

1/31/2024

2020
Part 1

Reese, Cathy

From: Jeffrey Lehrer <jlehrer@newjerseylaw.net>
Sent: Tuesday, December 22, 2020 2:24 PM
To: Jolanta Maziarz
Cc: Reese, Cathy; Krane, Mark; Marion, Mick; Lazo, George; Sordillo, Victor J.; DiNardo, Gary; jtcivplan@comcast.net
Subject: Re: RDA for 40 Mountain Boulevard Site
Attachments: RDA FOR 40 MOUNTAIN BOULEVARD SITE-WARREN-REDLINED AS OF DECEMBER 22, 2020 (A1289224x9D7D2).pdf

All: I went back to Gary Dean, PE, traffic consultant for Silbert and he revised his December 16, 2020 letter to address Committeewoman Maziarz's remaining comments about parking counts at the other sites. I am attaching what should be the final version of the RDA. I accepted all other changes but changed the date of Gary Dean's letter which was sent to me today. If acceptable, I will send over the final clean version and deliver 4 execution copies.

I am confident that all issues have been addressed and would ask the Mayor, Mark and Cathy whether you want a special meeting on this next week to adopt it or whether you want to wait until the reorganization meeting. I leave that to you.

If I do not speak with you, enjoy your Christmas. It has been a pleasure serving as your Township Attorney in 2020. Jeff

On Fri, Dec 18, 2020 at 1:57 PM Jolanta Maziarz <jmaziarz@warrennj.org> wrote:

Jeff,

Thank you for your work on this. We're almost there!!

Just a few things. Paragraph 3.6, please remove the words "if required" from the beginning of the paragraph. I think the phrase creates confusion and the opportunity to argue over who will do the requiring and if its actually required, it is. Paragraph 8.2(b)(i), please add something that makes it clear that the affordable units will not be sold (in accordance with a later paragraph). Paragraph 14.12 seems to be missing something at the end.

With regard to the letter from Mr. Dean, I believe that what I asked for (and I understand that it may have been difficult to hear me given that I was on the phone and being talked over) was a simple calculation. How many parking spaces are at Gateway East and how many parking spaces are required by Section 16-24.4 of the zoning ordinance for that site? And the same for 37 Mountain. The fact that parking may or may not be used on weekends or evenings today is fine and nice, but that may not be the case tomorrow. I just want to see the full picture and understand what the Township may be facing in the future if different, possibly more intense uses move into those properties. Can you imagine the parking nightmare on evenings and weekends if a sports

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bar, for example, were to move into Gateway East? A great use for sure but its patrons will be parking at 40 Mountain Blvd during football season, not the other way around. We already know that patrons of the restaurants next to the PNC are always parking at the bank on weekends due to a lack of parking, I do it myself. At some point, if, God willing, all of our commercial and retail buildings are full and thriving, we will run into a parking crunch in that area of Town. I just want to know where we stand and I want it documented.

Of course, if the rest of the Township Committee is not interested in this information, that's fine, you won't have to bother Mr. Dean.

Thanks, Jolanta

Sent from Mail for Windows 10

From: Jeffrey Lehrer

Sent: Friday, December 18, 2020 12:00 PM

To: Reese, Cathy; Krane, Mark; Jolanta Maziarz; Marion, Mick; Lazo, George; Sordillo, Victor J.; DiNardo, Gary; jtcivplan@comcast.net

Subject: RDA for 40 Mountain Boulevard Site

PRIVILEGED AND CONFIDENTIAL-ATTORNEY/CLIENT WORK PRODUCT-CONTRACT NEGOTIATION. THIS EMAIL AND ALL ATTACHMENTS HERETO ARE NOT SUBJECT TO DISCLOSURE UNDER THE OPEN PUBLIC RECORDS ACT.

All: In furtherance of our closed session discussion on December 10, 2020, I am attaching a pdf of the most recent redline of the RDA with the following new attachments:

1. Copy of Landscape Plan in the northwest side of the site (facing town hall) as requested by the Mayor and which will be attached as new exhibit G to the RDA;
2. Copy of letter from Gary Dean, PE, the redeveloper's traffic consultant, addressing the issue of use of adjacent properties for any deficiency on the subject site for parking as requested by Committeewoman Maziarz. This letter is to be attached as new exhibit D-1 to the RDA; and
3. Copy of rendering of proposed building (to be attached as an exhibit to the RDA as new Exhibit B-1).

