 residential apartments, three of which would be deed restricted affordable housing units. These units are all one-bedroom. The Applicant proposes a second building located on the southerly half of the site. This building would be a one-story, 12,870 square foot building and would be occupied by a child care and early childhood development. It is this building that is the subject of the d-1 use variance.

- F. In support of the Applicant's d-1 use variance, the Applicant presented to the Board its "Concept Plan" for the development of the Property. The Property will be improved with two new buildings. One building containing 10,890 square feet of space will be a mixed-use retail and residential building. The building for which the Applicant seeks d-1 use variance approval is a 12,870 square foot building which will be occupied by a child care and early childhood development facility. The Applicant has submitted a bifurcated application first seeking the d-1 use variance approval and then returning to the Board for formal site plan approval for both buildings. The facility will be licensed by the New Jersey Department of Human Services. The building will contain several classrooms for infants, toddlers, two-year old's, pre-kindergarten youngsters, preschool and school age children. An enclosed outdoor play area will be located to the rear of the building. The main access to the building will be by a driveway connected to Princeton-Hightstown Road. A second driveway is proposed along the northerly property line and will connect to the recently approved Princeton Ascend Development. 83 parking spaces are proposed on the Property. The maximum number of students will be 158. There will be a total of 23 staff for the child care and early childhood development center at peak staffing hours. The peak drop-off time for the youngsters utilizing the center will be from 6:30 a.m. to 9:30 a.m. The peak pick-up time will be from 3:30 p.m. to 6:30 p.m. There will be eight parking spaces near the entry to the building designated for peak-hour child care drop-off and pick-up.

FINDING REGARDING THE LEGAL STANDARD TO BE APPLIED:

- 9. In evaluating this application, the Board applied the following legal standard:
 - A. Use Variance: d-1. The Board recognized that the proposed child care and early childhood development center is a defined "inherently beneficial use" under the New Jersey Municipal Land Use Law ("MLUL") at

N.J.S.A. 40:55D-4. See Burbridge v. Mine Hill Township, 117 N.J. 376 (1990).

- B. The Board then evaluated the “negative criteria” as instructed by Sica v. Board of Adjustment of the Township of Wall, 127 N.J. 152 (1992). This analysis involved: (i) having the Board identify the public interest at stake and confirming that it is an inherently beneficial use for the West Windsor Township Community; (ii) the Board then identified any detrimental effect that would ensue if the use variance was granted permitting a child care and early childhood development center building in the RP-7 Zone; (iii) the Board then considered any appropriate conditions on an approval in order to mitigate any potential detrimental effect if the child care and early childhood development center use was permitted; and (iv) finally, the Board weighed the positive and negative criteria to determine whether, on balance with appropriate conditions, the use variance as requested could be granted.

FINDINGS AND DECISIONS:

The Board having applied the above-referenced standards, voted six in favor (Abbey, Van Dyke, Church, Hoberman, Roeder and Marks) and one opposed (Jacobsohn) to grant the Applicant the requested d-1 use variance to permit the above-referenced child care and early childhood development use in the RP-7 Zoning District. The Board granted approval for the following reasons:

- A. The Board agreed that the proposed child care and early childhood development center operation did, in fact, constitute an “inherently beneficial use” within the RP-7 Zoning District. The Board then evaluated whether or not there would be any substantial negative impact on the District for the remaining development on the Property if the child care and early childhood development use was permitted. The Board concluded that there would be no substantial negative impact and that the conditions noted hereinbelow would be appropriate and would ensure that the child care and early childhood development use would operate appropriately within the RP-7 Zone. The Board is satisfied that the child care and early childhood development use, with its limited hours and being closed on weekends is actually a less intense use than the uses otherwise permitted in the zone under Section 200-266 of the LUO. The child care and early childhood development use fits well into the mixed-use objective of the RP-7 Zone. Accordingly, the Board determined that the balance of the positive and negative criteria indicated that the variance as requested could be granted.
- B. This approval is granted, however, subject to the following conditions:

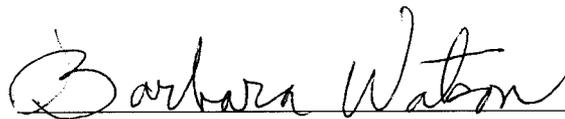
- i. The maximum number of children that can be enrolled in the child care and early childhood development center shall not exceed 158.
- ii. The Applicant shall construct both the mixed-use building and the child care and early childhood development building at the same time.
- iii. The affordable housing unit to be constructed on the Property shall be mixed and blended into the overall 12 apartments.
- iv. When the Applicant returns to the Board for site plan approval, the parking on the Property shall be situated in a fashion so as to facilitate either access to Carlton Place through the adjacent Princeton Ascend Property or otherwise.
- v. The Applicant shall bring current all taxes, sewer charges and other municipal charges including land development application and escrow fees for the Property within 30 days of the date of the adoption of this Memorializing Resolution.

CONCLUSION

Based upon the foregoing findings of fact and for the reasons set forth hereinabove and subject to the conditions also set forth hereinabove, the Board at its meeting on January 3, 2019, approved this application by a vote of six in favor and one opposed. This Resolution of Memorialization was adopted on January 24, 2019. The date of decision, however, shall be January 3, 2019, except for the purposes of (1) mailing a copy of the decision to the Applicant within ten (10) days of the date of decision; (2) filing a copy of the decision with the Administrative Officer; and (3) publishing notice of this decision.

CERTIFICATION

I, Barbara Watson, Administrative Secretary, to the West Windsor Township Zoning Board of Adjustment do hereby certify that the above Resolution of Memorialization was adopted by the Board at its regular meeting held on January 24, 2019. This Resolution memorializes the Board's approval of this matter at its meeting on January 3, 2019.



Barbara Watson, Administrative Secretary
West Windsor Township Zoning Board of Adjustment

Appendix D-15:
Resolution re: Bear Creek

Lot 1.01 (The Hamlet at Bear Creek), extending from Village Road East to the entrance to The Hamlet.

3. In 2009, the Site was condominiumized by the recording of a Master Deed. One half of the Site, under separate ownership, designated as "Unit AL" and identified as Unit 1.021 on the Township Tax Map, consists of approximately 14.104 acres improved with an Assisted Living facility. The owner of that unit has consented to the processing of this application. The other half of the Site, which is the subject of this application, is designated "Unit IL" and is identified as Unit 1.022 on the Township Tax Map. Consisting of approximately 13.737 acres, it is unimproved land except for the existing internal loop road and underground utilities installed at the time of construction of the Assisted Living facility. The Applicant is proposing to construct a congregate care facility (the "Independent Living" facility) on Unit IL/Unit 1.022, as further described below. It is a permitted use in the PRRC District.

4. A similar development as that being proposed in this application was proposed as part of a larger general development plan previously approved, in 1996. Known as Bear Creek, the original General Development Plan ("1996 GDP") was for an age-restricted planned residential retirement community consisting of 901 dwelling units with a 15% affordable units set-aside. These dwelling units consisted of 540 single-family units at the Villages at Bear Creek, 61 multi-family units at The Hamlet (including 38 low-income and 23 moderate-income), and 300 dwelling units in a congregate care retirement community consisting of 220 apartments and 80 assisted living units.

5. In 1999, preliminary and final site plan approval was granted for the Esplanade (the "1999 Approval"), a senior citizen congregate care facility to be located on the Site with 306 dwelling units, including 61 affordable units. The complex was to consist of five buildings, including two assisted living buildings, two independent living buildings, and a community building with accessory uses. In 2000, approval was granted to subdivide the Site (i.e., the Esplanade property) into two lots for financing purposes, Lot 1.02A, now Unit 1.021, for the assisted living buildings and Lot 1.02B, now Unit 1.022, for the independent living buildings and community building. 327 parking spaces were approved for the Site. The subdivision was never perfected by that Applicant.

6. The assisted living facility, known as Unit AL, on Unit 1.021, has been constructed, including 86 units, of which 10 are affordable. Construction of The Hamlet and Villages of Bear Creek has also been completed, and these facilities are now occupied.

7. In June 2005, the Board granted Amended Preliminary and Final Site Plan approval (the “2005 Approval,” and, together with the 1999 Approval, the “Prior Approvals”) for 220 independent living units to be constructed on what is now Unit IL, on Unit 1.022, plus 234 parking spaces, together with several design exceptions and waivers. The 220 units were to be located in buildings that were designed or redesigned in 2005 to appear more residential and consisted of a mix of one- and two-bedroom units, some of which were to have dens and 51 of which were to be affordable. The 2005 Approval was also never perfected.

8. The Board on February 26, 2020 granted Preliminary and Final Site Plan Approval (PB 19-13) (“2020 Approval”) for the construction of 220 units consisting of the following: 49 one-bedroom market-rate units (40 with dens), 51 one-bedroom affordable units, and 120 two-bedroom market-rate units (40 with dens). Approved amenities included an automated café, exercise room with equipment, yoga room, wellness room, card and crafts rooms, heated pool, four pickle ball courts, two tennis courts, and outdoor seating areas.

9. The Board on July 13, 2022, granted Amended Final Site Plan Approval ("2022 Approval") approving changes to the 2020 Approval including, but not limited to, reducing the footprint of the 3-story building to 99,401 square feet, the addition of 4 elevators, replacing the mansard roof with a flat roof, increasing the indoor amenity space from 10,000 square feet to 15,000 square feet and adjusting the condominium line separating Units AL and IL.

10. The Township’s court-approved Third Round Housing Element and Fair Share Plan dated February 28, 2019 identifies the Site as one of the components to address the Township’s prospective third round obligation, with Unit 1.022/Unit IL deemed an “approvable, available, developable and suitable” site and designed for development of inclusionary housing (169 market rate and 51 affordable units).

JURISDICTION AND RELIEF SOUGHT

11. The subject of this application is within the jurisdiction of this Board. The Board acted within the time required by law.

12. The Applicant seeks second amended final major site plan approval to make the following changes to the plans approved by the 2022 Approval:

- Raising the building by 5.5 feet (while maintaining current footprint) to permit 168 parking spaces within an underground garage;
- Modifying the exterior patio area to include a pavilion with bathrooms for the pool area, exterior and pool storage, and an area to accommodate sheltered outdoor events;
- Modifying the proposed tennis court to be able to be converted to two pickleball courts when necessary;
- Modifying the previously proposed parking areas from generally curvilinear layouts to rectilinear layouts;
- The addition of two 12-bay garages (one in each lot) directly adjacent to 12 parking spaces, creating "tandem" parking arrangements for 48 vehicles;
- Modifying the Great Room to add a kitchen, a pantry and a "demonstration kitchen";
- Additional of a "Basement Level" beneath the new "ground floor" amenity area (exclusive of the subsurface parking lot footprint), consisting of a Spa, Movie Room, Swimming Pool, bathrooms, and Gym equipment, along with other rooms designated as "Unassigned" at this time.

13. No new variances are required. With two exceptions, the waivers previously granted do not require further waivers. The exceptions would allow an increase in the total number of parking spaces from 339 to 392 and tandem parking for the garages.

THE APPLICANT

14. The Applicant is The Blackpoint Group/Anthony Mazzucca, acting as agent for the owner of Unit IL, Benjamin Zaitz.

NOTICE

15. The Applicant obtained a list of all property owners within 200 feet of the property that is the subject of this application from the West Windsor Township tax office.

16. The Applicant filed an affidavit stating that the notice was given at least ten days in advance of the hearing date to the surrounding property owners and to the public entities required to be noticed. The Applicant has also filed a proof of publication confirming that

newspaper publication was made in accordance with legal requirements. Proper notice was given.

17. The notice and publication stated that the hearing would be held at the meeting of the Board scheduled for February 19, 2025.

THE HEARING

18. The public hearing on the application was heard on the date for which it was noticed. At the hearing, the Applicant and all other interested parties were given the opportunity to present evidence and to be heard. No one from the public requested an opportunity to be heard.

19. Materials on file with the Board and part of the record reviewed by the Board:

- Development Application
- Consent by Owner of Unit AL to Entry onto Unit AL and to process Application
- Agreement to Pay for Professional Review and Inspections
- Site Plan Checklist with two (2) page Rider
- West Windsor Township Green Development Practices Checklist
- Architectural elevation and floor plans, prepared by Steven S. Cohen, dated November 26, 2024, last revised January 20, 2025 consisting of ten (10) sheets; amended on February 6, 2025 (11 sheets)
- Landscape Plan, prepared by Spiezle Architectural Group, dated August 23, 2019, last revised January 20, 2025, consisting of six (6) sheets)
- Amended Final Major Site Plan, prepared by Partner Engineering & Science, Inc. ("Partner"), dated May 3, 2019, last revised January 20, 2025, consisting of eighteen (18) sheets
- Traffic and Parking Assessment, prepared by Langan Engineering, dated December 3, 2024, last revised February 13, 2025
- Stormwater Management Report, prepared by Partner, dated July 10, 2019, last revised January 20, 2025

- Operations and Maintenance Manual, prepared by Partner, dated November 11, 2019, last revised January 20, 2025
- Condominium Plan, prepared by Partner, dated May 17, 2019, last revised January 20, 2025
- Letter dated January 24, 2025, prepared by Daphne A. Galvin, P.E. of Partner responding to Township Review Memoranda
- Approval Resolutions (1) PB96-07 (1996) – General Development Plan Approval, (2) PB96-07 Amended (2000) – Amended General Development Plan Approval, (3) PB97-7 (1999) – Preliminary and Final Major Site Plan Approval with Variance, etc., (4) PB00-05 (2000) - Preliminary and final Subdivision Approval with Waivers, (5) PB00-05 Amended (2005) - Preliminary and final Subdivision Approval, (6) PB19-13 (2020) - Preliminary and Final Site Plan Approval with Variance and Waivers; and (7) PB19-13 Amended (2022) – Amended Final Site Plan Approval
- Affidavit of Proof of Service and Publication of Notice dated February 17, 2025

TOWNSHIP REPORTS

20. At the hearing, the Board considered the following reports presented by Township officials and bodies and consultants to the Board:

- Review Memorandum to West Windsor Planning Board, prepared by Chief Timothy M. Lynch, dated February 18, 2025
- Review Memorandum to Samuel J. Surtees, prepared by Quazi Masood, PE, PTOE and Daniel Pflueger of Arora Associates, P.C., dated February 14, 2025 – Compliance Letter
- Review Memorandum to West Windsor Township Planning Board prepared by Ed Snieckus, Jr., LLA, PP, ASLA, Burgis Associates, Inc., dated February 12, 2025
- Review Memorandum to West Windsor Planning Board, West Windsor Division of Land Use prepared by David Novak, PP, AICP, Burgis Associates, Inc. dated February 12, 2025
- Review Memorandum to West Windsor Township Planning Board prepared by Francis A. Guzik, PE, CME, dated February 12, 2025

21. At the hearing, the Board considered the following reports and submissions prepared by the Applicant's consultants and advisors and the following exhibits that were introduced as evidence during the course of the hearing:

- Exhibit A-1 – Site Plan Sheet 4 of 18 of set, dated May 3, 2019, and revised through January 20, 2025
- Exhibit A-2 – Entry Photograph/Rendering
- Exhibit A-3 – Main Drive Photograph/Rendering
- Exhibit A-4 – View Towards Garage Photograph/Rendering
- Exhibit A-5 – Basement and Ground Floor Plan – Sheet A1.01
- Exhibit A-6 – Canopy Lighting – Sheet A101.1
- Exhibit A-7 – First Residential Floor Plan – Sheet A1.02
- Exhibit A-8 – Pavilion Plan – Sheet A1.05
- Exhibit A-9 – Roof Plan – Sheet A1.06
- Exhibit A-10 – Elevations – Sheet A2.03
- Exhibit A-11 – Photograph of sample board, material and color

TESTIMONY AND PUBLIC INPUT

22. The testimony presented by and on behalf of the Applicant and advice by Board consultants were given by the following persons:

Frank J. Petrino, Esq. represented the Applicant. Anthony Mazzucca, The Blackpoint Group, the agent for the owner; Daphne Galvin, P.E., its engineer; Steven Cohen, A.I.A., its architect; Creigh Rahenkamp, P.P., A.I.C.P., its planner, and Karl Pehnke, P.E., P.T.O.E., its traffic consultant, attended and either provided direct testimony or answered questions from the Board or its professionals.

