

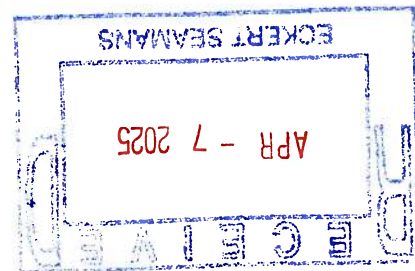


WEST WINDSOR TOWNSHIP

DEPARTMENT OF COMMUNITY DEVELOPMENT
DIVISION OF LAND USE

April 3, 2025

Frank Petrino, Esq.
Eckert Seamans Cherin & Mellott LLC
Princeton Pike Corporate Center, Suite 203
2000 Lenox Drive
Lawrenceville, NJ 08648



RE: **PB19-13 Amended**
Bear Creek Senior Living
Second Amended Final Site Plan Approval
Block 33, Lot 1.021 & 1.022; Village Road East & Old Trenton Road
Property Zoned: PRRC District

Dear Mr. Petrino,

The West Windsor Township Planning Board adopted a Resolution of Memorialization regarding the above-referenced application at its meeting on April 2, 2025.

A copy is attached for your records.

Please provide proof of publication to this office.

Sincerely,

Lisa Komjati
Planning Board Secretary

Attachment

- c PB19-13 Second Amended
- Daphne Galvin, P.E.
- Samuel J. Surtees, Manager, Division of Land Use
- Gerald Muller, Planning Board Attorney
- Francis Guzik, Township Engineer, via email
- David Novak, Consultant Planner via email
- J. Burgis, Consultant Planner via email
- Lorraine Jones, Tax Assessor via email
- Ed Snieckus, Landscape Architect
- Tim Lynch – Township Fire Marshall
- Q. Masood- Traffic Engineer Consultant
- Jason Harris, Township Code Official

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WEST WINDSOR TOWNSHIP PLANNING BOARD

_____)	
In the Matter of the Application of)	FINDINGS OF FACT
)	AND
<u>Bear Creek Senior Living for Second</u>)	CONCLUSIONS OF LAW
)	
<u>Amended Final Site Plan Approval</u>)	File No. PB 19-13 AM
)	Block 33, Lots 1.021 and 1.022
)	
)	Approval granted:
)	February 19, 2025
_____)	

Be it resolved by the Planning Board of the Township of West Windsor that the action of this Board on February 19, 2025 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”), approximately 28 acres, located in the Planned Residential Retirement Community Zoning District (“PRRC District”), is an irregularly shaped lot with frontage on Old Trenton Road (CR 535) (approximately 1,400 feet) and Village Road East (approximately 540 feet) and is designated as Block 33, Lot 1.02 on the Township of West Windsor Tax Map, with an address of 289-291 Village Road East. The entrance to the Site is located off Village Road East via Esplanade Drive, which loops around the internal perimeter of the Site. This access road also provides access to the Assisted Living facility (as described below), lying immediately northwest of the area to be developed, and The Hamlet at Bear Creek (Block 33, Lot 1.01). The property is bounded on the northeast by Village Road East, on the southeast by The Hamlet at Bear Creek, farmland to the south, and Old Trenton Road to the northwest.

2. The Site is subject to several environmental constraints, including wetlands transition areas and the Township Greenbelt, which is the subject of a greenbelt easement required by the approval of a previous application. The Site is also subject to existing drainage and utility easements (sanitary sewer, water main and electric) and an access easement benefiting

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.

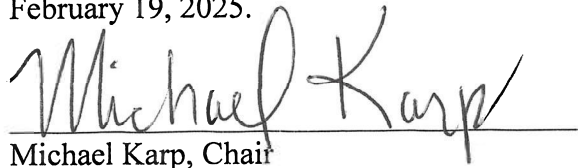
CONCLUSION

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