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I believe I have captured all of the issues the TC had concerns with at our last meeting. To expedite your review, the changes in wording can be found in Sections 2.2.1, 3.6 and 12.5,

Kindly advise if you would like to schedule a special meeting before the end of the year to approve the RDA, as amended. Jeff

Jeffrey B. Lehrer, Esq.

Please be advised that most of our office is working remotely as a result of the executive order signed by the Governor. Please make every effort to send information electronically rather than via the US mail, UPS or other delivery service. We are making every effort to minimize unnecessary contacts. If you have an urgent matter please call we are all responding to phone calls as quickly as possible

HAVING

CELEBRATED OUR 100TH ANNIVERSARY IN 2017



DiFrancesco Bateman Kunzman Davis Lehrer & Flaum, PC

15 Mountain Blvd.
Warren, N.J. 07059
(Somerset County)
908-757-7800 ext. 180
fax 908-757-8039

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immediately by reply e-mail or by telephone at 908-757-7800, and immediately delete this communication and all attachments.

Jeffrey B. Lehrer, Esq.

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1/31/2024

REDEVELOPMENT AGREEMENT

BETWEEN THE

TOWNSHIP OF WARREN

AND

SILBERT REALTY & MANAGEMENT COMPANY, INC.

FOR THE

REDEVELOPMENT OF

40 MOUNTAIN BOULEVARD

WARREN, NEW JERSEY

THIS REDEVELOPMENT AGREEMENT, made this ____ day of _____ 202__0, by and between the **TOWNSHIP OF WARREN** (hereinafter referred to as the “Township”) located at 46 Mountain Boulevard, Warren, New Jersey 07059 and **SILBERT REALTY & MANAGEMENT COMPANY, INC.** or an urban renewal entity formed pursuant to Section 7.1(b) (hereinafter referred to as “Redeveloper”) with offices located at 152 Liberty Corner Road, Suite 203, Warren, New Jersey 07059

SECTION 1. RECITALS

WHEREAS, the Township is a political subdivision of the State of New Jersey, located in the County of Somerset; and

WHEREAS, the Township Committee of the Township of Warren (the “Township Committee”), by Resolution No. 2019-218 duly adopted on August 15, 2019, authorized the Planning Board to undertake a preliminary investigation to determine whether the area identified as Block 89, Lot 4 as shown on the Tax Map of the Township of Warren, Somerset County, New Jersey (the “Study Area”), should be declared “an area in need of redevelopment” according to the criteria set forth in Section 5 of the Local Redevelopment and Housing Law, N.J.S.A.40A:12A-1, *et seq.* (hereinafter “Redevelopment Law”); and

WHEREAS, John T. Chadwick, IV, P.P., Township Planner, submitted a report to the Planning Board entitled “Preliminary Investigation Report, 40 Mountain Blvd.” dated February 2020 (the “Redevelopment Area Report”), detailing the statutory criteria for determining whether the Study Area constituted an “area in need of redevelopment,” and which Redevelopment Study provided extensive information supporting a recommendation to the Planning Board that the aforesaid Study Area met the statutory criteria; and

WHEREAS, after a public hearing held on March 11, 2020 and in accordance with N.J.S.A. 40:12A-6, the Planning Board, on March 11, 2020, adopted a Resolution determining that the Study Area should be designated as an “area of redevelopment” and recommending that the Study Area be designated as a Non-Condensation “area in need of redevelopment” pursuant to the Redevelopment Law; and

WHEREAS, after a review of the Study Area and the recommendation of the Planning Board, the Township Committee adopted Resolution No. 2020-09 on April 16, 2020, designating the Study Area as a Non-Condensation “area in need of redevelopment” pursuant to the Redevelopment Law (the “Redevelopment Area”); and

WHEREAS, the Township Planner prepared and submitted a redevelopment plan entitled “40 Mountain Boulevard (Block 89, Lot 4) Redevelopment Plan” (the “Redevelopment