The most salient expert testimony, unrebutted, is as follows:

- Utilizing Exhibit A-1, Ms. Galvin described the existing site and pointed out the site-related changes that are the subject of the Amendment; including reconfiguration of surface parking lots and addition of garage structures and lower level building garages, resulting in an increase in parking spaces from 339 to 392, which is needed to provide multiple parking options to make the development more marketable. The building is raised to allow for the lower-level garages and amenity space, the courtyard is modified to include a new Pavilion building, the tennis and pickleball courts are shifted and the tennis courts reconfigured to allow for conversion to pickleball. The landscape and lighting plans are revised to accommodate the site changes. There is no change to unit count or building footprint size, no new variances and only one waiver for excess parking.
- Utilizing Exhibits A-2 to 11, Mr. Cohen described the height of the building and the change to a flat roof, the below ground parking, the enhanced outdoor, and the indoor amenity package.

At the hearing, the Applicant agreed that the garages would not be used for storage.

The following Township staff and professionals gave advice to the Board at the hearing: David Novak, P.P., Ed Snieckus, Jr., L.L.A., P.P., A.S L.A.; Quasi Masood, P.E., P.T.O.E., Francis A. Guzik, P.E., P.E., C.M.E. and Gerald J. Muller, Esq.

23. The statements of the members of the public made during the course of the hearing may be summarized as follows: None.

FINDINGS AND CONCLUSIONS RE: SECOND AMENDED FINAL MAJOR SITE PLAN APPROVAL

24. What the Applicant presented at the hearing is set forth in paragraph 12 above. No variances are required, and the proposed site plan changes are modifications of prior approved plans and make good sense, particularly in light of the Applicant's showing that the market for age-restricted developments is such as to require upgrades to be competitive. That is precisely what the modifications do.

25. Findings and conclusions re: second amended final major site plan approval. The Board finds that the Applicant has met all Township site plan standards. Second amended final major site plan approval, accordingly, is granted.

FINDINGS AND CONCLUSIONS RE: WAIVERS

26. Waivers: Two waivers are necessary for (a) 24 tandem parking spaces, 12 in front of each of the two proposed garages while Section 200-29M(10) permits tandem parking only for employees and for valet parking; and (b) for 392 spaces proposed, while Section 200-28D(2)(b) does not permit parking spaces in excess of that permitted by Code which is 166 spaces in this case.

Waivers granted: 224 spaces have been previously approved in 2022, and the additional ones are proposed as part of the Applicant's program to make the development as marketable as possible, in this instance by having ample parking. With condition z permitting the use of the tandem spaces only by the renters of the garages and their guests, both waiver requests are reasonable and within the intent and purpose of ordinance provisions, which are intended to provide sufficient parking. They apply only to this site, not having more general applicability. Literal enforcement of the ordinance sections would be impracticable because it would defeat the elements of the site plan for which waivers are necessary in order to upgrade the development, which the Board has found acceptable.

The two waiver requests are therefore granted.

CONDITIONS REQUIRED

27. The Board finds that, in order to address the concerns expressed during the course of the hearing and to limit the relief to that reasonably necessary to satisfy the Applicant's legitimate requirements, the relief granted is subject to the following conditions:

- a. The underground parking spaces shall be assigned.
- b. Four bicycle racks shall be added adjacent to the pavilion. Their location shall be subject to the Township Engineer's approval.

c. Landscaping shall be added along the building. It shall be subject to the review and approval of the Board Landscape Architect. The landscaping shall not block venting from the underground garage.

d. Pool water shall be trucked offsite, and any permits necessary for its discharge shall be secured. A water removal/disposal plan shall be submitted for approval by the Township Engineer and the Health Department.

e. The minimum lighting in the garage shall be .25 f.c.

f. The Applicant shall identify locations for Make Ready parking spaces. Their location shall be subject to the review and approval of the Director of Fire and Emergency Services.

g. There shall not be any EV charging stations in the underground garage.

h. The screening of rooftop units shall match the building color if they can be seen from any portion of the site.

i. The building amenities shall not be open to the public except that the café shall be open to the residents of The Hamlet and the assisted living facility.

j. The lighting levels in the surface parking area shall be approved by the Township Engineer.

k. Signage subject to the review and approval of the Township Landscape Architect shall be provided for the openings of the underground parking.

l. The Applicant shall designate proposed locations of the Fire Department connection and ensure that a hydrant is located within 100 feet of the proposed connection in compliance with NFPA 14. This shall be subject to the review and approval of the Director of Fire and Emergency Services.

m. The Applicant shall place lock boxes for immediate access by the Fire Department on both the front of the building and rear service entrance.

n. The Applicant shall install Fire Department standpipes in each stair tower. The standpipes shall have a 2 1/2 foot national standard thread hose outlet on each stair tower floor landing. The standpipe shall be tied into the fire sprinkler piping so that there will be only one Fire Department connection.

o. As per N.J.A.C. 5:70, 510.1 Emergency Responder Radio Coverage – “All new buildings shall have approved radio coverage for emergency responders within the

building based upon existing coverage levels of the public safety communications systems of the jurisdiction at the exterior of the building.” The Applicant shall be required by the construction official to conduct a radio signal strength survey of the building while under construction, and if deemed necessary a radio signal amplification system would need to be installed.

p. The Applicant shall execute a Developer’s Agreement prepared by the Board Attorney.

q. The completion of repairs/rehabilitation of the existing site amenities is required prior to the issuance of a certificate of occupancy.

r. The Applicant shall develop a Title 39 enforcement plan for the project and submit a request to Township Council with respect thereto.

s. An updated Sanitary Sewer Engineering report shall be provided based upon the proposed modifications in addition to the project’s amenities and any change in bedroom distribution.

t. The project is located within the South Post Road Pump Station wastewater service area, where capacity issues exist. The Township has awarded a construction contract for required upgrades to increase capacity. To the extent that there is increased wastewater discharges above the currently approved discharge rate, the Applicant shall be required to reimburse to the Township its pro rata share for such improvements. The specific cost to the Applicant will be based upon total increase in the project wastewater demand. The Developer’s Agreement shall address this condition.

u. If the dog wash/ grooming station is connected to the sanitary sewer, a filter must be employed to prevent the discharge of animal fur to the sewer flows.

v. The locations of the relocated light fixtures due to parking lot reorientation shall be shown on the site civil plans. Any additional building mounted lighting for garages (underground and exterior) and main entrance canopy lighting and façade accent lighting shall also be included. Updated lighting calculations for the parking lots and driveways shall be provided.

w. Any conditions of the prior approvals that have not been satisfied during resolution compliance shall be satisfied during resolution compliance on this application.

- x. The revised plans, incorporating all the testimony and exhibits, shall be submitted electronically.
- y. The hours of operation for the automated café shall be set forth on Sheet A1.01.
- z. The tandem spaces at each garage may only be used by the renter of the garage and his or her guests.

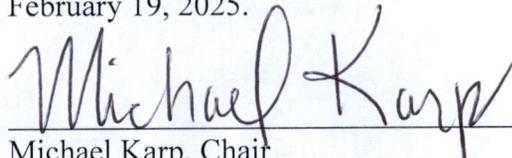
CONCLUSION

Based on the foregoing, the Board at its February 19, 2025 meeting voted to approve the plans with revisions made therein and as supplemented and modified by the exhibits and to grant the relief identified above subject to the conditions and to be revised in accordance with the conditions set forth herein.

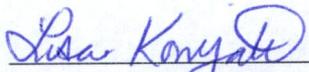
This resolution of memorialization was adopted on March 19, 2025 by a vote of who voted to grant the relief sought by the Applicant.

The date of decision shall be February 19, 2025 except that the date of the adoption of this memorializing resolution is the date of decision for purposes of (1) mailing a copy of the decision to the Applicant within 10 days of the date of the decision; (2) filing a copy of the decision with the administrative officer; and (3) publication of a notice of this decision. The date of the publication of the notice of decision shall be the date of the commencement of the vesting protection period.

We do hereby certify that the foregoing resolution was adopted by the Planning Board at a regular meeting held on March 19, 2025. This resolution memorializes formal action taken by the Board at its regular meeting held February 19, 2025.



Michael Karp, Chair



Lisa Komjati, Secretary

Michael Karp, Chair – Yea
Curtis Hoberman, Vice Chair – Absent
Sue Appelget – Absent
Anis Baig – Yea
Hemant Marathe – Yea
Pankaj Patel – Alternate II – Yea
Simon Pankove – Absent
Allen Schectel – Yea
Martin Whitfield – Absent
Jyotika Bahree – Yea
Robert Loverro, Alternate I – Absent

Appendix D-16:
Resolution re: Bear Brook Homes

4. The property is located in an area designated on the West Windsor Township Zoning Map as the R-3A zoning district.

THE APPLICANT

5. The applicant is the contract purchaser of the property.

NOTICE

6. The applicant obtained a list of all property owners within 200 feet of the property that is the subject of this application from the West Windsor Township tax office.

7. The applicant filed an affidavit stating that notice of the hearing was given at least ten days in advance of the hearing date to the surrounding property owners and to the public entities required to be noticed. The applicant has also filed a proof of publication confirming that newspaper publication for the hearing was made in accordance with legal requirements. Proper notice was given.

8. The notice and publication stated that the hearing would be held at the meeting of the Board scheduled for February 7, 2018. The application was heard on that date and was continued to April 4, 2018.

THE HEARING

9. The public hearing on the application was heard on the date for which it was noticed. At the hearing, the applicant and all other interested parties were given the opportunity to present evidence and to be heard.

PLANS PRESENTED

10. At the hearing, the Board reviewed the following plans:

- Plans entitled “Preliminary Major Subdivision – Block 9, Lots 55 & 56 – (Tax Map Sheets 8.03 & 8.04), Township of West Windsor, Mercer

County, New Jersey”, 8 sheets total, prepared by Page-Mueller Engineering Consultants, P.C., dated December 14, 2016, last revised December 28, 2017

- Map entitled “Final Plat – Major Subdivision of Block 9: Lots 55 & 56, Township of West Windsor, Mercer County, New Jersey”, 1 sheet, prepared by Kennon Surveying Services, Inc., dated December 22, 2017
- Exhibit entitled “Schematic Home Designs”, prepared by Steven DeRochi, A.A., dated October 15, 2017

TOWNSHIP REPORTS

11. At the hearing, the Board considered the following reports presented by Township officials and bodies and consultants to the Board:

- January 15, 2018 memorandum from Joseph H. Burgis, P.P. and David Novak, P.P. to the Board and Planning Department.
- January 16, 2018 memorandum from Francis A. Guzik, P.E. to the Board.
- January 12, 2018 memorandum from Dan Dobromilsky, P.L.A. to the Board.
- January 10, 2018 memorandum from James L. Kochenour, P.E. to the Board.
- January 16, 2018 memorandum from Christopher B. Jepson, P.E. to the Board.
- January 4, 2018 memorandum from James V. C. Yates to Chairperson, Planning Board.
- Memorandum from Site Plan Review Advisory Board to the Board, undated.
- February 5, 2017 Memorandum from Affordable Housing Committee to Gene R. O’Brien.

EXHIBITS AND APPLICANT'S REPORTS

12. At the hearing, the Board considered the following reports prepared by the applicant's consultants and advisors and the following exhibits that were introduced as evidence during the course of the hearing:

- Exhibit A-1 – Sitaline study prepared by Steven DeRochi dated March 30, 2017.
- Exhibit A-2 – Electronically-prepared flyover.
- Exhibit A-3 – Sheet showing fences, third fence from the top being the fence to be used (“Chesterfield Smooth finish in Almond”).
- Exhibit A-4 – Sheet O-1, with driveways marked in blue.
- Exhibit A-5 – Hard copy package of changed designs for affordable units, 2 bedroom unit being 800 square feet and 3 bedroom unit being 1,000 square feet
- Report entitled “Stormwater Management Report for proposed Major Subdivision – Block 9, Lots 55 & 56, Township of West Windsor, Mercer County, New Jersey” prepared by Page-Mueller Consultants, P.C., dated December 2016, last revised October 2017.
- Report entitled “Stormwater Management System Test Pit Report for Lots 55 & 56, Block 9, Township of West Windsor, Mercer County, New Jersey” prepared by Page-Mueller Engineering Consultants, P.C., dated December 2016.
- Letter of Interpretation-Line Verification issued by NJDEP dated July 6, 2016.
- Document entitled “Maintenance Manual for the Stormwater Facilities for Proposed Bear Brook Lane Subdivision Block 9, Lots 55 & 56 West Windsor Township, Mercer County, New Jersey” preparer unattributed, dated December 2017.
- Development Application Package Including
 - Development Application
 - Subdivision Checklist
 - West Windsor Township Environmental Impact Statement Worksheet
 - West Windsor Township Green Development Practices Checklist

- Exhibit O-1 – Submission by Farrell Delman consisting of 11 pages with text and photographs
- Exhibit O-2 – 3-page submission of text by Farrell Delman
- Exhibit O-3 – Report by Robert Korkuch, P.E., the second page also being on presentation board.

TESTIMONY AND PUBLIC INPUT

13. The testimony presented by and on behalf of the applicant and advice by Board consultants were given by the following persons:

Christopher S. Tarr, Esq. represented the applicant. Steven DiRochi, an architect and principal with the applicant, and Catherine Mueller, P.E., its civil engineer, testified on the applicant's behalf.

The following Township staff and professionals gave advice to the Board at the hearing: Francis A. Guzik, P.E.; Joseph H. Burgis, P.P.; Dan Dobromilsky, P.L.A.; James L. Kochenour, P.E.; Christopher B. Jepson, P.E.; Samuel J. Surtees, and Gerald J. Muller.

14. The statements of the members of the public made during the course of the hearing may be summarized as follows: Farrell Delman testified in opposition to the application. He argued that it could be better designed so that what he described as a lengthy wall consisting of the back of the 3 townhouses could be eliminated by shifting the townhouses to the other side of the entry road, which would also have the advantage of eliminating conflicts when vehicles backed out of the townhouse driveways near the entry.

FINDINGS AND CONCLUSIONS RE: PRELIMINARY AND FINAL SUBDIVISION APPROVAL

15. Nature of application. The applicant proposes to consolidate its two lots, Block 9, Lots 55 and 56, comprising 9.3 acres and subdivide them into 10 building lots, a 6.472 acre open space lot that will contain the environmentally constrained areas to the rear of the property and that the applicant proposes to dedicate to the Township, and a 0.099 acre open

space lot fronting on the cul-de-sac to be owned by a future homeowners' association. The smaller open space lot will contain storm water management facilities and provide access to the larger open space lot to the rear. Several of the proposed lots utilize the zero lot line provision in the R-3A zone and will vary in size from just under ¼ of an acre to just over 1/3 of an acre. The three unit townhouse building will consist of a 3 bedroom market rate unit, a 3 bedroom moderate income affordable unit, and a 2 bedroom low income affordable unit.

16. Two primary issues were raised. The first is the location of the townhouses closest to the entry point off Bear Brook Road and adjacent to the Delman property. The Board discussed whether conflicts were created by turning movements into the cul-de-sac from Bear Brook and vehicles being backed out of the driveways of the town houses, from which, unlike the seven zero lotline houses, there are no turnarounds on site. The Board's traffic engineer, Mr. Kochenour, opined that this did not represent a dangerous condition because of the low levels of traffic and the fact that vehicles turning into the cul-de-sac would be moving at a slow rate of speed.

