

RESOLUTION

**TOWNSHIP OF MANALAPAN PLANNING BOARD
RESOLUTION OF MEMORIALIZATION
MONMOUTH COUNTY, NEW JERSEY
FINAL MAJOR SUBDIVISION APPROVAL
AND FINAL SITE PLAN APPROVAL
WITH ANCILLARY DESIGN WAIVER RELIEF
AND TECHNICAL MINOR SUBDIVISION APPROVAL**

**Approved: September 12, 2019
Memorialized: November 14, 2019**

**MATTER OF: CARDINALE AND ASSOCIATES, LLC
(MANALAPAN CROSSING)**

APPLICATION NOS. PPM1724 and PMS1931

WHEREAS, an application for final major subdivision approval and final site plan approval with ancillary design waiver relief as well as technical minor subdivision approval has been made to the Manalapan Township Planning Board (hereinafter referred to as the “Board”) by Cardinale and Associates, LLC (Manalapan Crossing) (hereinafter referred to as the “Applicant”) on lands known and designated as Block 66, Lot 8.01, as depicted on the Tax Map of the Township of Manalapan (hereinafter “Township”), and more specifically located at 162 NJ Highway Route 33 in the VC (Village Commercial) Zone and the VC-MUI (Mixed Use Inclusionary Overlay) Zone; and

WHEREAS, a public hearing was held before the Board on September 12, 2019; and

WHEREAS, the Board has heard testimony and comments from the Applicant and with the public having had an opportunity to be heard; and

WHEREAS, complete applications have been filed, the fees as required by Township Ordinance have been paid, and it otherwise appears that proper notice has been published and the jurisdiction and powers of the Board have been properly invoked and exercised.

NOW, THEREFORE, the Manalapan Township Planning Board does make the following findings of fact and conclusions of law with regard to this application:

1. The Applicant was previously granted Preliminary Major Subdivision and Preliminary Site Plan approval permitting the development of seven (7) commercial and mixed-use buildings, two hundred and eighty (280) market rate, age-restricted single-family residential units, and fifty-eight (58) special needs affordable housing units in a village style setting.

2. The preliminary approval permitted the following:

A. Non-Age Restricted Mixed Use Lot

- Building A – The Applicant initially proposed a three (3) story building with 35,536 square feet of retail space on the ground level, as well as thirty-four (34) one-bedroom special needs/affordable apartments and six (6) four-bedroom special needs/affordable quads on the second and third levels of the building. This was later modified to four (4) four-bedroom special needs quads with the remainder of the 58 units being one-bedroom special needs. The total floor area of residential uses was approved to be 59,583 square feet.
- Building B – A three (3) story building with 19,338 square feet of restaurant and retail space on the ground level, and 23,435 square feet of office space on the second and third levels.
- Building C — A mirror Image of Building B, a three (3) story building with 19,338 square feet of restaurant and retail space on the ground level, and 23,435 square feet of office space on the second and third levels.
- Building D - A three (3) story medical office/research and development building, which will house 39,405 square feet of office space.
- Building E - A single (1) story bank building with 4,201 square feet of area, and two (2) drive-thru service lanes.
- Building F — A single (1) story convenience store with 5,500 square feet of space, and ten (10) gas pumps covered by a canopy.
- Building G — A two (2) story medical office building with 29,602 square feet of space for office and research & development use.

B. Age-Restricted Development Lot

- Single-Family Homes - Each of the two hundred and eighty (280) age restricted single-family homes will be located on individual lots and will be one- or two-story, a mix of two (2) and three (3) bedroom dwellings, with a two (2) or three (3) car garage, loft/attic space and other optional patio spaces, sunrooms, and other outdoor spaces.
- Clubhouse — A two (2) story clubhouse building with approximately 6,600 square feet of amenity space for residents, with a pool, tennis courts, and bocce courts.

3. The age-restricted housing component of the project was approved to be located on ninety-three (93) acres through the central and northerly portion of the subject Property. The lot area was approved to contain at least 5,000 square feet for interior lots and 5,500 square feet for corner lots. The approved commercial development component was approved to be located along the frontages of Route 33 and Millhurst Road and will contain a total of approximately 199,880 square feet of floor area, with 1,044 designated parking spaces. The seven (7) buildings total 115,877 square feet of office space divided between general office space, medical office space and research and development space; 74,212 square feet of restaurant and retail space; as well as a 4,201 square foot bank; and a 5,500 square foot convenience store.