Plan”), outlining the planning, development and redevelopment of the Redevelopment Area in accordance with the provisions of N.J.S.A. 40A:12A-7; and

WHEREAS, on August 13, 2020 the Township Committee adopted Ordinance No. 20-20 adopting the Redevelopment Plan for the Redevelopment Area; and

WHEREAS, pursuant to the Redevelopment Plan, the Redeveloper proposes to redevelop Block 89 Lot 4 located in the Redevelopment Area (hereinafter referred to as the “Project Site”), by constructing a residential development consisting of a three-story apartment building containing 26 rental units, including six (6) affordable units (the “Affordable Units”); together with associated parking (the “Project”); and

WHEREAS, the Township Committee has determined that it is in the best interest of the Township and its residents for the Township to enter into this Redevelopment Agreement with the Redeveloper to set forth the principles of agreement between the Township and the Redeveloper for the redevelopment of the Project Site with the Project in the Redevelopment Area in accordance with the Redevelopment Plan; and

WHEREAS, the Township and the Redeveloper desire to fully and thoroughly address the issues, items and conditions precedent to the redevelopment of the Project Site by way of this Agreement; and

WHEREAS, the Township and the Redeveloper acknowledge that the mutual promises contained in this Agreement are good and valuable consideration for the binding execution of this Agreement;

NOW, THEREFORE, for good and valuable consideration, it is agreed upon, as of the date set forth above, by the Township and Redeveloper, as follows:

SECTION 2.DEFINITIONS

2.1. Governing Definitions. When used in this Agreement, the following words, phrases or terms shall have the meaning set forth in the subsections that follow:

2.1.1. **Agreement** shall mean the instant document, which is entitled "Redevelopment Agreement between the Township of Warren and Silbert Realty & Management Company, Inc. (or an urban renewal entity to be formed) for the Redevelopment of 40 Mountain Boulevard" and the documents and exhibits appended hereto and incorporated herein by reference.

- 2.1.2 **Approvals** shall mean, as to any Phase of the Project, all governmental approvals, permits, licenses, agreements and capacity reservations from any governmental authority having jurisdiction over the Redevelopment Area that are required to permit construction of the relevant Phase of the Project to commence, including, but not limited to, local and county planning approvals, construction permits, and other various state and local approvals; excluding, however, approvals, permits and the like normally obtained during the ordinary course of construction.
- 2.1.3 **Board** shall mean the Warren Township Planning Board.
- 2.1.4 **Township** shall mean the Township of Warren, acting through its Township Committee.
- 2.1.5 **Certificate of Completion** shall mean a certificate or certificates certifying that the Redeveloper has performed its duties and obligations under this Redevelopment Agreement with respect to all or a portion of the Project or certifying that the Project, or any portion thereof, has been completed; provided, however, to the extent that the Project, or any portion thereof, has been substantially completed, the Certificate to be provided shall certify that the Project, or any portion thereof, has been substantially completed. The Township Committee recognizes and consents to the fact that the Project may be developed and constructed in phases and that the Redeveloper shall be entitled to a Certificate of Completion for any phase of the Project that has been completed in accordance with the Approvals.
- 2.1.6 **Certificate of Occupancy** means a temporary or permanent Certificate of Occupancy, as such term is defined in the New Jersey Administrative Code, issued with respect to all or a portion of the Project upon completion of all or a portion of the Project.
- 2.1.7 **Commencement of Construction, Commencement Date, Commence Construction** or similar phrases shall have the meaning set forth in Section 5.3.
- 2.1.8 **Conditions Precedent** shall have the meaning set forth in Section 4.1.
- 2.1.9 **Township Committee** shall mean the governing body of the Township.
- 2.1.10 **Default** shall have the meaning defined in Sections 6.1 and 6.2.