17. The second issue, as indicated above, related to the townhouses and their impact upon the Delman property. A redesign proposed by Mr. Delman's engineer, Mr. Korkuch, moved the townhouses to deeper lots on the other side of the drive. The Board found, however, that this presented its own problems particularly in terms of aligning the entry drive with Greylynne Drive across the street; loss of three parking spaces; and the question of whether the unit on the lot closest to Bear Brook Road could be built given the skewing of the lot line. The Board found that, with more landscaping, the impact of the townhouses on the Delman property could be ameliorated. In addition, they do not present a uniform wall as two affordable housing units are set back farther from their rear property lines than the market unit is and have varying heights, thereby reducing the scale and massing.

18. Conclusion Re: subdivision approval. The Board finds that, with the conditions imposed, the application meets all Township subdivision standards. Preliminary and final major subdivision approval, accordingly, is granted.

FINDINGS AND CONCLUSION RE: VARIANCES

19. The application necessitates five variances. The variances and the Board's action are as follows.

a. Variance: From Section 200-177B, which requires that the minimum lot frontage be 50 feet, while the lot frontage for Lot 55.11 is zero.

Variance granted: Frontage is unnecessary for this open space lot, as municipal vehicles can access it from the cul-de-sac through the smaller open space lot. Granting the variance furthers Municipal Land Use Laws purposes “a,” which is to promote the appropriate development of land, and “g,” which is to provide for open space in appropriate locations. Preserving the open space lot in its natural state furthers these goals. The benefits of advancing these goals are substantial, as the open space lot will in perpetuity remain in its natural state and, if the Township Council accepts the offer of dedication, will add to the Townships growing open space inventory. There are no detriments to granting the variance. The benefits therefore outweigh the detriments. The positive flexible “c” criteria have therefore been satisfied.

The negative criteria are satisfied as well. There is no substantial detriment to the public good. Indeed, it is advanced for the reasons given above. In addition, there is no impairment of the intent and purpose of the zone plan and zoning ordinance in that the purpose of the frontage requirement is to provide for access to buildable lots and have frontage consistent with the character of the neighborhood, and that purpose is satisfied.

For the forgoing reasons, the variance request is granted.

b. Variance: Section 200-177B, which requires a minimum lot size of 5,000 feet, while 4,312 square feet is proposed to Lot 55.12, the second open space lot.

c. Variance: From Section 200-177B, which requires a minimum lot frontage of 50 feet, while 12.94 feet is proposed for Lot 55.12.

d. Variance: From Section 200-177B, which requires a minimum lot width of 50 feet, while 22.56 feet is proposed for Lot 55.12.

b-d. Variances granted: These variances are granted for the same reason that the frontage variance for Lot 55.11 is granted. Lot 55.12 is an adjunct to Lot 55.11, which will not

function as accessible open space without Lot 55.12, as it will be landlocked. In addition, Lot 55.12 standing alone satisfies the Municipal Land Use Law goals of promoting the appropriate development of land and conserving open space. Since there are no detriments to granting these variances, the flexible criteria are satisfied.

The negative criteria are also satisfied for the same reasons given with respect to the lot frontage variance for the larger open space lot.

For the forgoing reasons, the three Lot 55.12 variances are granted.

e. Variance: From Section 200-227C, which provides that no fence or wall forward of the front yard setback line in residential districts may exceed 4 feet in height, while the applicant proposes to install a 6 foot privacy fence within the front yards of proposed Lots 55.01 and 55.10.

Variance granted: Granting the variance furthers Municipal Land Use Law purpose “a” by providing for the appropriate development of land in that the two lots abut Bear Brook Road, and, while the yards between the houses and road are technically considered front yards, they actually function as side yards. Fences are appropriate along Bear Brook Road so as to provide privacy for the residents of the two lots. As Exhibit A-3 shows, the fences will be attractively designed and, with pickets at the top, will not be a solid six foot fence. There are substantial benefits in providing privacy for the residents of the two lots, and the detriments will be minimal. The benefits, therefore, outweigh the detriments. The flexible “c” criteria are, accordingly, satisfied.

The negative criteria are also satisfied. There is no substantial detriment to the public good for the reasons given above. Nor is there substantial impairment of the intent and purpose of the zone plan and zoning ordinance, since the fences function as fences along the side property lines rather than in the front yards.

For the foregoing reasons, the variance request is granted.

FINDINGS AND CONCLUSIONS RE: WAIVERS

20. The application necessitates eight waivers, six design waivers and two submission waivers. The waiver requests and the Boards action on them are as follows.

a. Waiver: From Section 200-91(P)(4), which requires that storm water management areas be integrated as aesthetic landscape features, while the two basins do not meet this standard.

Waiver granted: The basins are located on both sides of the entryway, where there is limited room for them. Since they cannot be integrated into the landscape as the ordinance requires, the waiver request is reasonable. The intent and purpose of the ordinance provision is satisfied by proposed landscape improvements on all sides of the basins. Literal enforcement of the ordinance provision would be impracticable because of the limited area available for the basins, a limitation that is offset by the very substantial amount of land reserved for permanent open space.

Accordingly, the waiver request is granted.

b. Waiver: From Section 200-91P(4), which requires plantings around basin perimeters to be aesthetic features, while the basin perimeter plantings do not serve this purpose.

Waiver granted: The landscape plan specifies about 102 shrubs and two evergreen trees around the basins and has been amended so as to include landscape improvements on all sides. The unique placement of the storm water management basins for the proposed development is not conducive to planting strictly in accordance with the ordinance standard, as the available land does not make additional planting feasible. The waiver request, therefore, is reasonable. The intent and purpose of the ordinance provision is furthered because, while the ordinance is not strictly complied with, the basins do not have the spare, utilitarian look many of the storm water management basins around the state have. Literal enforcement of the ordinance provision is impracticable in that further plantings are really not feasible.

The waiver request, accordingly, is granted.

c. Waiver: From Section 200-36C3(c)(4), which requires that a playground be provided, while the applicant is not providing one.

Waiver granted: Given the size of the development, a playground is not necessary. For this reason, the waiver request is reasonable. The intent and purpose of the ordinance provision is furthered in that preserved open space available for passive recreation is provided. Literal enforcement of the ordinance provision would be impracticable in that it would require a substantial amount of land in an inclusionary development be devoted to improvements that will add to the costs of the development, while the *Mt. Laurel* doctrine requires that costs be kept as limited as feasible.

The waiver request, accordingly, is granted.

d. Waiver: From Section 200-91P(3), which requires a landscape island within the cul-de-sac, while a portion of the island is proposed to be utilized for on-street parking.

Waiver granted: The waiver request is reasonable in that the addition of the on-street parking will help ensure that there is not an overflow parking problem. In addition, a very substantial green space is provided by virtue of the two open space lots. The intent and purpose of the ordinance provision requiring the green space in the cul-de-sac island is satisfied. Green space is provided, and compensating green space at a much larger scale is provided elsewhere in the development. Requiring the 36 foot landscape island would work an undue hardship on the applicant in that it would preclude it from providing more parking.

For these reasons, the waiver request is granted. Landscaping of the entire island is not required. Only the portion of the island for which landscaping is proposed shall be landscaped as per the plans.

e. Waiver: From Section 200-62B, which requires that turnarounds for vehicles on all residential lots be provided, while there are no turnarounds on the three townhouse lots.

Waiver granted: The waiver request is reasonable in that there is no room on the townhouse lot for turnarounds, and requiring turnarounds on all of the lots would necessitate a redesign that may result in fewer units, including possibly fewer affordable units. The intent and purpose of the ordinance provision is satisfied in that turnarounds are provided for seven of the 10 lots. Literal enforcement of the ordinance provision would work an undue hardship on the applicant by requiring a complete redesign of the project, with increased costs inconsistent with the *Mt. Laurel* doctrine and possibly fewer affordable units.

The waiver request is therefore granted.

f. Waiver: From Section 200-36B(4)(b), which requires that an outdoor private living space for each dwelling unit be provided, while the applicant is proposing as an option a 10' long privacy fence running back from the house.

Waiver granted: Giving the owners of the zero lot line homes the option of having the privacy fence, but not requiring it, is reasonable. The option furthers the intent and purpose of the ordinance provision in that it gives the homeowner the opportunity to have such a fence if desired. Literal enforcement of the ordinance provision would work an undue hardship on the applicant by requiring the installation of privacy fences that homeowners may not want.

The waiver request, accordingly, is granted.

g. Waiver: From Section 200-53C(4), which requires identification of the establishment of at least two permanent benchmarks on opposite sides of the development, with all pertinent information about the same being provided, while the applicant is providing one permanent benchmark with the provision that an additional control would be provided on-site prior to construction.

Interim waiver granted: Due to the limited size of the project and the fact that it is an inclusionary development, the Board defers the establishment of the second control until the time of construction. Condition 22n so provides.

h. Waiver: From Section 200-53C(8), which requires the submission of information related to proposed utility layouts, while the plans did not provide the size and location of the existing water or sewer gas mains in Bear Brook Road to which the development will connect.

Interim waiver granted: Again, because of the size of the project and the fact that it is an inclusionary development, the provision of this information and the subsequent pavement repair dimensions are deferred until the time of construction. Condition 22o so provides.

RECOMMENDATION WITH RESPECT TO DEDICATION OF LOT 55.11 AND OF CARTWAY

21. Condition 22f requires that the applicant offer to dedicate Lot 55.11 to the Township. The Planning Board recommends that the dedication be accepted. While the applicant proposes to dedicate the roadway to the Township, the Planning Board makes no recommendation as to whether or not that offer of dedication be accepted.

FINDINGS AND CONCLUSIONS RE: CONDITIONS

22. The Board finds that, in order to address the concerns expressed during the course of the hearing and to limit the relief to that reasonably necessary to satisfy the applicant's legitimate requirements, the relief granted is subject to the following conditions:

Affordable Housing

- a. The affordable units shall have central air conditioning.
- b. The applicant, working with the staff, shall make a good faith effort to make the second floor bedroom in the two-bedroom affordable unit bigger.

- c. There shall be one homeowners' association for all ten dwelling units with a provision in the HOA documents indicating that there will be a sinking fund for outside capital repairs of the town house units.
- d. The same siding material, including color, shall be used for all of the townhouse units.
- e. The sizes of the affordable units shall be shown on the plans.

Open Space Preservation

- f. The applicant shall offer to dedicate Lot 55.11 to the Township.
- g. The applicant shall grant an easement to the Township over Lot 55.12 for access by Township personnel and the public to Lot 55.11.
- h. The applicant shall grant an easement to the Township and the public for use of the road if dedication to the Township is not accepted.

Landscape

- i. Smaller trees near the Delman property line shall be replanted in locations acceptable to the Delmans.
- j. A higher berm and more landscaping on the Delman side of the property line shall be installed. The applicant shall work out a solution with the Delmans and give them up to \$10,000.00 so that they can implement the work.
- k. The applicant shall attempt to save four of the five trees to be removed. The Township Landscape Architect shall identify such trees.

- l. The final landscape plan shall be subject to the review and approval of the Township Landscape Architect.
- m. HOA documents shall provide that the HOA and not the individual property owners are responsible for maintaining the buffer vegetation on the perimeter of the project.

Major Subdivision

- n. The second permanent benchmark on the opposite side of the development from where the first permanent benchmark has been installed shall be put in place at the time of construction.
- o. Information as to the size and location of the existing water and gas mains on Bear Brook Road to which the development will connect and the subsequent pavement repair dimensions shall be provided at the time of construction.
- p. As there are no common walls along the zero lot lines, the applicant has indicated on the plans 10 foot wide maintenance easements along the adjoining lots. The formal language of the easements shall be subject to the review and approval of the Board attorney.
- q. Separate metes and bounds descriptions with closure calculations for all lots, including the townhome lots, and for all easements and dedications shall be provided to the Township Engineer for his review and approval. The final major subdivision plat will be reviewed in detail in conjunction with these documents once submitted.

Access and Circulation

- r. The total amount of soil required to be imported for the road fill has been estimated by the applicant's engineer as 10,000 cubic yards. The applicant shall engage the services of a geotechnical engineer to supervise the roadway construction and certify that acceptable compaction and moisture contents are obtained in compliance with NJDOT

specifications. In addition, the source of the material for all purposes, including individual lot fill and not just the roadway, shall be identified, and a certification that the material is clean and meets the requirements for NJDEP residential use shall be submitted to the Township Engineer for review and approval prior to commencing the soil import operation.

- s. The applicants shall take such steps as are necessary so that Title 39 is applicable to the development.

Storm water management

- t. The homeowners' association maintenance responsibility shall also include the section of the structurally reinforced sidewalk, since the storm water is designed to flow from the roadway under the sidewalk into the infiltration basins by way of a 3 foot wide open concrete channel. The sidewalk is thus an integral part of the storm water management design.
- u. A Maintenance Manual for the Storm Water Facilities has been submitted, but it is not in strict compliance with the N.J. BNP Manual and the NJDEP Maintenance Plan Guideline documents located at http://www.nj.gov/dep/stormwater/maintenance_guidance.htm. The Manual must include all of the required information contained therein. Once a draft of the Manual is approved by the Township Engineer, it shall be incorporated into the homeowners' association documents.
- v. The storm water management design for the project was based upon the assumed full build-out of each lot as permitted by the current zoning requirements. Note 8 on the Utility Plan (Sheet 4) indicates that the design was based upon the conceptual improvements plus 500 square feet, and the storm water management design shall be revised to be consistent with Note 8.

- w. Due to the fact that runoff from the rear yards of Lots 55.07 through 55.10 will drain through a common swale from Lot 55.10 toward the open space behind Lot 55.07, a 15 foot wide drainage easement for the benefit of the homeowners' association and the Township is required among these properties over the swale and adjacent landscape berm. It shall among other things require the owners to maintain the area in accordance with the original construction, prevent any modifications to the grading of the areas, prevent installation of any permanent improvements, including fencing, unless an opening is provided at the bottom of the fencing so that flow is not obstructed, and give the Township the right, but not the obligation, to enter into the area as required from time to time for inspections and maintenance, with any costs for same to become a lien against the owners. A similar easement area shall be provided along the rear yards of Lots 55.01 through Lot 55.06. Eight drainage easement instruments consistent with these easement areas shall be subject to the review and approval of the Board Attorney and Township Engineer.

- x. The maintenance of the proposed riprap, basin, swales, and all other storm water management elements on proposed Lot 55.12 shall be the responsibility of the homeowners' association.

- y. Infiltration basins on proposed Lots 55.01 and 55.10 are located on privately-owned lots. Section 7:8-5.8(c) of the State Storm Water Regulations prohibits assigning the responsibility for the maintenance of the development's storm water BMPs to any individual owners. Therefore, even the storm water management facilities on private lots shall be maintained by the homeowners' association. Drainage easement areas shown on the plans shall include the obligation and responsibility and the right of access by the homeowners for maintenance and the Township for emergency repairs if the HOA is not responsive. Such shall be included in the easement instruments, which shall be subject to the review and approval of the Board attorney.

Utilities

- z. The proposed sanitary sewer connection into the municipal collection system is to be made at the existing manhole located within the Bear Brook Road right-of-way. A request for sewer capacity reservation shall be submitted to the Township Engineer for Township Council action. The projected flow is below the amount that triggers an NJDEP Treatment Works Approval.

Other

- aa. The privacy fences to be installed along the frontage shall be the third from the top on Exhibit A-3 and shall be almond colored.
- bb. The roadway, if the offer of dedication for the roadway is not accepted by the Township, shall be the responsibility of the homeowners' association.
- cc. The homeowners' association documents shall be subject to the review and approval of the Board attorney.
- dd. A deed notice shall be provided to all purchasers of the units that organic farming is being undertaken on the Delman property. It shall also refer to the ordinance provision requiring the signing of a form with respect to land uses in the area and must state that the buyers must go to the Municipal Building to review the surrounding land uses and sign a form certifying that they have done so. The deed notice shall also state that the Delman property is a farm and is protected by the New Jersey Right to Farm Act. This would include equipment transport and use; daily and seasonal worker presence; day and night activity; worker lodging; product processing and sales; and educational and promotional activities.
- ee. The New Jersey Flood Hazard Regulations have recently changed allowing owners to request a permit for expansions. A deed notice for the lots whose rear yards are in the flood hazard area shall so indicate, and the plans shall detail what would be permitted. Before any development in such area occurs, the homeowner must secure a DEP permit.