4. Access to and from the site is proposed via two (2) new proposed signalized intersections, one along Route 33 approximately 1,800 feet west of its intersection with Millhurst Road, and the second along Millhurst Road at Whitlock Court, approximately 1,100 feet north of the Millhurst Road/Route 33 intersection. Pavement widening, lane reconfiguration and other roadway improvements are proposed along Millhurst Road to improve traffic conditions and to allow for access to the site. Improvements to the Millhurst Road/Route 33 intersection and to Sweetmans Lane south of this intersection are proposed as well. Access to the residential and commercial development are proposed to and from Crossing Lane, a new access road extending through the site between the proposed to and from Crossing Lane, an intersection on Millhurst

Road and Route 33. In addition, a right-in-only ingress drive from southbound Millhurst Road is also proposed approximately 250 feet north of the proposed Millhurst Road/Crossing Lane/Whitlock Court traffic signal to provide access to the parking area in the vicinity of Building G in the northeasterly corner of the commercial development.

5. The subject Property is located within water and sewer service areas. Both sewer mains and water mains will be extended into the subject Property to provide utility service. Freshwater wetlands, wetlands transition areas and a flood hazard area verified by the DEP associated with the Manalapan Brook exist near the westerly limits of the subject Property.

6. The Applicant received variance relief from the following requirements in connection with the Preliminary Subdivision and Preliminary Site Plan approval:

- a. **§95-5.6G(3)(c)[1]** – Minimum tract boundary is 50 feet, whereas 10 feet is proposed along the southeasterly edge of adjoining Lot 8.02.
- b. **§95-5.6G(3)(g)** – Minimum setback between commercial parking areas and the residential tract boundary is 60 feet, whereas 26 feet is proposed at Building G.
- c. **§95-6.6G(3)(g)** – Minimum setback between commercial parking areas and Millhurst Road is 50 feet, whereas 43.1 feet is proposed at Building G.
- d. **§95-5.6G(3)(g)** – Minimum perimeter buffer for commercial development is 50 feet, whereas 0 feet is proposed along the access road in the commercial lot.

7. The subject Property contains 122 acres with approximately 1,400 feet of frontage along the westerly side of Millhurst Road, and over 2,000 feet of frontage along the northerly side of Route 33 westbound within the Village Commercial (VC) Zoning District and the Mixed Use Inclusionary (VC-MUI) Overlay District. The subject Property is currently comprised of open space and agricultural land.

8. The subject Property is surrounded by a mixture of single-family residential uses, including age-restricted housing, and agricultural lands to the north, west, and south. A number of highway oriented commercial uses also exist along Route 33. A solar farm further exists along the western boundary of the subject Property. A golf course and country club are located to the east of the subject Property. The properties surrounding the subject Property are all located in different zoning districts. The GCRC (Golf Course Residential Community) Zone is located to the east. To the north and west is the CD-FS (Consent District - Four Seasons) District, to the south is the SED-20/W (Special Economic Development - Warehouse Distribution) District, and to the southeast along Route 33 is the C-3 (General Commercial) District.

9. The Applicant is also seeking a technical minor subdivision pursuant to the Township Ordinance. This provision permits the subdivision of non-residential development into smaller lots for financing purposes. The Ordinance does not have minimum lot size requirements and exempts Applicants from having to seek variance relief. Cross access easements as well as agreements for shared parking are, however, required. The Applicant has proposed that each building be located on its own lot for the commercial development.

10. Counsel for the Applicant, Salvatore Alfieri, Esq. explained that the Applicant was actually appearing on two interrelated applications. The first was for final site plan and final major subdivision approval. The second was for a subdivision approval for the mixed use portion of the development which includes the affordable/special needs housing. He stated that the Township ordinance contains a specific section which applies only to non-residential development and permits what is commonly known as a "financial subdivision" to permit various improvements to be constructed on separate lots without the need for variance relief or a major subdivision. Mr. Alfieri further updated the Board that the NJDOT had approved the

proposed third lane. He also stated that the Monmouth County Planning Board had also issued a site plan approval.