- 2.1.11 **Default Notice** shall mean such notice from the Township to the Redeveloper as defined in Section 6.3.
- 2.1.12 **DEP** shall mean the New Jersey Department of Environmental Protection.
- 2.1.13 **Effective Date** shall be the date upon which this Agreement is fully executed by all parties.
- 2.1.14 **Environmental Laws** shall mean any federal, state or local law, ordinance, rule or regulation, including, without limitation, (a) the New Jersey Spill Compensation and Control Act, as amended, N.J.S.A. 58:10-23.11 et seq.; (b) the New Jersey Industrial Site Recovery Act, as amended, N.J.S.A. 13:1K-6 et seq.; (c) the New Jersey Leaking Underground Storage Tank Act, as amended, N.J.S.A. 58:10-21 et seq.; (d) the Comprehensive Environmental Response, Compensation & Liability Act, as amended, 42 U.S.C. Section 9601 et seq.; (e) the Resource Conservation and Recovery Act, as amended, 42 U.S.C. Section 6901 et seq.; (f) the Hazardous Material Transportation Act, as amended, 49 U.S.C. Section 180, et seq.; (g) the Occupational Safety and Health Act, as amended, 29 U.S.C. Section 651, et seq.; or (h) any and all laws, regulations, and executive orders, whether federal, state or local, pertaining to environmental matters, as the same may be amended or supplemented from time to time.
- 2.1.15 **Event of Default** shall have the meaning set forth in Section 6.2.
- 2.1.16 **Final Approval** shall mean an Approval for which the limiting period on appeal or for an appeal set forth statutorily or in the rules of court has expired without an appeal or further appeal having been taken.
- 2.1.17. **Financing** shall mean any construction, permanent or other financing, including institutional equity and debt financing and related party equity and debt financing, obtained by the Redeveloper in connection with the Project. It is understood and agreed that the Township shall not under any circumstances guaranty any Redeveloper Financing.
- 2.1.18 **Force Majeure** shall have the meaning set forth in Section 14.1.
- 2.1.19 **Hazardous Substances** shall mean any hazardous substances or wastes now or in the future regulated under Environmental Laws, excluding, however, customary construction, maintenance, janitorial and cleaning supplies in reasonable quantities

to be used in the ordinary course of construction and operation of the Project and which are used and disposed of in accordance with all applicable Environmental Laws.

2.1.20 **Parties** shall mean both the Township and the Redeveloper together and shall not refer to any other person or entity.

2.1.21 **Permitted Transfers** shall have the meaning set forth in Section 8.2.

2.1.22. **Project** shall be as generally described in Section 2.2.1 of this Agreement.

2.1.23 **Project Schedule** shall be as detailed in Exhibit C to this Agreement.

2.1.24. **Project Site** shall be defined as set forth in the Recitals in Section 1 of this Agreement.

2.1.25 **Redeveloper** shall mean Silbert Realty & Management Company, Inc. and its successors or assigns or an urban renewal entity to be formed in which Brian Silbert is the majority member.

2.1.26 **Redevelopment** shall mean the design and construction of the improvements on the Project Site as contemplated by this Agreement.

2.1.27. **Redevelopment Area** shall be defined as set forth in the Recitals in Section 1 of this Agreement.

2.1.28. **Redevelopment Entity** shall mean the Township Committee of the Township of Warren acting as a redevelopment entity.

2.1.29. **Redevelopment Law** shall be defined as set forth in the Recitals in Section 1 of this Agreement.

2.1.30 **Redevelopment Plan or Plan** shall mean the Township of Warren Redevelopment Plan adopted by the Township Committee pursuant to Ordinance No. 20-20 on August 13, 2020.

2.1.31 **Redevelopment Plan Ordinance** shall have the meaning set forth in the recitals to this Agreement, subject to such amendments as may hereafter be adopted.

2.1.32. **Remediation** shall mean any clean up, containment, correction or adjustment in strict accordance with Environmental Laws to any environmental contamination to any natural resource, including but not limited to air, groundwater, surface water, or soil.

2.1.33 **Site Plan** shall have the meaning set forth in Section 2.2.1.

2.1.34. **Third Party** means a person or entity other than (i) the Township; (ii) any agent, employee, agency, board, elected official or representative of the Township; (iii) the Redeveloper; (iv) any member, shareholder, partner, officer, representative, employee or agent of the Redeveloper or (v) any entity owned or controlled by, under common control with, or that owns or controls, the Redeveloper or any member, shareholder or partner of the Redeveloper.