- ff. The applicant shall submit an engineer's construction cost estimate for review. The applicant will be required to post performance guarantees and inspection fees for the public improvements in accordance with the MLUL and the Township ordinance.
- gg. PDF copies of the Stormwater Management Report, as well as the Stormwater Maintenance Manual, and all related mapping shall be provided to the Township once they are approved by the Township Engineer.
- hh. In accordance with Ordinance section 200-105.1, the applicant shall enter into an agreement with the Township, in a form satisfactory to the Board Attorney, requiring the installation and maintenance by the applicant and the applicant's successors in interest of all such stormwater management improvements proposed by the applicant and approved by the Board for this project. This Developer's Agreement shall also provide that the applicant shall pay its *pro rata* off tract assessment.
- ii. All construction details shall be subject to the review and approval of the Township Engineer.
- jj. Outside agency approvals will be required. The following are anticipated at this time:
- Mercer County Planning Board
 - Mercer County Soil Conservation District
 - Delaware and Raritan Canal Commission
- kk. The position of the fire department connections that supports the fire sprinkler systems in the townhomes shall be at the front of each building.
- ll. The applicant shall limit the number of trees in close proximity to the buildings as they restrict access by the fire department.

- mm. The applicant shall execute a land development performance guarantee in a form satisfactory to the Township Council and shall post such performance and maintenance guarantees as are required.
- nn. All real estate taxes and escrow and inspection fees and required deposits therefor must be paid and maintained as current, and no zoning permits or certificates of occupancy shall be issued if property taxes and escrow and inspection fees and required deposits therefore are not current.
- oo. All marked exhibits shall be transferred to the Division of Land Use Office prior to issuance of a building permit.
- pp. All plan revisions shall be subject to the review and approval of such Township professionals as are designated by the Manager of Land Use unless otherwise designated herein.
- qq. An easement acceptable to the Board Attorney shall be recorded for each easement shown on the plat or plan.
- rr. All instruments required to be recorded hereby shall be provided to the Planning Board Attorney for recordation.
- ss. Any open space dedication shall be accomplished by separate deeds of dedication recorded prior to release of performance bonds.

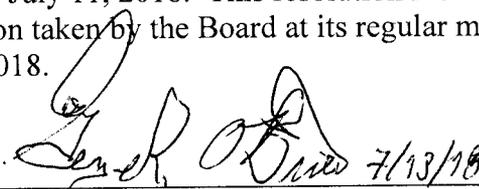
CONCLUSION

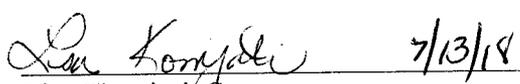
Based on the foregoing, the Board at its April 4, 2018 meeting voted to approve the plans with revisions made therein and as supplemented and modified by the exhibits and to grant the relief identified above subject to the conditions and to be revised in accordance with the conditions set forth herein.

This resolution of memorialization was adopted on July 11, 2018 by a vote of who voted to grant the relief sought by the applicant.

The date of decision shall be April 4, 2018 except that the date of the adoption of this memorializing resolution is the date of decision for purposes of (1) mailing a copy of the decision to the applicant within 10 days of the date of the decision; (2) filing a copy of the decision with the administrative officer; and (3) publication of a notice of this decision. The date of the publication of the notice of decision shall be the date of the commencement of the vesting protection period.

We do hereby certify that the foregoing resolution was adopted by the Planning Board at its regular meeting held July 11, 2018. This resolution memorializes formal action taken by the Board at its regular meeting held April 4, 2018.


Gene R. O'Brien, Chair


Lisa Komjati, Secretary

Gene O'Brien, Chair – Yea
Michael Karp, Vice-Chair – Absent
Sue Appelget – Yea
Linda Geever – Yea
Curtis Hoberman – Yea
Michael Huey – Yea
Andrea Mandel – Yea
Hemant Marathe – Yea
Simon Pankove – Absent
Allen Schectel, Alternate I – Absent
Anis Baig, Alternative II – Absent

Appendix D-17:
Resolution re: Reserve at West Windsor

Townhouses and Clubhouse

4. The Applicant proposes to construct an age-restricted townhouse and stacked-townhouse development consisting of 88 for-sale units, of which 22 are to be affordable, including very-low-, low- and moderate-income units. The units will be distributed among 20 buildings.

5. The proposed market-rate units, with gross floor areas of 2,000 to 2,400 s.f. (56 feet by 30 feet) will have three bedrooms. The proposed affordable units, with gross floor areas of 1,100 to 1,200 s.f, will have two bedrooms. The townhouses will primarily be located in the northerly portion of the Site. A clubhouse with a pool is proposed near the easterly corner of the Site.

6. The affordable units will be incorporated within specified townhouse buildings as stacked flats with two such affordable units occupying the footprint for what would otherwise be a market rate townhouse building.

Access, Internal Circulation and Parking

7. Primary access to the development is to be provided via a full movement boulevard entrance from Dorchester Drive. Secondary right-in and right-out movement only access is to be provided onto Old Trenton Road. As part of the new access, Old Trenton Road will be widened the entire length of the frontage. An easement will be provided in the northeast corner of the Site to provide emergency access from Dorchester Drive to the interior roadway.

8. Several 24 ft-wide roads will provide circulation throughout the development, and non-parallel parking is to be provided in groups of parking stalls located throughout the development. Sidewalks will be provided on both sides of the internal streets.

9. A total of 334 parking spaces are proposed for the development. The following parking provisions are proposed:

- 66 dual garage/dual driveway townhome units: 3.5 spaces per unit, or 231 spaces;
- 11 single garage/single driveway affordable units: 2 spaces per unit, or 22 spaces
- 11 single driveway/no garage affordable units: 1 space per unit, or 11 spaces
- 11 designated off-street parking spaces for the 11 affordable units that do not have garages, or 11 spaces
- Guest parking for the units will be provided at 0.5 space per unit, or 45 spaces

- Clubhouse: 14 spaces

10. Each unit will be prewired with wiring, junction box, breaker, and blank plate to allow for a receptacle/outlet for electric vehicle charging. The decision to install the receptacle/outlet will be left to the home buyers.

Landscaping, Lighting and Signs

11. Landscaping is to be provided throughout the development and at the Site's perimeter, including extensive landscaping and buffering along Old Trenton Road with a winding sidewalk to mirror the sidewalks on the opposite side of the roadway. Landscaping is also proposed along Dorchester Drive to complement the main entrance. An internal mulch path with benches and bird boxes will run through the project and around the storm water management pond.

12. The Greenbelt portion of the Site will be preserved through a conservation easement in accordance with Section 200-194.2C(d), which requires that the Greenbelt as designated on the Conservation Element of the Master Plan should not be disturbed.

13. Lighting will be provided at parking bays located throughout the community.

14. Two monument signs, 18 ft by 6 ft, are proposed, one at each entrance.

Storm water Management

15. Six rain gardens are to be installed throughout the Site, and a storm water pond that will discharge directly into the Bear Brook basin will be located near the westerly corner of the Site. The pond will serve as an aesthetic feature and also be lined to be maintained as a permanent pool with safety ledges and an aerator fountain to prevent stagnation.

Water and Sewer Service

16. Water service will be provided by the New Jersey American Water main, which will be extended from the intersection of Old Trenton Road and Dorchester Drive to the new boulevard entrance and serve as the primary connection. A secondary connection to the main will occur at the Old Trenton Road entrance, creating a looped system.

17. Sanitary sewer service will be connected to the existing Township main that extends within an easement on the property along the Old Trenton Road frontage. Although the property has a sewer main running through it, the property itself is not currently located in the Sewer Service Area of the Stony Brook Regional Sewerage Authority. Thus, the Applicant has, with the Township's consent, applied to the NJDEP and County for the Site to be included in the Sewer Service Area.

Other

18. In accordance with Section 200-194.2B(2), permanent residents of the development will be restricted to 55 years and older, subject to exceptions for younger partners of residents and caregivers.

19. The development is to be completed in two phases. Phase 1 will comprise 12 buildings containing 56 units, including 18 affordable units, the clubhouse and pool, rain gardens, retention basin and most of the trails. Phase 2 will cover the remaining eight residential buildings containing 32 units, including four affordable units.

20. Lot 6 is a small triangular parcel consisting of approximately .22 acres at the extreme southerly portion of the Site. The Applicant agreed, as a condition of approval, to consolidate Lots 6 and 7.

21. The development is a permitted use in the RRC District.

RELIEF SOUGHT

22. The applicant seeks preliminary and final major site plan approval for the construction of the project. Nine waivers are sought, three design waivers and six submission waivers, as follows:

Design waivers

- From Section 200-91P(4)(a)[1], requiring a reforestation or alternative concept for storm water detention areas, whereas no such concept is being proposed;

- From Section 100-36.1, requiring pervious surfaces to be provided in areas other than drives and parking areas, whereas the Applicant is proposing impervious surfaces outside of such driving and parking areas; and
- From Section 200-28D(2)(b), requiring a waiver to exceed the minimum off-street parking and loading requirements.

Submission waivers

Site Plan Checklist

- From Section 200-11A, which requires the name of the president and secretary to be listed for the landowner and applicant, whereas the information was only provided for the applicant;
- From Section 200-13C(9), which requires wetlands location to be depicted with metes and bounds, whereas such information is not being provided on the plans;
- From Section 200-14C(1)(a), which requires a copy of the preliminary site plan approval resolution, whereas no such resolution is being provided;
- From Section 200-14C(1)(b)[1], which requires construction details to be included with final plans for site development, whereas no such details are being provided;
- From Section 200-14C(1)(b)[5], which requires a Final Landscape Plan, whereas such plan is not being provided; and
- From Section 200-14C(1)(b)[6], which requires a Traffic Signage Plan, whereas such plan is not being provided.

23. No variance relief is requested.

THE APPLICANT

24. The Applicant is Toll Bros., Inc.. The owner of the Site is PAK SC, LLC.

NOTICE AND HEARING

25. The Applicant obtained a list of all property owners within 200 feet of the property that is the subject of this application from the West Windsor and East Windsor Townships tax offices.

26. The applicant filed an affidavit stating that the notice was given at least ten days in advance of the hearing date to the surrounding property owners and to the public entities required to be noticed. The applicant has also filed a proof of publication confirming that newspaper publication was made in accordance with legal requirements. Proper notice was given.

27. The notice and publication stated that the hearing would be held at the meeting of the Board scheduled for December 8, 2021. The hearing was had on that date.

28. At the hearing, the applicant and all other interested parties were given the opportunity to present evidence and to be heard.

PLANS PRESENTED

29. At the hearing, the Board reviewed the following plans:

- Plans entitled “Preliminary and Final Major Site Plan – Preserve at West Windsor – Block 37, Lot 6 and 7 - Township of West Windsor, Mercer County, New Jersey” prepared by ESE Consultants (Andrew J. Grover, PE), dated April 16, 2021, revised through September 8, 2021, consisting of forty (40) sheets
- Plan entitled “Existing Features Plan – Hilton West Windsor - Block 37, Lot 6 & 7 – West Windsor Township, Mercer County, New Jersey” prepared by ESE Consultants (Eric A. Fusco, PLS), dated February 15, 2021, unrevised, consisting of four (4) sheets
- Plan entitled “Plan of Survey for Block 37, Lot 6 & 7 – West Windsor Township, Mercer County, New Jersey” prepared by ESE Consultants (Eric A. Fusco, PLS), dated January 8, 2021, unrevised, consisting of one (1) sheet
- Plan set entitled “Vehicle Maneuverability - Hilton West Windsor – Block 37, Lot 6 and 7 - Township of West Windsor, Mercer County, New Jersey” prepared by ESE Consultants (Andrew J. Grover, PE), consisting of three sheets: Sheet 1 “Fire Truck” dated April 16, 2021, revised through September 8, 2021; Sheet 2 “Garbage Truck” dated July 9, 2021, revised through September 8, 2021; and Sheet 3 “WB50” dated July 9, 2021, revised through September 8, 2021
- Plan entitled “Active Recreational Open Space Exhibit- Hilton West Windsor – Block 37, Lot 6 and 7 - Township of West Windsor, Mercer County, New Jersey” prepared by ESE Consultants (Andrew J. Grover, PE), dated July 9, 2021, revised through September 8, 2021
- Architectural Floor Plans and Elevation Renderings for the 2,200 square-foot Clubhouse, prepared by Sonnenfeld + Trocchia Architects, P.A., undated. West

Windsor Township Planning Board Hilton West Windsor – P/F Site Plan (Reserve @ West Windsor) October 7, 2021

- Set of 11”x17” floor plans for the various townhome units, labeled “draft”, dated August 27, 2021, consisting of eight (8) pages
- Report entitled “Stormwater Management Report for Preserve at West Windsor – Block 37, Lot 6 and 7 – (Tax Map Sheets 28.04 & 34.02) - Township of West Windsor, Mercer County, New Jersey” prepared by ESE Consultants (Andrew J. Grover, PE), dated April 16, 2021, revised through September 8, 2021
- Document entitled “Stormwater Management Facilities Operation and Maintenance Manual for Hilton West Windsor Property – Block 37, Lot 6 and 7 – (Tax Map Sheets 28.04 & 34.02) - Township of West Windsor, Mercer County, New Jersey” prepared by ESE Consultants (Andrew J. Grover, PE), dated July 9, 2021, unrevised
- Report entitled “Environmental Impact Statement - Hilton West Windsor Project (TBI #4081) – Block 37, Lot 6 & 7 - West Windsor Township, Mercer County, NJ” prepared by ESE Consultants, Inc., unattributed, dated April 20, 2021, unrevised
- Report entitled “Traffic Impact Study for Hilton West Windsor – Block 37, Lot 6 & 7 – West Windsor Township, Mercer County, New Jersey” prepared by Langan (Karl A. Pehnke, P.E., P.T.O.E., and Eric J. Vioria, P.E.), dated April 9, 2021, unrevised
- Plan entitled “Map of Wetland Locations - Block 37, Lot 6 & 7 – Hilton West Windsor – West Windsor Township, Mercer County, New Jersey” prepared by ESE Consultants (Eric A. Fusco, PLS), dated November 25, 2019, revised through February 19, 2020, consisting of one (1) sheet
- Document referenced “Freshwater Wetlands Letter of Interpretation: Line Verification” dated March 5, 2020, issued by the New Jersey Department of Environmental Protection (“NJDEP”)
- Development Application Package

TOWNSHIP REPORTS

30. At the hearing, the Board considered the following reports presented by Township officials and bodies and consultants to the Board:

- Memorandum from David Novak, P.P., A.I.C.P. to the Board dated October 5, 2021
- Memorandum from Francis A. Guzik, P.E. to the Board dated October 7, 2021
- Memorandum from Jeffrey L’ Amoreaux, P.E. to the Board dated October 6, 2021
- Memorandum from Dan Dobromilsky, L.L.A., to the Board dated October 6, 2021
- Memorandum from Christopher B. Jepson, P.E. to the Board dated October 5, 2021
- Memorandum from Timothy M. Lynch, West Windsor Township Fire & Emergency Services to the Board dated December 7, 2021
- Memorandum from West Windsor Affordable Housing Committee to West Windsor Technical Review Committee dated October 6, 2021

EXHIBITS

31. At the hearing, the Board considered the following exhibits that were introduced as evidence during the course of the hearing:

- Exhibit A-1 – Thirteen (13) page/slide booklet

TESTIMONY AND PUBLIC INPUT

32. The testimony presented by and on behalf of the Applicant was given by the following persons:

Richard J. Hoff, Jr., Esq. represented the Applicant. Jim Majewski, Senior Vice President of the Applicant, Jay Kruse, P.E., its civil engineer, Jeremy Greene, A.I.A., its architect, and Karl A. Pehnke, P.E., its traffic engineer, testified on the Applicant's behalf.