11. Mr. Alfieri then stated that the State had approved 24 units of special needs affordable housing on the subject Property and he further stipulated that all affordable units would contain at least 900 s.f. He further explained that the Applicant had begun the process of acquiring land from other property owners in order to widen Millhurst Road. Mr. Alfieri then stated that the Applicant had received correspondence from the State wherein it reversed its prior position and stated that the residents of the affordable units were not required to have access to the clubhouse on the age restricted lot. He agreed to provide a copy of this correspondence as a condition of approval.

12. The Applicant's Planner, Ian Borden, PP, testified that the plans remained substantially the same as proposed at the time of preliminary approval. He did, however, stated that the plans now reflected the vast majority of the technical comments contained in the reports of the Board's professionals. This included such details as more accurate sidewalk depictions as well as bicycle racks. Mr. Borden further testified that hairpin parking striping had been added along with bollards along the roundabout on Crossing Lane.

13. Mr. Borden further testified that the plans had also been revised to reflect the Rt. 33 curb line contained in the Dynamic Traffic plans. He then noted that a generator would be located on the roof of Building "A." He also stated that the Fire Bureau comments were now reflected on the plans and that the hydrants had been relocated pursuant to WMUA requirements. Mr. Borden also stipulated that all signage associated with the affordable housing units would conform to ordinance requirements.

14. Mr. Borden then testified that the Applicant had received preliminary site plan approval utilizing several parking spaces which have a 9 ft. x 18 ft. dimension where the

Ordinance requires 10 ft. x 20 ft. He noted that while the approval was granted, design waiver relief was not specifically discussed or granted. He stated that the Applicant was therefore now seeking design waiver relief.

15. Mr. Borden then explained that the plan had been revised to provide forty-six (46) parking spaces which would be reserved for the affordable housing units. This would leave nine hundred eighty eight (988) spaces for the commercial uses which would result in a deficiency and the need for variance relief. In discussion with the Board, he agreed to reserve thirty (3) spaces for the affordable housing units thereby eliminating the need for variance relief.

16. Mr. Alfieri then stated that the preliminary approval permitted the construction of 70 units of age restricted housing while the infrastructure and off-site improvements were being constructed. He further reminded the Board that the commercial structures would not receive any CO's until all infrastructure and off-site improvements had been constructed. He also stated that the phasing plan had remained unchanged and that the 70 units as well as the clubhouse would be constructed in phase 1 with access from Crossing Lane from the roundabout to Rt. 33. Mr. Borden also confirmed that the affordable units were required to be constructed after 25% plus one units of the age restricted units were constructed. The affordable units as well as the commercial structures, however, would not be eligible for CO's until all road improvements were completed. Mr. Alfieri further explained that the special needs affordable quad units required an on-site caretaker. He therefore requested that the number of affordable units be reduced from 58 to 57 which still complied with Ordinance requirements.

17. In response to questions from the Board, Mr. Alfieri further stated that a plan would be put in place to transport the residents of the affordable units to their places of employment. He also stated that some of the units could be reserved for very low income units if

required. In further conversation with the Board, Mr. Alfieri then agreed that there would be 58 affordable units without regard to the caretaker.

18. In response to further questions, Mr. Borden testified that a 30 ft. easement was being established in order to extend utilities. The easement area would be wide enough to accommodate maintenance vehicles.

19. The Applicant's traffic Engineer, Nicholas Vederese, PE, then stated that the NJDOT had approved a new signalized intersection at Crossing Lane. He further confirmed that the entire length from Millhurst Road to Crossing Lane would have a third lane in the westbound direction. He also stated that the jughandle was being moved to the north in order to provide greater length and distance from the intersection. Mr. Vederese then testified that a left turn would remain from Cannonero Blvd. He also noted that the County had granted a waiver to permit a left turn from the median for the new signalized intersection. A second waiver was granted to permit the signals to be 1,600 ft. apart rather than the required half mile.

20. Mr. Vederese also confirmed that the proposed parking was in compliance with the requirements for the 1,500 seats serving all of the restaurants. He also confirmed that Crossing Lane would proceed from the roundabout west to Rt. 33 during phase 1.