2.1.35. **Transfer** shall have the meaning set forth in Section 8.2.

2.2 **Project Definitions.** When used in this Agreement, the following words, phrases or terms shall have the meanings set forth in the subsections that follow:

2.2.0. **Purpose.** The purpose of this Agreement is to set forth the respective rights, obligations, conditions and agreements of the Township and the Redeveloper in connection with the redevelopment of the Project by the Redeveloper. The Redeveloper has been designated by the Township Committee as the Redeveloper of the Project.

2.2.1. **The Project.** The Project shall generally be designed in accordance with the Site Plan (the "Site Plan") entitled "Preliminary and Final Major Site Plan, 40 Mountain Boulevard Residential Project, Block 89, Lot 4, tax Map Sheet 109, Warren Township, Somerset county, NJ" prepared by E & LP Associates, Inc. dated September 2, 2020, and on the architectural plans (the "Architectural Plans") dated September 18, 2020, revised October 14, 2020, prepared by Beer Architectural Group, LLC attached hereto as **Exhibits A and B**, respectively. Attached hereto as **Exhibit B-1** is a rendering of the proposed Project prepared by Beer Architectural Group, LLC. The Site Plan may be subject to the modifications as required by the Board in accordance with this Agreement, the Redevelopment Plan and the land development ordinances of the Township. The Township Committee agrees that the present Site Plan is consistent with the requirements of the Redevelopment Plan, including but not limited to, the number of residential units provided. Redeveloper shall construct only the residential units established and permitted in the current Redevelopment Plan.

SECTION 3 REDEVELOPER RESPONSIBILITIES.

3.1. Infrastructure Improvements; Redeveloper Responsibilities. The Redeveloper will be responsible for its undertakings described herein after the satisfaction of the Conditions Precedent (as defined in Section 4.1), and at a time designed to allow construction of the Project to commence consistent with the terms of this Agreement.

3.2. Infrastructure Improvements On Site. The Redeveloper is responsible, at its sole cost and expense, for the construction of all on-site infrastructure improvements on the Project Site which are required to accommodate full development of the Project, including but not limited to internal streets, sanitary sewers, storm sewers, and utility lines necessary for the Project, as more particularly set forth in Warren Township Planning Board Resolution 20-05 (Resolution 20-05) adopted on November 23, 2020, a copy of which is attached hereto and made a part hereof as Exhibit C

3.3. Infrastructure Improvements Off-Site and Off-Tract. The Redeveloper shall have no responsibility for the cost of any Township off-site or off-tract improvements under the terms of this Agreement other than for bringing water and sewer to the Project Site and any other improvements required by the Board as set forth in Resolution 20-05.. 3.4 Approval of Project Site Plan and Architectural Plans. The Township agrees that the Site Plan and Architectural Plans depicted on **Exhibit A and B** to this Agreement are consistent with the requirements of the Redevelopment Plan. Furthermore, the Redeveloper acknowledges that it will be required to comply with the provisions of the Redevelopment Plan and Resolution 20-05. 3.5. Project Site. The Redeveloper or entities owned and controlled by the Redeveloper is/are the owner(s) of the Project Site.

3.6 Additional Parking. Redeveloper shall provide additional parking at 53-55 Mountain Boulevard and/or 37 Mountain Boulevard(the "Shared Parking Properties"), as more particularly set forth in a letter from Redeveloper's Counsel dated November 23, 2020, a copy of which is attached hereto and made a part hereof s **Exhibit D** and as detailed in the letter written by the Redeveloper's traffic consultant, Gary Dean, PE, dated December ~~22~~¹⁶, 2020, a copy of which is attached hereto and made a part hereof as **Exhibit D-1**. Redeveloper shall provide the Township with a copy of the fully executed license agreement(s) with the owners of the Shared Parking Properties prior to the issuance of a Building Permit.

SECTION 4. CONTINGENCIES

4.1 Contingencies. The respective obligations of the Parties to proceed with the Redevelopment under this Agreement are contingent upon the satisfaction or waiver, by the party whose performance is contingent upon the satisfaction of the contingency, of the contingencies set forth in Sections 4.1 and 4.2 hereof within the time periods set forth therein (the "Conditions Precedent").