33. The following Township staff and professionals gave advice to the Board at the hearing:

Dan Dobromilsky, L.L.A., David Novak, P.P., Chris Jepson, P.E., John Taylor, P.E., Samuel Surtees, Land Use Manager, Jeffrey L'Amoreaux, P.E., and Gerald J. Muller, Esq.

34. The statements of the members of the public made during the course of the hearing may be summarized as follows:

- Alison Miller of 41 Windsor Drive commented on the need for window treatment for storage space in the affordable units, where the windows face the street, and for wiring for receptacles/outlets for EV charging.
- Newell Benedict asked how the sidewalk on Old Trenton Road could connect to that in The Village Grande.
- David Hofman asked how the chipped paths could handle wheelchairs and walkers.

FINDINGS AND CONCLUSIONS RE: PRELIMINARY AND FINAL MAJOR SITE PLAN APPROVAL

35. The proposed project conforms to the bulk standards of the Residential Retirement Community District, adopted in November 2020, the purpose of which is to provide additional housing opportunities for elderly populations that have increased in West Windsor and regionally over the past few decades. The project also reserves 25% of the units for low- and moderate-income households, in accordance with the Ordinance, providing a significant contribution towards satisfying West Windsor's affordable housing obligations.

36. The Board finds that the proposed plans meet the comprehensive site plan requirements for the RRC District, including the provision of active recreational open space and facilities for the exclusive use of its residents, such as the clubhouse and pool and walking trails. The development also meets the Residential Site Improvement Standards with respect to roads, parking, and storm water management. Although the proposed parking exceeds the RSIS requirement, a paradoxical situation arises when the number of proposed parking spaces exceeds the Township ordinance standards, since this requires a waiver from the Ordinance in such instance. This is address in paragraph 40c below.

37. The Applicant presented testimony regarding the sufficiency of the existing roadway network to accommodate the traffic demands expected to result from the project. As noted by Mr. Pehnke, the Applicant's traffic expert, a senior living community such as the one proposed is expected to generate only modest traffic, and the access design and parking layout will ensure efficient access and on-site circulation.

38. Although the Site has several environmentally sensitive features, as described above, the development is concentrated in the north east of the Site away from those areas, such as the Greenbelt portion located in the southern part of the Site, for which a conservation easement will be established. Wetlands and associated buffers on the Site have been delineated by the NJDEP, which issued a Letter of Interpretation (LOI) on March 5, 2020, and the project complies with the limits of the LOI. The Board finds that the proposed development will not adversely impact the environment. The Board also finds that the storm water management design complies with the new NJDEP standards.

39. Findings and conclusions re: preliminary and final major site plan approval. The Board finds that, with the waivers granted and conditions imposed, the applicant has met all Township major site plan standards. Preliminary and final major site plan approval, accordingly, are granted.

FINDINGS AND CONCLUSIONS RE: WAIVERS

40. The application necessitates nine waivers, consisting of three design waivers and six submission waivers. The waivers and Board's action on them are as follows:

Design waivers

a. Waiver. From Section 200-91P(4)(a)[1], requiring a reforestation or alternative concept for storm water detention areas, whereas no such concept is being proposed.

Waiver granted. The proposed development offers several storm water quality and recharge control measures through small scale Best Management Practices in accordance with the new NJDEP Storm Water regulations. These consist of the small-scale bio-retention areas in the form of rain gardens and a larger-scale BMP wet pond. These elements will provide both storm water quality and recharge controls and aesthetic features throughout the development. The Board finds that these elements provide an adequate alternative concept for storm water management on the Site and address the intent of the code standards to develop an aesthetic and environmentally functional landscape for these areas. Literal enforcement of this requirement is not required when an acceptable alternative design is proposed. For the foregoing reasons, the Board finds this waiver request to be reasonable and within the general purpose and intent of the Ordinance, which is to provide sensitively designed basins and swales that can benefit the health, welfare and safety of West Windsor Township residents. This waiver is therefore granted.

b. Waiver. From Section 100-36.1, requiring pervious surfaces to be provided in areas other than drives and parking areas, whereas the Applicant is proposing impervious surfaces for the sidewalks and patio around the pool.

Waiver granted. The proposed green infrastructure elements of the development counterbalance the impervious elements and lessen the need for non-parking and drive aisle surfaces to be pervious as well. The Board finds that literal enforcement of the Ordinance provision would work an undue hardship on the Applicant. For the foregoing reasons, this waiver request is reasonable and within the general purpose and intent of the Ordinance, which is to encourage pervious surfaces in development. Accordingly, this waiver is granted.

c. Waiver. From Section 200-28D(2)(b), requiring a waiver to exceed the minimum off-street parking and loading requirements where the applicant demonstrates that the additional parking facilities are necessary for the actual operation of a proposed use. The number of required parking spaces is 213 whereas 334 are being proposed.

Waiver granted. The Board finds that the number and proposed location of the excess parking spaces are acceptable and that permitting no more than 213 spaces would work

undue hardship on the Applicant because it demonstrated that more parking spaces than the 213 required for the operation of the proposed use.

It is noted that a minimum of 257 parking spaces are required under the RSIS, which the proposed parking also exceeds. Most of the excess spaces under the RSIS standards is attributable to a quirk in the RSIS methodology. It requires 2.4 spaces for a three bedroom unit, while crediting 3.5 spaces for units with two garages and driveways. This results in 73 more spaces $((3.5 - 2.4) \times 66)$ than RSIS requires. If the 334 proposed is reduced by the 73, the result is 261 spaces, only four more than the 257 RSIS requires.

The Board finds that literal enforcement of the Ordinance provision would work an undue hardship on the Applicant. This waiver request is reasonable and within the general purpose and intent of the Ordinance, which is to provide an adequate amount of parking spaces. This waiver is therefore granted.

Submission waivers

d. Six submission waivers are sought as described below. The Board finds these waiver requests to be reasonable and within the general purposes and intent of the Ordinance for the reasons set forth below. Literal enforcement of these requirements would exact undue hardship upon the Applicant by requiring information that either does not pertain to this application or that is being provided by the Applicant at the appropriate time. Accordingly, these waivers are granted.

Site Plan checklist

1 Waiver: From Section 200-11A, which requires the name of the president and secretary to be listed for the landowner and applicant, whereas the information was only provided for the applicant.

Waiver granted. The property owner consists of only a single managing member, which is listed.

2 Waiver: From Section 200-13C(9), which requires wetlands location to be depicted with metes and bounds, whereas such information is not being provided on the plans.

Temporary waiver granted. The wetlands location plan has been provided, and a digital copy will be provided.

- | | | |
|----------|--|--|
| <u>3</u> | <u>Waiver</u> : From Section 200-14C(1)(a), which requires a copy of the preliminary site plan approval resolution, whereas no such resolution is being provided. | <u>Waiver granted</u> . This item relates to a situation where preliminary and final major site plan approvals are sought separately, whereas concurrent approvals are sought in this application. |
| <u>4</u> | <u>Waiver</u> : From Section 200-14C(1)(b)[1], which requires construction details to be included with final plans for site development, whereas no such details are being provided. | <u>Waiver granted</u> . This item relates to a situation where preliminary and final major site plan approvals are sought separately, whereas concurrent approvals are sought in this application. |
| <u>5</u> | <u>Waiver</u> : From Section 200-14C(1)(b)[5], which requires a Final Landscape Plan, whereas such plan is not being provided. | <u>Waiver granted</u> . This item relates to a situation where preliminary and final major site plan approvals are sought separately, whereas concurrent approvals are sought in this application. |
| <u>6</u> | <u>Waiver</u> : From Section 200-14C(1)(b)[6], which requires a Traffic Signage Plan, whereas such plan is not being provided. | <u>Waiver granted</u> . This item relates to a situation where preliminary and final major site plan approvals are sought separately, whereas concurrent approvals are sought in this application. |

CONDITIONS REQUIRED

41. The Board finds that, in order to address the concerns expressed during the course of the hearing and to limit the relief to that reasonably necessary to satisfy the applicant's legitimate requirements, the relief granted is subject to the following conditions:

Site plan

- a. The Site Plan presented as Exhibit A-1 shall be implemented, except for any inconsistent plans or conditions.
- b. The plan shall identify the trails/drives that have been worn into the woods in the area where the picnic tables, grills, and dog park are located and whether they have been used to dump soil or other materials as the topographic contours suggest. The Applicant shall remove dumped and stockpiled materials and fully restore the area. The picnic tables, grills and

dog park may be retained if the Applicant can demonstrate to the staff's satisfaction that retaining them would benefit the proposed development.

c. The Applicant shall replace the entire length of sidewalk abutting the Site on Dorchester Drive. Its representatives shall walk the area with Township Engineering staff and replace the damaged curb.

d. The pedestrian curb ramps at the intersection of Old Trenton Road with Dorchester Drive shall be reconstructed. This reconstruction work shall be designed and presented on the plans and provided to Mercer County for approval.

e. Detailed (10-scale minimum) grading designs of all proposed accessible ramps and routes shall be provided.

f. The final construction plan for the recreation center shall be submitted to the Township Engineer and Landscape Architect for review and approval, in concert with building code permit review.

Landscaping & Environmental

g. The Applicant shall obtain a Freshwater Wetlands General Permit #11.

h. Monumentation along the Greenbelt limits using the Township standard detail shall be provided.

i. Flood Hazard Area Verification and an Individual Permit shall be obtained from NJDEP.

j. Subject to the review and approval of the Board Attorney and the Landscape Architect, the Applicant shall establish a conservation easement in favor of the Township with respect to the Greenbelt portion of the Site. It shall also establish a conservation easement in favor of the State.

k. Landscape management/maintenance specifications, subject to the review and approval of the Township Landscape Architect, shall be developed for all areas to be dedicated to the Homeowners' Association.

l. For all areas that will not be developed that are not presently wooded, the Applicant shall, pursuant to Section 200-91P(5)(a)[1-5], implement a naturalization and reforestation program through a combination of wildflower seeding and planting of small native trees. Such plan shall be subject to the review and approval of the Landscape Architect. The Applicant shall not be required to pay more than \$150,000.00 on such program.

m. The Applicant shall remove debris along the easterly border of the property that abuts the existing residential development known as Princeton Arms.

Traffic, circulation, and parking

n. The Applicant shall provide a Title 39 Enforcement Plan and shall request Council action in connection with the same.

Storm water management

o. The Applicant shall address the following technical comments on the storm water calculations and proposed BMPs:

- The Applicant shall provide additional drainage area map(s) showing the individual drainage areas to each inlet and also to each BMP, including area (in acres), cover conditions and TC path.
- Each of the times of concentration shall be calculated rather than using assumed minimum times, in accordance with the new storm water management rules, which do not permit assumed minimum time of concentration.
- Sheet flow lengths in disturbed areas shall be calculated using the McCuen-Spiess criteria per the May 2010 update of Chapter 15 of the National Engineering Handbook. This same document also provides a revised velocity calculation for shallow concentrated flow that must also be used.
- A groundwater mounding analysis shall be provided for each rain garden BMP, both to assess potential impacts on adjacent basements, as well as any permeability rate/drain time impacts to each BMP. The Hantush spreadsheet for each rain garden has been provided, but the actual analysis of any impacts on adjacent basements, or the measured permeability rates at each rain garden has not.

- In order for the retention basin to be considered green infrastructure (for water quantity management only), the Applicant shall demonstrate that it complies with the design requirements of Chapter 10.5 of the BMP Manual, including the provision for “beneficial reuse.” In the water quantity management section of the report, each design requirement of the BMP Manual must be identified, with a subsequent detailed explanation of how it is being addressed by this project.
- The design requirements and compliance for each rain garden BMP shall be provided in the “Water Quality” section of the SWM Report. It shall be provided in a tabular format identifying the BMP by number, its total tributary land area, the total water quality design storm runoff volume, the total storage volume below the lowest outlet elevation and the design permeability rate.
- For the “Storm Sewer Tabulation,” the Applicant shall provide a graphical depiction of what lines are associated with which drainage structures, as the “Line ID” numbering on the spreadsheet printouts in Appendix L does not correlate with the drainage structure numbering on the plans.
- The Applicant shall provide a tabulation on the Grading Plans indicating the estimated seasonal high groundwater table elevation based on soil logs at each proposed building, compared to each building’s lowest basement floor elevation. It shall provide a sump pump collection system for each building where separation is less than 2 feet, connected to the on-site storm water drainage system.
- The Applicant shall provide an analysis of site grading and on-site collection system during the 100-year design storm to demonstrate runoff will reach the stormwater management BMPs and not overflow into Bear Brook or other bypass area.

p. The Township Engineer’s comments to the Applicant’s Stormwater BMP Operation and Maintenance Manual shall be addressed, and the Manual shall be subject to his review and approval.

q. The Applicant shall enter into an agreement with the Township, in form satisfactory to the Planning Board Attorney, requiring the installation and maintenance by the Applicant and the Applicant's successors-in-interest of all proposed storm water management improvements for the project approved by the Board. A deed notice shall be prepared and filed with respect to the storm water management measures, in accordance with §200-101.M.

Utilities

r. The Applicant shall reimburse the Township/developer its pro-rata share of the up-front implementation costs of upgrades to the Southfield Road Pump Station wastewater service area. The cost to the Applicant will be based on total sewer demand. This condition shall be addressed in a Developer's Agreement that the Applicant shall be required to enter into with the Township.

s. The Applicant shall obtain a Treatment Works approval by NJDEP and shall apply for the necessary sewer demand allocation from the West Windsor Township Council.

t. Potable water service shall be provided by NJ American Water. Fire hydrant spacing and locations are subject to the review and approval of the Director of Fire and Emergency Services.

Lighting

u. The Applicant shall provide tabular calculations of lighting intensities per the requirements of Ordinance Section 200-31K, specifically for the clubhouse parking lot and for the intersections of internal roadways with County and Township roadways.

v. The lighting design shall be fully compliant.

Affordable housing

w. The basements of the affordable units shall have windows.

x. The affordable unit parking spaces shall be marked "Reserved" with above-ground posts. Details thereof shall be subject to review and approval of the Township Engineer.