21. Testimony was next taken from David Fisher who identified himself as the Vice President for Government Affairs for K. Hovnanian Shore Acquisitions which is the developer of the age-restricted community. He confirmed that a generator would serve the proposed clubhouse. He also stated that the clubhouse would have two stories and contain 7,400 s.f. Mr. Fisher then asked for approval to revise the preliminary approval and permit a portion of the clubhouse to be constructed along with phase 1. He stated that the entire clubhouse would be completed after 40% of the permits for the development had been issued. Mr. Fisher also stated

that a restriction would be included in the relevant documents prohibiting the storage of trash outdoors except on pick up days.

22. The Applicant's architect, John Burgdorfer, AIA, then testified that the proposed outdoor seating in the development would be located at the endcaps of Buildings B and C. He specifically located some of the seating near the proposed masonry wall along with seating with bistro style tables along the walkway. He agreed that the plans would be revised to depict the location of all outdoor seating and tables. Mr. Burgdorfer also agreed to revise the plans to depict the gazebo between Buildings B and C and would not be larger than 20 ft. x 20 ft.

23. The hearing was then opened to the public at which time George Berger of 47 Comtois Road asked about the reorientation of the proposed jughandle. Mr. Vederese explained that the jughandle would now be located between 3-4 car lengths from the intersection. He also noted that a left turn would be permitted from the center lane. Mr. Vederese further testified that the two lanes would extend to Whitlock. In response to further questions, the Applicant's Engineer, William Stevens, PE, testified that the basins were designed as detention and not intended to hold water. Mr. Stevens therefore did not believe it would breed mosquitos.

24. Tamar Gens of 51 Watergreen Drive confirmed that all construction vehicles would enter the subject Property from Rt. 33 during all phases of construction.

25. The Board then once again discussed the Applicant's proposal to build only a portion of the clubhouse at this time. The Board agreed that the entire shell of the clubhouse would be required to be constructed at one time. The interior, however, could be constructed in phases. The Board did not object to CO's being issued for the partial completion of the interior. Such decisions, however, are ultimately governed by the Uniform Construction Code which is overseen by the Construction Official.

WHEREAS, the Manalapan Township Planning Board having reviewed the proposed application and having considered the impact of the proposed application on the Township and its residents to determine whether it is in furtherance of the Municipal Land Use Law; and having considered whether the proposal is conducive to the orderly development of the site and the general area in which it is located pursuant to land use and zoning ordinances of the Township of Manalapan; and upon the imposition of specific conditions to be fulfilled, hereby concludes that good cause has been shown to approve the application of Cardinale and Associates, LLC for final major subdivision approval pursuant to N.J.S.A. 40:55D-50, final site plan approval pursuant to N.J.S.A. 40:55D-50, ancillary design waiver relief pursuant to N.J.S.A. 40:55D-51 and minor subdivision approval pursuant to N.J.S.A. 40:55D-47.

I. The Mt. Laurel Doctrine

The Board first recognizes that the Applicant has proposed all permitted uses. The Board also recognizes that the zoning for the subject Property results from the Township's affordable housing obligations. The Township does not determine its own affordable housing obligations. Rather, the obligation has been mandated by the New Jersey Supreme Court in the Mt. Laurel doctrine as well as through the adoption of the Fair Housing Act signed into law by former Gov. Kean. The Township has no ability to contest this constitutional obligation and is simply left with the requirement to satisfy it.

II. Consolidation of the Applications

The Board first finds that the two instant applications involve the same property and the same development. The proposed technical minor subdivision seeks the further subdivision of the lot and buildings approved in the preliminary major subdivision and preliminary site plan

approvals. The Board therefore concludes that there is a common nucleus of facts and that the two applications are hereby consolidated.