4.2 Approvals. The obligation of the Parties to proceed with the Project is contingent upon receipt of all Approvals, (including but not limited to building permits, Somerset County Planning Board approval, Somerset-Union Soils Conservation District Approval, New Jersey Department of Transportation approval, Department of Community Affairs and New Jersey Department of Environmental Protection approval) for the Project. The Township will reasonably cooperate and assist where possible, including expediting the processing of all such applications.

4.3. Project Schedule. It is acknowledged by the Parties that the construction of the Project is time sensitive and will require the coordination of a multitude of efforts by the Redeveloper, the Township and other governmental and private concerns. The Redeveloper's schedule for commencement and completion of the various elements of the Project (subject to delays caused by Force Majeure) is set forth on **Exhibit E** to this Agreement. The Redeveloper shall use good faith efforts to complete the Project as expeditiously as possible in accordance with **Exhibit E**. Notwithstanding the foregoing, any applicable dates contained in the Project Schedule shall not be deemed time is of the essence.

4.4 Effect of Termination. If any of the Contingencies or Conditions Precedent in this section are not satisfied or waived by the appropriate Party prior to the expiration of the applicable time period therefore as set forth herein, then Redeveloper may terminate this Agreement upon written notice to the Township. If this Agreement is terminated under this Section 3, this Agreement shall automatically terminate, neither party shall have any further liability to the other, and any and all unexpended fees, escrows and payments made by the Redeveloper pursuant to Section 11.1 and/or Section 11.2 hereof shall be refunded to the Redeveloper by the Township.

SECTION 5. IMPLEMENTATION OF THE PROJECT

5.1 Project Development. The Redeveloper, subject to the contingencies set forth in this Agreement, agrees to develop the Project Site in accordance with this Agreement.

5.2 Development Approvals. The Parties acknowledge that the Approvals must be obtained prior to the commencement of any work on the Project Site. The Redeveloper agrees to obtain all Approvals that may be necessary to commence and complete the Project. The Redeveloper agrees to proceed in a reasonable and diligent manner to obtain all Approvals that may be necessary to commence and complete the Project. The Township agrees that it will use good faith efforts, without cost or expense to the Township except for payroll and internal administrative costs, to assist or provide information in its possession to the Redeveloper when such assistance or information is needed by the Redeveloper to obtain any necessary permits or approvals, including, but not limited to, signing any and all applications for permits or other approvals necessary for the development of the Project, if necessary. To the extent permitted under applicable law, the Township agrees to support and endorse and, if possible, sign, any applications of the Redeveloper that are in accordance with this Agreement. The Township agrees to expedite the processing of applications for building permits and other municipal permits. The Township, and all officers, employees and agents of the Township shall take all reasonable steps to foster and facilitate development of the Project in accordance with this Agreement. The Township shall cooperate in all efforts of the Redeveloper to secure necessary municipal, county and state permits and approvals in an expeditious fashion.

5.3 Commencement of Project. The Redeveloper agrees that it will use good faith efforts, subject to delays caused by Force Majeure, to obtain the necessary building permits and commence construction of the Project by not later than ninety (90) days after the last to occur of the following events: (i) all Final Approvals have been obtained, (ii) the final Site Plan has been signed by the appropriate Township officials, and (iii) the satisfaction of all conditions in the Resolution granting final Site Plan approval for the Project. For purposes of this Agreement, the phrase, "Commencement Date" or "commencement of construction" or equivalent phrases, however worded, shall mean the commencement of physical construction or site preparation work at the Project Site by the Redeveloper in furtherance of the plans for the construction of the Project. After the commencement of construction for any improvement in the Project, the Redeveloper will thereafter diligently and continuously prosecute that portion of the Project to completion, subject to delays caused by Force Majeure, in accordance with this Agreement.