Other

y. Each unit shall be prewired with wiring, junction box, breaker and blank plate to allow for a receptacle/outlet for electric vehicle charging without a separate charge to the purchasers.

z. Lofts shall not be used as bedrooms. Their front walls shall be at least one-half wall and/or rails. The Homeowners' Association documents shall include a restriction to this effect.

aa. Windows in storage areas, closets, and unfinished spaces shall have a film placed thereon to darken them.

bb. The Homeowners' Association documents shall be subject to the review and approval of the Board Attorney.

cc. Storage rooms and basements may not be used as bedrooms. Deed restrictions, subject to the review and approval of the Board Attorney, shall be required establishing the same.

dd. Electronic (AutoCAD) copies of wetland areas metes and bounds shall be provided.

ee. The location of the mailboxes shall be subject to U.S. Post Office approval.

ff. Proposed street names and unit identification and numbering may be proposed by the Applicant but shall be subject to the review and approval of the Township Engineer, in concert with Police, emergency services and the U.S. Post Office. The proposed names on the submitted plans shall be revised.

gg. Lot 6 shall be consolidated with Lot 7, and the Applicant shall file a deed of such consolidation, upon review and approval of the instrument by the Board Attorney.

hh. If a full kitchen is installed in the clubhouse, the Applicant shall provide a grease trap.

ii. Inlet #27 is identified as a Type E inlet with two 15" pipes and a 36" pipe entering in and a 42" pipe exiting. The 42" reinforced concrete pipe has an outer diameter (51") that is larger than the larger interior dimension of the E inlet (48"). A Double-E or custom structure shall be required instead, and appropriate details for same provided.

jj. The Applicant shall provide metes and bounds for the proposed private roads on the Site Layout and Dimension Plan or a supplement thereto.

kk. Locations of the storm water BMPs shall be in NAD 1983 State Plane New Jersey FIPS 2900 US Feet or Latitude and Longitude in decimal degrees.

ll. The Applicant shall provide two separate engineer's estimates of probable construction costs, one to include all site improvements for the purpose of establishing the required construction inspection escrow fees, the other to be used for the purpose of establishing the required performance guarantee amounts. The latter is to consist solely of those improvements in the public rights-of-way, or improvements ultimately to be dedicated to a public entity, as well as the proposed buffer landscaping and berming.

mm. In accordance with Ordinance Section 200-81.1, the Applicant shall provide, via both hard copy and electronic format, approved site plans being submitted for signature and as-built surveys upon project completion. The electronic submission of the approved Storm Water Management documents shall also be provided.

nn. The Applicant shall provide to the Township Engineer for review and approval metes and bounds descriptions for each proposed dedication and easement. Deeds and easement instruments shall be subject to the review and approval of the Board Attorney.

oo. All construction details shall be subject to the review and approval of the Township Engineer.

pp. The following approvals shall be obtained, if required:

- Mercer County Planning Board
- Mercer County Soil Conservation District
- Delaware and Raritan Canal Commission
- NJDEP (TWA Permit, WWMP Amendment, FWW GP, FHA Verification and Individual Permit)

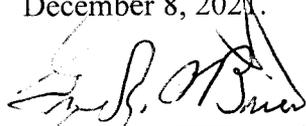
CONCLUSION

Based on the foregoing, the Board at its December 8, 2021 meeting voted to approve the plans with revisions made therein and as supplemented and modified by the exhibits and to grant the relief identified above subject to the conditions and to be revised in accordance with the conditions set forth herein.

This resolution of memorialization was adopted on January 12, 2022 by a vote of those who voted to grant the relief sought by the applicant.

The date of decision shall be December 8, 2021 except that the date of the adoption of this memorializing resolution is the date of decision for purposes of (1) mailing a copy of the decision to the applicant within 10 days of the date of the decision; (2) filing a copy of the decision with the administrative officer; and (3) publication of a notice of this decision. The date of the publication of the notice of decision shall be the date of the commencement of the vesting protection period.

We do hereby certify that the foregoing resolution was adopted by the Planning Board at its regular meeting held on January 12, 2022 This resolution memorializes formal action taken by the Board at its regular meeting held December 8, 2021.



1/12/22

Gene R. O'Brien, Chair



1/18/22

Lisa Komjati, Secretary

Gene O'Brien, Chair – Yea
Michael Karp, Vice Chair – Yea
Sue Appelget – Absent
Anis Baig – Yea
Linda Geever – Yea
Curtis Hoberman – Yea
Hemant Marathe – Yea
Simon Pankove – Yea
Allen Schectel – Yea
Jyotika Bahree, Alternate II – Absent
Saju Joseph, Alternate II – Absent

Appendix D-18: Hamlet Deed Restrictions

Record and Return to:

Gerald J. Muller, Esq.

Muller & Baillie, P.C.

707 State Road, Suite 212 196 Princeton-Hightstown

Princeton, New Jersey 08540 Bld. Bldg. 1, Ste 13

West Windsor, NJ 08850

Prepared By:

Gerald J. Muller

Gerald J. Muller, Esq.

MANDATORY DEED RESTRICTION FOR RENTAL PROJECTS

DEED RESTRICTION

**DEED-RESTRICTED AFFORDABLE HOUSING PROPERTY WITH
RESTRICTIONS ON RESALE AND REFINANCING**

ts

THIS DEED RESTRICTION is made on Jun 15, 2024⁵, (this "Restriction"), by and between, **FRANK PIAZZA**, the administrative agent ("Administrative Agent"), or its successor, acting on behalf of **TOWNSHIP OF WEST WINDSOR**, a municipal corporation of the State of New Jersey with offices at 271 Clarksville Road, West Windsor Township, Mercer County, New Jersey (the "Municipality") and **Tesoro Enterprises I, LLC** a New Jersey limited liability company, whose address is 507 Crescent Parkway, Sea Girt, New Jersey 08750, the owner ("Owner") of a residential low or moderate income age-restricted rental project, commonly referred to as "The Hamlet at Bear Creek."

WITNESSETH

Article 1. Consideration

The Owner hereby agrees to abide by the covenants, terms and conditions set forth in this Deed restriction with respect to the land and improvements more specifically described in Article 2 hereof (the Property).

Article 2. Description of Property

The Property consists of 61 low- and moderate-income age-restricted affordable housing units located on the real property with an address of Hamlet Drive, designated as Block 33, Lot 1.01 in the Township of West Windsor, County of Mercer, State of New Jersey, as more fully set forth in **Schedule A** attached hereto and incorporated herein.

Article 3. Affordable Housing Covenants

The following covenants (the "Covenants") shall run with the land for the period of time (the "Control Period") commencing upon the execution of this Deed Restriction and running for a minimum of 30 years plus the remainder of the prior control period, which was for 30 years commencing on November 13, 2002 and ending upon the execution of this Deed Restriction, and terminating upon a determination by Township Council to release this restriction for some or all of the units. This release authority shall apply separately to each unit.

- A. Prior to such a municipal election, a restricted unit must remain subject to the requirements of this Deed Restriction for a period of at least 30 years;
- B. Sale and use of the Property is governed by regulations known as the Uniform Housing Affordability Controls, which are found in New Jersey Administrative Code at Title 5, chapter 80, subchapter 26 (*N.J.A.C. 5:80-26.1, et seq.*, the "Uniform Controls").
- C. The Property shall be used solely for the purpose of providing age-restricted rental dwelling units for low- or moderate-income households, and no commitment for any such dwelling unit shall be given or implied, without exception, to any person who has not been certified for that unit in writing by the Administrative Agent. So long as any dwelling unit remains within its Control Period, sale of the Property must be expressly subject to these Deed Restrictions, deeds of conveyance must have these Deed Restrictions appended thereto, and no sale of the Property shall be lawful unless approved in advance and in writing by the Administrative Agent.
- D. Any improvements to the Property must be approved in advance and in writing by the Administrative Agent.
- E. The Owner shall notify the Administrative Agent and the Municipality of any foreclosure actions filed with respect to the Property within five business days of service upon Owner.
- F. The Owner shall notify the Administrative Agent and the Municipality within three business days of the filing of any petition for protection from creditors or reorganization filed by or on behalf of the Owner.

Article 4. Remedies for Breach of Affordable Housing Covenants

A breach of the Covenants will cause irreparable harm to the Administrative Agent, to the Municipality and to the public in light of the public policies set forth in the New Jersey Fair Housing Act, the Uniform Housing Affordability Control rules found at *N.J.A.C. 5:80-26*, and the obligation for the provision of low and moderate-income housing.

- A. In the event of a threatened breach of any of the Covenants by the Owner, or any successor in interest of the Property, the Administrative Agent and the Municipality shall have all remedies provided at law or equity, including the right to seek injunctive relief or specific performance.

- B. Upon the occurrence of a breach of any Covenants by the Owner, or any successor in interest or other owner of the Property, the Administrative Agent and the Municipality shall have all remedies provided at law or equity including but not limited to forfeiture, foreclosure, recouping of any funds from a sale in violation of the Covenants, diverting of rent proceeds from illegal rentals, injunctive relief to prevent further violation of said Covenants, entry on the premises, those provided under Title 5, Chapter 80, Subchapter 26 of the New Jersey Administrative Code and specific performance.

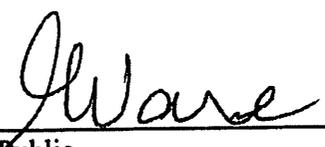
OWNER:

Tesoro I, LLC

By: 
Name: GAYLE S. HOFFMAN
Title: OWNER/MANAGER

STATE OF : New Jersey
 SS:
COUNTY OF Monmouth

I CERTIFY that on this 23rd day of August 2024, before me the subscriber, personally appeared Gayle S. Hoffman, Owner/manager of Tesoro I, LLC, who I am satisfied, is the person named in and who executed the Deed Restriction, and thereupon he/she acknowledged that he/she signed, sealed and delivered the attached as his/her voluntary act and deed on behalf of said corporation for the uses and purposes therein expressed.



Notary Public

EILEEN WADE
Notary Public, State of New Jersey
Comm. # 2443759
My Commission Expires 3/17/2029

Appendix D-19:
Resolution Appointing Municipal Housing
Liaison

RESOLUTION

WHEREAS, the Township Council of the Township of West Windsor petitioned the Council on Affordable Housing (COAH) for substantive certification of its Housing Element and Fair Share Plan on December 16, 2005; and

WHEREAS, West Windsor's Fair Share Plan promotes an affordable housing program pursuant to the Fair Housing Act (N.J.S.A. 52:27D-301, et. seq.); and COAH's Third Round Substantive Rules (N.J.A.C. 5:94-1, et. seq.); and

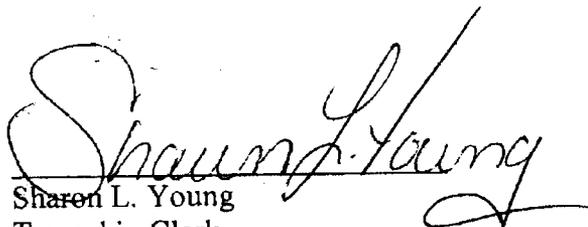
WHEREAS, pursuant to N.J.A.C. 5:94-7 and N.J.A.C. 5:80-26.1 et. seq., West Windsor is required to appoint a Municipal Housing Liaison for the administration of West Windsor's affordable housing program to enforce the requirements of N.J.A.C. 5:94-7 and N.J.A.C. 5:80-26.1 et. seq.; and

WHEREAS, West Windsor has amended Chapter 200, entitled Land Use, to provide for the appointment of a Municipal Housing Liaison to administer West Windsor's affordable housing program;

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of West Windsor in the County of Mercer and State of New Jersey that John V. Mauder is hereby appointed as the Municipal Housing Liaison for the administration of the affordable housing program, pursuant to and in accordance with Section 200-237, O, of the West Windsor Code.

Adopted: April 6, 2010

I hereby certify that the above resolution was adopted by the West Windsor Township Council at their meeting held on the 6th day of April 2010.



Sharen L. Young
Township Clerk
West Windsor Township

Appendix D-20:
Resolutions re: Ellsworth Center

WEST WINDSOR TOWNSHIP PLANNING BOARD

In the Matter of the Application of	)	FINDINGS OF FACT
	)	AND
<u>Ellsworth Realty Association, LLC</u>	)	CONCLUSIONS OF LAW
)	
for Preliminary and Final Site Plan	)	File No. PB 18-06
	)	Block 5, Lot 20, 62 and 76
Approval with Variances and Waivers)	
)	
	)	Approval granted:
	)	January 23, 2019
)	

Be it resolved by the Planning Board of the Township of West Windsor that the action of this Board on January 23, 2019 in this matter is hereby memorialized by the adoption of this written decision setting forth the Board's findings and conclusions.

BACKGROUND

1. The property is a tract of contiguous parcels totaling 4.79 acres comprised of Lots 20, 62, and 76 in Block 5, with existing buildings on site further divided as Lots 20.01 through 20.04. It is located at the northeast corner of the intersection of Princeton-Hightstown Road (CR 571) and Cranbury Road (CR 615), in the RP-7 Princeton Junction Redevelopment zoning district.
2. The street address of the property is 15-25 Cranbury Road and 33 Princeton Hightstown Road.
3. Lot 20 lies within the westerly portion of the site, with an area of approximately 3.13 acres. It is a somewhat rectangularly-shaped corner lot that fronts along Cranbury Road and Princeton Hightstown Road for approximately 310 feet and 176 feet, respectively. It is presently developed with three commercial buildings and a shared parking area.

4. Lot 76 lies within the southeasterly portion of the site, with an area of approximately 0.88 acres. It is an irregularly-shaped corner lot that fronts along Cranbury Road and an unnamed right-of-way for approximately 140 feet and 290 feet respectively. It is developed with a single-family dwelling.

5. Lot 62 lies within the northeasterly portion of the site, with an area of approximately 0.77 acres. Also somewhat rectangularly shaped, it fronts along an unnamed right-of-way for approximately 160 feet and has a depth of approximately 200 feet at its greatest. It is also developed with a single-family dwelling.

6. Surrounding land uses are varied, consisting of commercial uses to the south and west, an open space lot and the Northeast Corridor railroad tracks to the north, and single-family dwellings to the east. The recently-approved Princeton Ascend mixed-use project also lies to the south of the property.

7. Lot 20 was previously the subject of a redevelopment plan. On February 6, 2014, the Zoning Board of Adjustment (ZBA) approved the Ellsworth Center redevelopment plan for a new mixed-use village-type development (ZB13-01). The plan included the demolition of certain commercial space on site and two existing apartments, and construction of approximately 33,600 square feet of new commercial space as well as 20 second-story residential units, of which 16 were to be market-rate one-bedroom units and four reserved as affordable housing units. These affordable units were to consist of a one-bedroom unit, two 2-bedroom units, and one 3-bedroom unit. Altogether, the site was approved to contain 52,250 square feet of commercial space plus these 20 residential units. To support the redevelopment, approval was also granted to relocate the Cranbury Road access drive and to provide an additional 81 parking spaces and storm water management facilities on Lots 62 and 76.

8. Subsequent to these approvals, the Princeton Junction Redevelopment Plan was amended (Ordinance No. 2017-08) to include Lots 62 and 76, previously in the R-20B district, in the RP-7 district.

JURISDICTION AND RELIEF SOUGHT

9. The subject of this application is within the jurisdiction of this Board. The Board acted within the time required by law.

10. The applicant seeks to modify the existing site plan that was approved by the ZBA in 2014 under application number ZB13-01. The proposed development expands the existing Ellsworth Center by increasing the number of residential units and the amount of retail space. As part of the application, the applicant seeks a "c" bulk variance for side yard setback for Building N-9 where a maximum of 20 feet is permitted and 80 feet is proposed.

11. The applicant proposes to eliminate 10,582 sf of proposed retail in the basement level of the existing building designated as E-1 (Lot 20.02) and add just over 11,000 sf in two new buildings designated as N-8 and N-9, which are to be located on the easterly side of the main driveway, on Lots 76 and 62. This will result in a slight overall increase of total retail area to 53,000 sf. The basement of Building E-1 is proposed to become storage space for future tenants (commercial or residential) of the buildings within the Ellsworth retail center.

12. The applicant proposes to construct 10 apartments to be located on the second stories of Buildings N-8 and N-9, increasing the total number of apartments from the current 20 to 30. Two of the additional units will be affordable units.

13. Building N-8 will have a ground floor retail area of 8,298 sf, which will be divided into separate tenant spaces. Seven apartments are to be located on the second story of Building N-8, to include one 1-bedroom unit, four 2-bedroom units, and two 3-bedroom units.

14. Building N-9 will have retail space consisting of 3,000 sf. Three apartments are proposed on the second story, to include one 1-bedroom unit and two 2-bedroom units. A loft level is also proposed.

15. The previously-approved surface stormwater detention basin area is now proposed for parking spaces displaced by new Buildings N-8 and N-9 along with additional spaces, for a proposed total of 94 spaces, with project stormwater management to be address by an underground detention system.

16. An additional five new parking spaces and a trash enclosure are to be located adjacent to the northwest side of Building E-1.

17. The proposed development addition (Buildings N8 and N9) will be located on the east side of a relocated access drive from Cranbury Road. Pedestrian and vehicular cross

access will be provided between this and the existing development on the west side of the access drive.