III. Design Waiver Relief

As previously stated, the Applicant was previously granted preliminary site plan approval for the commercial portion of the development utilizing many 9 ft. x 18 ft. dimensioned parking spaces where the Ordinance requires 10 ft. x 20 ft. spaces. The Board begins by recognizing that the commercial lot contains the affordable housing units. The Mt. Laurel doctrine requires that land use boards grant all reasonable relief in order to facilitate the construction of affordable housing. In the instant matter, the dimensions are necessary in order to design a logical layout with safe internal circulation. The dimensions also help to achieve compliance with the number of parking spaces required for Ordinance compliance. The deviation is also minimal. The Board therefore concludes that compelling strict compliance with the requirements of the Ordinance would result in practicable difficulty in designing the site to achieve its constitutionally mandated affordable housing obligations and results in a hardship not only to the Applicant but the population of low and moderate income individuals in the housing region. Design waiver relief pursuant to N.J.S.A. 40:55D-51 is therefore appropriate.

IV. Final Major Subdivision Approval

The Board finds that the Applicant has not modified the major subdivision plan since receiving preliminary approval. The Applicant has also proceeded diligently in obtaining all outside agency approvals. The Board once again emphasizes the strict legal standard prohibits a planning board from denying a final major subdivision application in the Mt. Laurel context where the conditions of preliminary approval are being satisfied. The Board therefore is required to grant final major subdivision approval pursuant to N.J.S.A. 40:55D-50.

V. Final Site Plan Approval

The Applicant has requested final site plan approval for both the non-age restricted improvements as well as the club house on the age-restricted portion of the development.

A. Non-Age Restricted Development

With the exception of the above referenced design waiver and previously granted relief, the Applicant has complied with all zoning, site plan and design Ordinance requirements. The Applicant has also satisfied almost all of the conditions of preliminary site plan approval. Further, the Applicant has agreed to comply with all of the conditions placed upon the record and memorialized herein. As per the analysis of final major subdivision approval, the Board is required to grant final site plan approval pursuant to N.J.S.A. 40:55D-50.

B. The Age Restricted Clubhouse

The Applicant is still proposing to build the same clubhouse which was previously approved as part of the application for preliminary approval. The Board does, however, revise the preliminary approval to now require that the entire shell of the clubhouse be constructed at one time within phase 1 with the interior developed in phases. Final site plan approval pursuant to N.J.S.A. 40:55D-50 is therefore appropriate.

VI. Technical Minor Subdivision Approval

As previously stated, the Township Ordinance permits technical minor subdivisions on non-residential lots. The Board finds that the affordable units in the commercial buildings render that portion of the development as a mixed use and not a residential use. The Board therefore finds that the Ordinance is applicable.

The Ordinance does not mandate any minimum lot size or bulk standards and specifically states that variance relief is not required from the bulk standards which would otherwise apply in

the subject zone. Cross-access easement agreements as well as Agreements for shared parking are, however, required.

The Applicant in the instant matter is not proposing any physical barriers between the proposed lots. In fact, any such improvements would require additional approval from this Board. The dimensions are also permitted by the Ordinance. The Applicant must, however, submit draft easement agreements for cross access and shared parking to the Board Attorney and Board Engineer for review and approval. The Board therefore finds that minor subdivision approval pursuant to N.J.S.A. 40:55D-47 is appropriate.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Township of Manalapan on this 24th day of October, 2019, that the action of the Planning Board taken on September 12, 2019, granting Application Nos. PPM1724 and PMS1931 of Cardinale and Associates, LLC (Manalapan Crossing) granting final major subdivision approval pursuant to N.J.S.A. 40:55D-50, final site plan approval pursuant to N.J.S.A. 40:55D-50, ancillary design waiver relief pursuant to N.J.S.A. 40:55D-51 and minor subdivision approval pursuant to N.J.S.A. 40:55D-47 is hereby memorialized as follows:

The application is granted subject to the following conditions:

1. The development of this site shall take place in strict conformance with the testimony, plans and drawings which have been submitted to the Board, except as where they may have been required to be revised by the Planning Board as set forth herein.
2. The Applicants shall comply with all recommendations contained in the reports of the Board's professionals except as modified herein.
3. All conditions of preliminary approval remain in full force except as modified herein.
4. A formal program shall be developed in order to help provide transportation to the special needs unit residents to their places of employment.