5.4 Certificate of Occupancy and Certificate of Completion. Upon completion of the construction of the Project, or any part thereof, and issuance of a temporary certificate of occupancy for such part, subject only to punch list items for all or any part of the building(s) to be constructed, then, provided the Redeveloper has substantially complied with this Agreement and Resolution 20-05, the Township agrees to issue a Certificate of Completion in proper form for recording, which shall acknowledge that the Redeveloper

has performed all of its duties and obligations under this Agreement with respect to the Project, or portion of the Project for which the certificate has been issued, and has completed construction in accordance with the requirements of this Agreement with respect to the part of the Project to which the Certificate relates. Such Certificate of Completion shall constitute a conclusive determination of the satisfaction and termination of the agreements and covenants in this Agreement and in the Redevelopment Plan with respect to the relevant obligations of the Redeveloper to construct the Project. The Township shall provide such Certificate of Completion within thirty (30) days after written request by the Redeveloper or, within ten (10) days of such request, provide the Redeveloper with a written statement setting forth in detail the respects in which it believes that the Redeveloper has failed to complete the Project and what reasonable measures or acts will be necessary in the opinion of the Township in order for the Redeveloper to be entitled to such Certificate of Completion. Pursuant to *N.J.S.A. 40A:12A-9(a)*, upon the issuance of a Certificate of Completion for the Project, the conditions that were determined to exist at the time that the area was determined to be in need of redevelopment shall be deemed to no longer exist, and the land and improvements thereon shall no longer be subject to eminent domain as a result of those determinations.

5.5 Cooperation and Compliance. The Parties hereto agree to cooperate with each other and to provide all necessary and reasonable documentation, certificates, and consents in order to satisfy the terms and conditions of this Agreement. The Township Committee further agrees to take such action as may be reasonably requested by any mortgagee of the Redeveloper in connection with obtaining Financing for the Project.

5.6 Fees. The Redeveloper shall be subject to application and escrow fees for Township approvals and review processes in accordance with the Township's Land use Procedures and Land Development ordinances

SECTION 6. DEFAULT PROVISIONS

6.1 Redeveloper's Default. The Township shall have the right to declare the Redeveloper in default of this Agreement ("Default") in the event that any of the events set forth below in Section 6.2 occur. For purposes of this Agreement, the term "Default" shall mean the occurrence of any of the events set forth in Section 5.2, after notice and opportunity to cure, and which may result in the Township exercising any or all of its remedies under Section 6.4 of this Agreement to terminate the Redeveloper's rights under this Agreement.

6.2 Default Events. The Township shall have the right to declare the Redeveloper in default of this Agreement in the event of the occurrence of any of the following (each, an "Event of Default"):

- The Redeveloper's failure to perform substantially, or substantial defect in performance by the Redeveloper, of any of its material obligations under this Agreement; or
- A final and un-appealable determination by a court of competent jurisdiction that the Redeveloper is insolvent; or
- The Redeveloper shall file a voluntary petition in bankruptcy; or
- The sending of a notice to the Township by the Redeveloper that it has determined not to proceed with the Project, unless the Redeveloper has the right not to proceed, under the terms of this Agreement; or
- Any judgment of bankruptcy against the Redeveloper, or any general assignment for the benefit of creditors by the Redeveloper, or any appointment of a receiver for the Redeveloper which is not stayed or dismissed within ninety (90) days of such appointment; or
- Abandonment of the Project by the Redeveloper for a period of more than ninety (90) consecutive days after commencement, without explanation, which shall mean the failure to staff adequately or diligently to prosecute the Approvals or to construct the Project to ensure the achievement of the Project Schedule.

6.3 Default Notice. Upon an occurrence of an Event of Default, the Township shall notify the Redeveloper in writing that it has declared the Redeveloper in default (hereinafter "Default Notice"). Absent such Default Notice, no declaration of Default shall be deemed binding against the Redeveloper. The Default Notice shall be given by the Township Committee within ten (10) days of action by the Township Committee or its designee determining that an Event of Default has occurred and shall state the basis for determining that an Event of Default has occurred. Upon receipt of the Default Notice, the Redeveloper shall have thirty (30) days after the Redeveloper's receipt of the Default Notice, in the case of a financial obligation, to respond to such Default Notice, or in the case of a non-financial obligation, the Redeveloper shall have forty-five (45) days after the Redeveloper's receipt of the Default Notice, to commence to cure the Event of Default and shall be afforded additional time to cure, provided that the Redeveloper has, within the applicable time period, commenced and is diligently and continuously proceeding to correct same. In the event that the Redeveloper does not cure the Default as set forth herein, the Township shall have the right to exercise the remedies set forth below. The Parties may agree in writing, notwithstanding the provisions of this paragraph, to extend the period of time by which the Redeveloper must respond to the Default Notice or the period of time in

which the Redeveloper must cure the Default.