18. Access to the proposed development addition will be provided by way of the relocated Cranbury Road two-way, full movement driveway, which is to be realigned with Carlton Place (approximately 35 feet to the east). The existing one-way driveway located along Princeton-Hightstown Road (approximately 65 feet north of Cranbury Road) will be maintained.

19. A total of 186 parking spaces will be provided for the tract, including eight handicap-accessible spaces. Four banked spaces are also proposed.

THE APPLICANT

20. The applicant is the owner of the property.

NOTICE

21. The applicant obtained a list of all property owners within 200 feet of the property that is the subject of this application from the West Windsor Township tax office.

22. The applicant filed an affidavit stating that the notice was given at least ten days in advance of the hearing date to the surrounding property owners and to the public entities required to be noticed. The applicant has also filed a proof of publication confirming that newspaper publication was made in accordance with legal requirements. Proper notice was given.

23. The notice and publication stated that the hearing would be held at the meeting of the Board scheduled for January 23, 2019.

THE HEARING

24. The public hearing on the application was heard on the date for which it was noticed. At the hearing, the applicant and all other interested parties were given the opportunity to present evidence and to be heard.

PLANS PRESENTED

25. At the hearing, the Board reviewed the following plans:
- Site plans entitled “Preliminary and Final Major Site Plan – Ellsworth Center Redevelopment – Block 5, Lots 20, 62 and 76 – West Windsor Township, Mercer County, New Jersey,” prepared by Robert E. Korkuch, P.E., ACT Engineers, Inc., dated November 6, 2018, revised through December 21, 2018, consisting of twenty sheets:
 - Cover Sheet (Sheet 1)
 - Information Sheet (Sheet 2)
 - Existing Condition Plan (Sheet 3)
 - Demolition Plan (Sheet 4)
 - Site Layout Plan (Sheet 5)
 - Utility Plan (Sheet 6)
 - Grading and Drainage Plan (Sheet 7)
 - Landscape Plan and Schedule (Sheet 8)
 - Lighting Plan (Sheet 9)
 - Landscape and Lighting Details (Sheet 10)
 - Construction Details (Sheets 11-18)
 - Soil Erosion and Sediment Control Plan (Sheet 19)
 - Soil Erosion Notes and Details (Sheet 20)
 - Plan entitled “Lots 62 & 76 Comparison Exhibit for Ellsworth Center Development,” prepared by ACT Engineers, Inc., consisting of one sheet, dated November 6, 2018, last revised December 21, 2018
 - Plan entitled “Boundary and Topographical Survey Plan for Ellsworth’s Center of Lots 20, 62, & 76, Block 5 Situated in Township of West Windsor, Mercer County, New Jersey,” prepared by ACT Engineers, Inc., dated March 13, 2013, revised through May 21, 2018
 - Plan entitled “Circulation Plan for Ellsworth Center Development,” prepared by Ingrid Kohler, L.L.A., ACT Engineers, Inc., consisting of one sheet, dated December 21, 2018
 - Architectural plans prepared by Timothy Burton, AIA, TJB Architects LLC, dated November 6, 2018, consisting of four sheets:
 - Sheet N-8: Floor Plan & Elevation for Proposed Building N-8
 - Sheet N-9: Floor Plan & Elevation for Proposed Building N-9
 - Sheet S-1: Signage Design
 - Sheet EM-1: Exterior Materials

26. At the hearing, the Board considered the following reports presented by Township officials and bodies and consultants to the Board:

- Memorandum from Francis A. Guzik, P.E. to the Board dated January 15, 2019
- Memorandum from Dan Dobromilsky, L.L.A. to the Board dated January 15, 2019
- Memorandum from Joseph H. Burgis, P.P. and David Novak, P.P. to the Board dated January 15, 2019
- Memorandum from James V.C. Yates to the Board dated January 15, 2019
- Memorandum from James L. Kochenour, P.E. to the Board dated January 16, 2019

EXHIBITS AND APPLICANT'S REPORTS

27. At the hearing, the Board considered the following reports prepared by the applicant's consultants and advisors and the following exhibits that were introduced as evidence during the course of the hearing:

- Exhibit A-1 – Colorized original approved 2013 plan
- Exhibit A-2 – Colorized concept plan rendering of new plan, since revised
- Exhibit A-3 – Current landscape plan
- Exhibit A-4 – Rendering of buildings in 2013 approval and current application
- Exhibit A-5 – Sheet N-8b of plan set on presentation board
- Memo entitled “Response to Planning Comments” from ACT Engineers, Inc. to Sam Surtees dated December 21, 2018
- Report entitled “Stormwater Management Report (Supplementary Calculations) for Ellsworth Center Redevelopment – Block 5, Lots 20, 62 and 76 – West Windsor Township, Mercer County, New Jersey,” prepared by ACT Engineers, Inc., dated November 6, 2018, revised through December 21, 2018

- Report entitled “Ellsworth Redevelopment Low Impact Development Report,” prepared by ACT Engineers, Inc., dated May 8, 2014, revised through December 18, 2018
- Development Application Package, including checklists and various submittals
- Traffic Impact Study prepared by Langan Engineering, dated November 19, 2018

TESTIMONY AND PUBLIC INPUT

28. The testimony presented by and on behalf of the applicant and advice by Board consultants were given by the following persons:

Dino Spadaccini, Esq. represented the applicant. Sean Ellsworth, a principal with the applicant; Robert E. Korkuch, P.E., the applicant’s civil engineer; Ingrid Kohler, L.L.A., its landscape architect; Karl Pehnke, its traffic engineer; and Timothy Burton, its architect, testified on the applicant’s behalf.

The following Township staff and professionals gave advice to the Board at the hearing: Francis A. Guzik, P.E.; Joseph Burgis, P.P.; James L. Kochenour, P.E.; and Gerald J. Muller, Esq.

29. The statements of the members of the public made during the course of the hearing may be summarized as follows:

Alison Miller expressed concerns about snow removal and parking. Dan Rappaport of 300 Bunn Drive and Miguel Vilaro of North Post Road testified in support of the application.

FINDINGS AND CONCLUSIONS RE: FINAL SITE PLAN

30. The present application seeks to modify the prior approval in several ways, as described above, but on the whole remains consistent with the character and concept of the original plan and with the idea of continuity of treatment established for the RP-7 District and pursuant to the Princeton Junction Redevelopment Plan. The architectural designs of the new

buildings, for example, reflect the design of the previously-approved buildings and are consistent with the character of the neighborhood. Additionally, the modifications help to ease the transition from the mixed-use district to the residential district along Cranbury Road, such as the proposed lower level retail for proposed Building N-8 facing towards the internal drive and not Cranbury Road.

Extensive traffic analysis has been conducted for the site, and, while the Board is satisfied that the traffic impact can be appropriately managed, a number of conditions are imposed to ensure this result. Several of these conditions also address parking needs, which will increase due to the additional retail and residential development generating increased traffic flow. The Board is persuaded that the two major land use components, commercial and residential, have shared rather than competing parking demands, such that, depending on the time of day, one component will use spaces vacated by the other component.

The new plan also includes a new site circulation for pedestrians and bicycles, as well as landscape design, which appears efficient, comprehensive and, again, consistent with the original plan. The applicant has modified the proposed plan based upon comments at the concept and TRC review stage of the application, and the Board finds that, with the conditions imposed, the layout and dimensions are responsive to Code standards.

As noted, the applicant is proposing to increase the number of residential units from 20 to 30, four of which were originally to be restricted to low and moderate income households with two more among the additional ten units that are part of this application, for a total of six affordable units for the tract.

It is noted that a condition of the original redevelopment site plan was construction of certain improvements to the adjacent open space property, Lot 15. This condition remains, as do all others not inconsistent with the conditions set forth herein.

The RP-7 Princeton Junction Redevelopment Plan District is intended to create a "Main Street" on the eastern side of the rail line through small scale, lot-by-lot incremental development to transform the existing strip commercial form of development along Princeton-Hightstown Road into a village form, with buildings close to the street and improved pedestrian and bicycle access. The purpose of this district is to achieve a desirable mix of commercial, office, civic, and residential land uses within a vibrant, pedestrian-friendly, village environment with an emphasis on uses that serve local needs. The Board finds that the proposed plan fulfills

the spirit and intent of this district's village concept. Through walkways and bicycle paths, it encourages pedestrian flow, and it permits retail and residential uses in close proximity in the same building, with retail on the ground floor and residential on the upper floors. The sharing of parking among residents, customers, visitors and businesses further helps to promote the "Main Street" village-style feel of the area. Having well landscaped and appropriate building setbacks from surrounding roads relieves the density and overly urban feel of any such development, without losing the intimacy of its mixed uses and localized character.

The Board appreciates the complexity of factors that go into a mixed use development such as the present application. The extensive design and Code compliance requirements gives rise to many conditions that will need to be met for the completion of the project. The applicant's strong track record of responsiveness and cooperation with the Township in addressing concerns and requests will help to ensure the future of this project.

31. Findings and conclusions re: site plan approval. The Board finds that, with the waivers granted and conditions imposed, the applicant has met all Township site plan standards. Amended preliminary and final site plan approval, accordingly, is granted.

FINDINGS AND CONCLUSIONS RE: VARIANCES

32. The application necessitates five variances. The variances and the Board's action on it are as follows.

a. Variances: From Sections 200-266B(3)(b) and 200-266B(11)(b), which require a maximum side yard setback of 20 feet (and in the case of 200-266B(11)(b) "for buildings constructed on vacant lots or on lots on which the existing structures have been or will be demolished"), whereas the applicant is proposing a side yard setback of 31.1 feet for Building N-8 and a side yard setback of approximately 80 feet for Building N-9.

Variances granted. The applicant meets the flexible "c" positive criteria under *N.J.S.A.* 40:55D-70(c). Granting the variance advances several purposes under *N.J.S.A.* 40:55D-2 of the Municipal Land Use Law (MLUL). It forms part of a redevelopment plan that advances purpose "a" by providing for more appropriate development of land. It advances purpose "e" by promoting the establishment of appropriate population densities and concentrations. It advances purpose "i" by promoting a desirable visual environment through creative development techniques and good civic design. And, finally, it advances purpose "p" by

offering alternatives to traditional development through use of equitable and effective planning tools.

More specifically, the increased side yard setbacks being proposed for Building N-8 and Building N-9 more appropriately fit the design of the proposed new buildings than the permitted side yard setbacks would. The buildings are oriented towards the private driveway running back to the Pereira property (Lot 19), rather than Cranbury Road, which, for this site, along with Princeton-Hightstown Road, is what these standards are designed for. While the yards in question are technically side yards, they function as rear yards, and a greater rather than a lesser distance from the property line is called for. This larger setback provides a better transition to the residential portion to the east.

There are no detriments to granting the side yard setback variances. The benefits, accordingly, substantially outweigh any detriments.

The negative criteria are satisfied as well. There will not be any substantial detriment to the public good since the variance furthers the goals and objectives of the redevelopment plan, and the public good in fact is furthered. Nor is there any impairment to the intent and purpose of the zone plan since the intent and purpose of the zone plan is furthered as well.

Accordingly, the variances are granted.

b. Variances: From Sections 200-266B(3)(a) and 200-266B(11)(a), which require a build-to-line of 15 feet from the curb or right-of-way, respectively (except, in the case of a right-of-way, if the front yard space is used for a gateway feature or outdoor restaurant seating or accommodate sight distance at intersections), whereas proposed building N-8 has a setback of 26.4 feet.

Variances granted: These variances are granted for reasons similar to those supporting variances “a” above. The Board finds that the applicant meets the flexible “c” positive criteria under *N.J.S.A. 40:55D-70(c)*. Since the building is oriented toward the site drive that will serve as a “main street,” its distance from that drive is what is significant, and it is close to the drive. Because it is not oriented toward Cranbury Road, a build-to-line from that street serves no purpose. Therefore, the same MLUL purposes are served, the benefits are the same, and there are no detriments.

For the same reasons given for variances “a,” the applicant also meets the negative criteria for these variances. The public good is advanced and there is no impairment to the intent and purpose of the zone plan.

Accordingly, and for the same reasons given above for variances “a,” these variances are granted.

c. Variance: From Section 200-266B(4), which requires that the majority of the building must be at the build-to-line, but at least 15% of the façade shall be set back a minimum of 10 feet therefrom to create one or more alcoves on three sides, whereas proposed Building N-8 is not along the build-to-line.

Variance granted: This variance is granted for similar reasons that variances “b” above are granted. The Board finds that the applicant meets the flexible “c” positive criteria under *N.J.S.A. 40:55D-70(c)*. In this case, Building N-8 is not located along the build-to-line and the same MLUL purposes are advanced and the same benefits without detriments are generated. It should also be noted that proposed Building N-8 is largely in line with previously approved buildings and forms an integral part of the redevelopment plan for the site.

For the same reasons given for variances “b,” the applicant also meets the negative criteria for this variance. The public good is advanced and, again, there is no impairment to the intent and purpose of the zone plan.

Accordingly, and for the same reasons given above for variances “b,” this variance is granted.

FINDINGS AND CONCLUSIONS RE: WAIVERS

33. The application necessitates eight waivers. The waivers and Board’s action on them are as follows:

a. Waiver: From Section 200-27D(2)(a), which requires 185 parking spaces in the applicant’s case, whereas 186 spaces plus four banked spaces are proposed.

Waiver granted. The waiver request is reasonable and within the general purpose and intent of the ordinance, since the excess number of parking spaces is minimal, but at the same time provides some cushion during the limited times when the shared parking may be strained. Literal enforcement of this requirement would exact undue hardship upon the applicant since it would eliminate that cushion. This waiver is therefore granted.

b. Waiver: From Section 200-27D(1), which requires two loading spaces for building floor areas between 10,001 sf and 20,000 sf, whereas the applicant is proposing only one loading space for both new buildings.

Waiver granted. A single loading space could adequately meet the input and output flow of both buildings. Installing a second loading space would be challenging because of the design constraints. Given this, literal enforcement of this requirement would be impracticable. The Board finds that the waiver request is reasonable and within the general purpose and intent of the ordinance. This waiver is therefore granted.

c. Waiver: From Section 200-29M(3), requiring that a single row or line of spaces within a bay be no more than 20 spaces in length, whereas the applicant is proposing one row with 23 spaces. This section also requires 10-foot wide islands at the end of parking rows, whereas in the northeasterly parking area, three rows will not be separated from adjoining aisles by a landscape area at least 10 feet wide, and instead will have one island of less than 10 feet and two islands consisting of painted striping so as to permit emergency service vehicle turning movements.

Waiver granted. The Board finds that this request for one row of parking with 23 spaces is reasonable and within the general purpose and intent of the ordinance because the proposal does not substantially depart from the Code requirement and allows the applicant more easily to meet its anticipated parking demand. Modifying the islands within the northeasterly area of the site to create 10-foot wide end island areas would detrimentally affect emergency vehicle circulation through this parking area. Literal enforcement of these requirements would exact undue hardship upon the applicant because it would require possibly losing at least half a dozen parking spaces and reconfiguring the existing design. This waiver is therefore granted.

d. Waiver: From Section 200-91P(7), which requires a minimum of two trees per 10 parking spaces to be provided within parking areas, whereas the applicant requires nine more trees to be compliant.

Waiver granted. Given the extensive landscaping incorporated into the applicant's overall redevelopment design, including around the parking areas and setbacks, the Board finds that the deficiency of nine trees does not preclude granting a waiver of this Code requirement. The request is reasonable and comes within the general intent and purpose of the ordinance provision when taking all of the project's design features into consideration. Requiring literal enforcement would exact undue hardship upon the applicant by requiring spaces to be made available for additional trees, which could be unnecessarily challenging given the current development design and could very well result in the loss of parking spaces. This waiver is therefore granted.

e. Waiver: From Section 200-13C(4), which requires submission of an environmental impact statement (EIS), whereas applicant has not submitted such statement.