5. The Applicant shall continue to develop no less than fifty-eight (58) affordable housing units.
6. The language and document which will contain the restriction prohibiting the age-restricted residents from storing garbage outside on non-pick up days shall be subject to the review and approval of the Board Attorney and Board Engineer.
7. The plans shall be revised to depict the location and number of outdoor seats and tables which were depicted on the exhibits presented to the Board at the hearing.
8. The plans shall be revised to depict the gazebos which shall be no larger than 20 ft. x 20 ft. consistent with Exhibit A-6.
9. All construction vehicle shall enter and exit the subject Property exclusively from Rt. 33.
10. A loading area shall be added to the rear of Buildings B and C subject to review and approval of the Board Engineer.
11. Additional bollards shall be added to the roundabout area subject to the review and approval of the Board Engineer.
12. Thirty (30) parking spaces shall be reserved exclusively for the affordable housing units. This requirement shall be memorialized in a recorded instrument subject to the review and approval of the Board Attorney and Board Engineer.
13. A generator shall be located on the rear of Building A.
14. The affordable housing units shall be eligible to receive C.O.'s during Phase 1 at the same time as the first 70 age-restricted units.
15. The Applicant shall provide a certificate that taxes are paid to date of approval.
16. Payment of all fees, costs, escrows due or to become due. Any monies are to be paid within twenty (20) days of said request by the Board Secretary.
17. Subject to all other applicable rules, regulations, ordinances and statutes of the Township of Manalapan, County of Monmouth, State of New Jersey, or any other jurisdiction.

BE IT FURTHER RESOLVED that the Applicant is hereby authorized and directed to cause a notice of this decision to be published in the official newspaper and the Board Secretary is authorized to send a certified copy of this Resolution to the Applicant and to the Township clerk, engineer, attorney and tax assessor, and shall make same available to all other interested parties.

FOR APPROVAL

ON MOTION OF: Mr. Fisher
 SECONDED BY: Mr. Castronovo

	YES	NO	ABSTAIN	ABSENT	INELIGIBLE	RECUSE
John Castronovo	✓					
Todd Brown		✓				
David Kane	✓					
Alan Ginsberg	✓					
Daria D'Agostino		✓				
Chairwoman Kwaak		✓				
Deputy Mayor McNaboe	✓					
Barry Jacobson	✓					
Chief Hogan				✓		
Barry Fisher (Alt. 1)	✓					
Steven Kastell (Alt. 2)					✓	

FOR MEMORIALIZATION

ON MOTION OF:

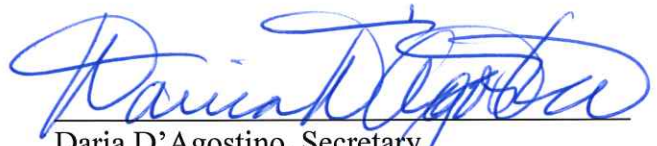
Mr. Fisher

SECONDED BY:

Mr. Jacobson

	YES	NO	ABSTAIN	ABSENT	INELIGIBLE	RECUSE
John Castronovo	✓					
Todd Brown					✓	
David Kane	✓					
Alan Ginsberg				✓		
Daria D'Agostino					✓	
Kathryn Kwaak					✓	
Deputy Mayor McNaboe	✓					
Barry Jacobson	✓					
Richard Hogan					✓	
Barry Fisher (Alt. 1)	✓					
Steven Kastell (Alt. 2)					✓	

I hereby certify this to be a true and accurate copy of the Resolution adopted by the Manalapan Township Planning Board, Monmouth County, New Jersey, at a public meeting held on November 14, 2019.


Daria D'Agostino, Secretary
Manalapan Township Planning Board

STATE OF NEW JERSEY :
 : ss.
COUNTY OF MONMOUTH:

I hereby certify that on November 14, 2019, Daria D'Agostino personally came before me and acknowledged under oath, to satisfaction, that this person:

- (a) is the Secretary of the Manalapan Township Planning Board; and
- (b) signed the Resolution as her act and deed.



Ronald D. Cucchiaro
Attorney-at-Law, State of New Jersey

Dated: November 14, 2019

1697349_1.doc MANP-209E Cardinale and Associates, LLC (Manalapan Crossing) Resolution Granting Final Major Subdivision, Final Site Plan, Ancillary Design Waiver Relief and Technical Minor Subdivision Approval 10.24.19