Waiver granted. Because the application is for an amendment to a relatively recent site plan approval and the site is largely developed, an EIS is unnecessary. The waiver request is therefore reasonable. It comes within the general intent and purpose of the ordinance provision because all of the necessary site information has been provided. Requiring literal enforcement would exact undue hardship upon the applicant by requiring the provision of information that is not necessary. This waiver is therefore granted.

f. Waiver: From Sections 200-227A(1) and 200-277B(1), which require a landscape transition buffer of not less than 25 feet in width between any nonresidential use and contiguous residentially-zoned districts, which landscape transition buffer is to include a minimum 10-foot-wide landscape strip or fence, whereas a lesser buffer is proposed.

Waiver granted. Section 200-277A permits the Board to waive this requirement if natural or man-made physical barriers exist such that an effective visual separation exists between residential and nonresidential uses, or a landscape strip, screen or fence is provided. The previously-approved application and this amended application propose a dense buffer planting of mostly evergreen trees of six to eight feet high at the time of planting. These trees will grow to a height of 25 feet or greater with maturity. Also, a decorative black picket fence is proposed within the landscape buffer to create a barrier and direct pedestrian

movements to the proposed walks. Because the proposed design addresses the intent and purposes of the ordinance, the Board finds that the waiver request is reasonable. Requiring literal enforcement would exact undue hardship upon the applicant by unnecessarily requiring the applicant to redesign the landscape transition buffer and therefore the site. This waiver is therefore granted.

g. Waiver: From Section 200-29M(4), which requires that parking bays be curbed with permanent and durable curbing to confine cars to striped parking, without overhang or projection onto sidewalks, driveways, bicycle parking areas, planted areas or adjacent landscaped areas, whereas in the northeasterly parking area three parking rows include striped end islands and flush curb rather than the required physical curbed barriers.

Waiver granted. Only one island in the current plan could be modified to achieve compliance with the Code requirement of 10 feet, the island at the end of the 6-car parking row within the northerly area of the site. Doing so would mean one parking space would be lost. Emergency vehicle turning movements and the proposed subsurface stormwater structures prevent curbed islands for the other two areas. The Board finds that the current striped end island design is sufficient to safely control parking maneuvers, particularly if it can be constructed with flushed curb concrete islands to prevent incursion into adjacent spaces, as is proposed for the island areas within the northerly center parking areas. Included with the flush curb will be a safety barrier to prevent vehicles from inadvertently entering the storm water management feature. Because the proposed design addresses the intent and purposes of the ordinance, the Board finds that the waiver request is reasonable. Strict enforcement of the Code requirement would, on the other hand, be impracticable. This waiver is therefore granted.

h. Waiver: From Section 200-36.1, which requires that pervious surfaces be used for all paved areas other than drives and parking areas, whereas not all such paved areas in the applicant's plan meet this requirement.

Waiver granted. The proposed plan shows use of porous pavement within the parking areas on Lots 62 and 76 where appropriate, with an area equaling or exceeding that proposed for walks and plazas serving Building N-8 and N-9. Adding more pervious coverage would provide no significant benefit because the soils on site provide no appreciable recharge. On the other hand, extensive storm water management techniques appropriately address the factors that increase the need for pervious surfaces, thereby mitigating the need for strict compliance with this Code requirement. Given this, the Board finds this waiver request to be

reasonable and within the intent and purposes of the ordinance. Literal enforcement of the Code requirement would impose an undue hardship upon the applicant by requiring it to disturb and replace portions of the existing surface areas in absence of a compelling need for doing so. This waiver is therefore granted.

CONDITIONS REQUIRED

34. The Board finds that, in order to address the concerns expressed during the course of the hearing and to limit the relief to that reasonably necessary to satisfy the applicant's legitimate requirements, the relief granted is subject to the following conditions:

Site Plan

- a. The applicant shall comply with Section 200-31K(3), establishing a maximum illumination of one foot-candles at property lines, such that Fixture B located to the northwest of proposed Building N-8 shall be compliant.
- b. There shall be an affordable housing unit in each building.
- c. There shall be a deed restriction providing that the basement in Building E-1 shall only be used for storage for residential and commercial tenants and for storage for future residents of adjacent Lot 19 to the north. This deed restriction may be vacated if a Township land use board approves use of this space for commercial or other uses.
- d. The proposed lofts shall not be used as bedrooms, and the front wall shall be a knee wall, not higher than 36 inches, rather than a full wall. There shall be no bathroom on the loft level. The plans shall be revised accordingly. Notice of the same shall be included in the lease, subject to review and approval by the Board Attorney.
- e. Bike closets shall be shown on the architectural plans.
- f. Signage shall be the same as in the original approved plan.

Landscape and Sustainability

g. A determination shall be made regarding trees within and directly adjacent to the Township right-of-way that will or should be removed as a result of the proposed construction. Field review prior to construction shall be done. An indication of trees to be impacted shall be added to the plans.

h. Information as to the extent of overhead power and communication line and pole removal within the adjacent Township right-of-way and adjoining open space shall be subject to the review and approval of the Township Landscape Architect and specified on the demolition plan.

i. If an automatic landscape irrigation system is not proposed, then hose bibs shall be provided at several locations to facilitate proper and necessary watering, subject to the Landscape Architect's review and approval.

j. Root barriers shall be provided for trees to be planted in close proximity (within six feet) to walks. A detail for the root barrier shall be included with the site plans.

k. A substitute for the "Nigra" Arborvitae is required due to potential for heavy deer browsing in this area. The substitute shall be subject to the Landscape Architect's review and approval.

l. The location of mechanical equipment and meters shall be depicted on the plans and screening addressed.

m. The applicant shall consider the integration of "green building" principles or technologies with the construction of the site and buildings. Incorporation of the following techniques or materials, or other similar initiatives, shall be reviewed:

- Specification of pervious pavements.
- Utilization of energy efficient LED lighting fixtures.
- Passive solar building design and landscape enhancements.
- Specification of highly energy efficient HVAC systems and mechanical elements.
- Specification of energy efficient windows and doors and building entry design.
- Incorporation of or provision for the addition of solar panels on the buildings.

- Incorporation of or provision for of electric car charging.
- Incorporation of building materials supplied from local sources.
- Incorporation of elements to facilitate mass transit use, such as shared shuttle, bus stops etc.

n. The applicant shall install a conduit for an electric car charging station.

o. A note shall be added to the landscaping plan that all ground vegetation and landscaping within any sight triangle must not exceed a height of 30” and all trees must be limbed to a minimum height of seven feet.

Access and Circulation

p. A parking management plan shall be provided.

q. The barrier-free parking stalls shall be more conveniently distributed throughout the western portion of the site.

r. Two bicycle parking racks shall be added at the entrances of Buildings N-8 and N-9 so that a total of 15 spaces are provided. The suitability of the type of bicycle racks proposed shall be subject to the review and approval of the Township Landscape Architect.

s. The applicant shall provide sufficient grade information at all barrier free ramps/parking spaces and accessible routes to building entrances to determine compliance with barrier free standards. Ten-scale detailed enlargements of the same shall be used as necessary to provide legible information.

t. No Parking Fire Lanes shall be created along all curb areas to restrict curbside parking for the entire site, subject to the approval of the Director of Fire and Emergency Services.

u. A lock box to allow immediate access by the fire department shall be installed on the front of each building.

v. The position of the fire department connection that supports the fire sprinkler system shall be at the front of the building.

w. The applicant shall, subject to review by the Landscape Architect, limit the number of trees in close proximity to the buildings so as not to restrict access by the fire department.

x. The applicant shall install a paved driveway apron with ADA compliant grades at the gravel road entrance to the adjacent public space on Lot 15 and shall connect the applicant's proposed Cranbury Road sidewalk to the existing municipal-constructed sidewalk to the east.

y. All handicap ramps shall show a detectable warning surface.

z. The two handicap accessible spaces to the south of Building N-9 shall be relocated to the front or east side of the building to help discourage handicap individuals from proceeding west via a route that is not accessible.

aa. The applicant shall provide accessible route signing to/from Building N-9 for individuals desiring to access the west side of the development.

bb. The mid-block pedestrian crossing shall be raised to make it more visible and to have a traffic calming effect. Appropriate pedestrian crossing signs shall be provided along the access driveway.

cc. A crosswalk shall be painted across the north approach of the access driveway's intersection with Cranbury Road.

dd. On Sheet 5 of 21 (Site Layout Plan), a second R5-1 sign (Do Not Enter) shall be added across the aisle at the end of the one-way entrance drive off of CR 571.

ee. The sight triangles shall be modified to conform to AASHTO requirements in terms of length and configuration and shall use a design speed of 30 mph.

ff. The positioning of the two handicap-accessible parking areas at Building N-8 shall be reversed on the Site Layout Plan.

gg. The detail referencing Building E-2 shall be changed to E-1 since Building E-1 has handicap-accessible parking associated with it.

-
- hh. All handicap-accessible spaces shall be dimensioned on the Site Layout Plan, and any van-accessible spaces shall be so labeled.
- ii. For the ADA Parking & Penalty sign detail, the Van Accessible plaque shall be labeled as R7-8P and shown with a size of 18" x 9." In Note 2, reference to MUTCD shall be to the 2009 edition.
- jj. The location of the W11-2/W16-7P(L) signs in the westbound direction of Cranbury Road shall be shown.
- kk. In conjunction with the "Do Not Block Intersection" sign along Cranbury Road, "Do Not Block Intersection" markings shall be provided within the intersection.
- ll. The proposed cross-hatched striping along Cranbury Road as shown on the Site Layout Plan shall be 12 feet on center.
- mm. There shall be a cross walk across Carlton Place to ensure pedestrian safety in accessing the single cross walk across Cranbury Road to the development.
- nn. Appropriate signage shall be established for the cross walk across Carlton Place.

Storm Water Management

- oo. Soil permeability testing results for the infiltration areas shall be completed and submitted. If any field conditions are found to be unsuitable, the groundwater recharge design shall be revised, and the applicant shall return to the Board for amended site plan approval should the redesign significantly affect the site design.
- pp. The Grading and Utility plan shall be revised to indicate the location of each soil log and the corresponding elevation of the seasonal high water table at each location.
- qq. The water quality treatment design report shall be updated to include a design hydrograph showing that the "rain garden" feature can treat the water quality design hydrograph without overflowing.

rr. Information regarding the prevention of stored runoff weeping out of the sides of the storm water management vault system into and possibly through the retaining wall shall be submitted to the Township Engineer for review and approval.

ss. The applicant shall address the fact that the vault system design does not appear to meet the requirement of a minimum one foot vertical separation from the SHWT, per Chapter 9.4 of the NJ BMP Manual.

tt. The applicant shall revise the SESC plan to include a temporary sediment basin for management of storm water and sediment from the western portion of the site until improvements are initiated on the eastern portion, if that is what is proposed, or provide an alternate design meeting the standard.

uu. Additional notes and details shall be provided to indicate how the various storm water management BMPs will be protected during the construction phase, particularly for the infiltration BMPs where the integrity of the underlying soils must be preserved to ensure that they can still infiltrate after construction.

vv. The applicant shall submit a Stormwater BMP Operation and Maintenance Manual per the requirements of Section 200-105 for review and approval by the Township Engineer. Upon approval of same, a deed notice for this document shall be recorded, and related easements filed, preserving and protecting the approved storm water management features for the site.

ww. In accordance with Section 200-105.1, the applicant shall enter into an agreement with the Township, in a form satisfactory to the Board Attorney, requiring the installation and maintenance of all storm water management improvements proposed by the applicant and approved by the Board for this project. Any agreement already in place shall be amended to reflect the proposed modifications, if necessary.

Utilities

xx. An amendment to any Treatment Works Approval previously issued by NJDEP is required for the additional 10 residential units, and a revised request for reservation of additional sewer capacity shall be submitted to the Township Engineer for Township Council action.

Lighting

yy. The applicant shall provide information showing that, in accordance with Section 200-31C, all lights shall be shielded to restrict the maximum apex angle of the cone of illumination to 150 degrees.

zz. The applicant shall provide point-by-point lighting intensity data for the lighting fixtures proposed on Lots 62 and 76 in lieu of the isolux curves currently presented. Compliance with the requirements of Section 200-29G and Section 200-31K shall be calculated and presented on the plan in tabular format.

aaa. The lights for the rear parking area shall be examined in terms of glare as viewed from the adjacent residential homes. The type of light, location, and potential for shielding shall be considered, subject to the Township Landscape Architect's review and approval.

Other

bbb. A black gate shall be installed for the trash enclosure.

ccc. The loading zone/refuse enclosure east of proposed Building A-1 shall be designed using more compatible materials that minimize the potential nuisance concerns around the enclosure for adjacent residential homes.

ddd. The timing of deliveries or pick up at the loading zone east of proposed Building N-8 shall be appropriate so as to not disturb the tenants.

eee. The applicant shall pay its off-tract road assessment and execute a developer's agreement so providing.

fff. All conditions of the prior approval not inconsistent herewith shall continue to apply.

ggg. The retaining wall that extends along the westerly and northerly property lines of Lot 76 requires structural design which shall be submitted for review and approval by the Township Engineer prior to the issuance of construction permits for same.

hhh. The applicant shall submit updated construction cost estimates based on the current proposal. Amendments to any posted performance guarantees and additional construction inspection escrow fees shall be made.

iii. Per Section 200-81.1, the applicant shall provide, via both hard copy and in electronic format, approved site plans being submitted for signature and as-built surveys upon project completion, should this project be constructed.

jjj. The Township shall be provided with PDF copies of the Stormwater Management Report and the Stormwater Operation and Maintenance Manual and all related mapping once approved by this office.

kkk. Appropriate revisions to the Redeveloper's Agreement shall be made.

lll. The following approvals are anticipated to be required:

- Mercer County Planning Board
- Mercer County Soil Conservation District
- Delaware and Raritan Canal Commission
- NJDEP (TWA Permit amendment)
- NJDOT, or letter of no interest

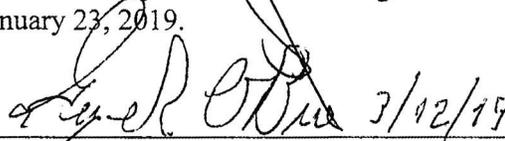
CONCLUSION

Based on the foregoing, the Board at its January 23, 2019 meeting voted to approve the plans with revisions made therein and as supplemented and modified by the exhibits and to grant the relief identified above subject to the conditions and to be revised in accordance with the conditions set forth herein.

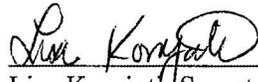
This resolution of memorialization was adopted on March 6, 2019 by a vote of who voted to grant the relief sought by the applicant.

The date of decision shall be January 23, 2019 except that the date of the adoption of this memorializing resolution is the date of decision for purposes of (1) mailing a copy of the decision to the Applicant within 10 days of the date of the decision; (2) filing a copy of the decision with the administrative officer; and (3) publication of a notice of this decision. The date of the publication of the notice of decision shall be the date of the commencement of the vesting protection period.

We do hereby certify that the foregoing resolution was adopted by the Planning Board at its regular meeting held March 6, 2019. This resolution memorializes formal action taken by the Board at its regular meeting held January 23, 2019.

Handwritten signature of Gene R. O'Brien in black ink, with the date 3/12/19 written to the right of the signature.

Gene R. O'Brien, Chair

Handwritten signature of Lisa Komjati in black ink.

Lisa Komjati, Secretary

Gene O'Brien, Chair – Yea
Michael Karp, Vice-Chair – Yea
Sue Appelget – Yea
Linda Geevers – Yea
Curtis Hoberman – Absent
Michael Huey – Yea
Andrea Mandel – Yea
Hemant Marathe – Absent
Simon Pankove – Absent
Allen Schectel, Alternate I – Yea
Anis Ahmad Baig, Alternate II – Yea

Ellsworth Findings of Fact and Conclusions final 3-7-19