6.4 Default Rights and Remedies of Township: Upon the occurrence of a Default which has not been cured pursuant to Section 6.3, the Township shall, to the fullest extent permitted by law, have each of the following rights and remedies: (i) Terminate this Agreement, in whole or in part, upon the expiration of the applicable cure period with respect to the Project; (ii) Withhold the issuance of any Certificate of Completion as to the Project until the Default has been corrected; and (iii) any other remedy at law or equity, including but not limited to, de-designating the Redeveloper and any statutory rights of the Township, none of which are waived by the execution of this Agreement.

6.5 Rights and Remedies of the Township: No Waiver by Delay. The exercise of any rights and remedies of the Township, whether provided by this Agreement or otherwise, shall not constitute a waiver of any other rights or remedies provided under this Agreement and, except as otherwise specifically provided by this Agreement, the exercise by the Township of any one or more of such rights or remedies shall not preclude the exercise, at the same or at different times, of any other such rights or remedies for the same Default, or for the same failure in respect to any of the terms, covenants, conditions or provisions of this Agreement or any of its remedies for any other default or breach. No delay by the Township in asserting any rights or exercising any remedy shall operate as a waiver of such rights or remedy or otherwise deprive the Township of, or limit such rights and remedies in any way (it being the intent of this provision that the Township shall not be constrained, so as to avoid the risk of being deprived of or limited in the exercise of any remedy provided in this Section because of concepts of waiver, laches, or otherwise, to exercise such remedy at a time when it may still hope otherwise to resolve the problems created by the Default involved); nor shall any waiver by the Township with respect to any specific Default by the Redeveloper under this Section be considered or treated as a waiver of the rights of the Township with respect to any other Defaults by the Redeveloper under this Section or with respect to the particular Default, except to the extent specifically waived in writing.

6.6 Township Default. The failure of the Township to substantially perform, or a substantial defect in performance by the Township of, any of its obligations under this Agreement ("Township Event of Default") shall constitute a default by the Township.

6.7 Cure by Township. The Township shall have the right to cure any Township

Event of Default, provided that the Township commences the cure thereof within forty-five (45) days of the date that the Redeveloper notifies the Township, in writing, that a Township Event of Default has occurred, unless a longer period is expressly required to comply with statutory limitations or requirements; provided, further, that if the Township diligently and continuously proceeds to cure the Township Event of Default, the Township shall be afforded an additional reasonable period of time to complete the cure, given the nature of the Default.

6.8 Rights and Remedies of Redeveloper. In the event that the Township does not cure the Township Event of Default as set forth herein, the Redeveloper shall be entitled to all remedies at law and equity, including the remedy of specific performance.

SECTION 7 LENDER PROTECTIVE PROVISIONS

7.1 Rights of Mortgagee. In the event of any default in connection with the terms and provisions of any lease or financial arrangement providing for a mortgage interest upon the Project or Project Site, the relevant financial institutions shall be entitled to the protection of N.J.S.A. 55:17-1 et seq. providing for notification, a reasonable opportunity (in light of the nature of the default and the available means to correct it), to cure the same, and shall be afforded additional time to diligently and continuously proceed to correct same in a reasonable period of time given the nature of the breach, provided that the financial institution or lender has, within thirty (30) days of the receipt of notice, commenced and is diligently pursuing the correction of such failure or defect. In order to provide additional and supplemental remedies to the holder of a mortgage loan on the Project or Project Site in the event of a default with the terms and provisions of its mortgage loan, which remedies are deemed necessary and appropriate to the feasibility of making private funds available to finance the Project, the holder of a loan may exercise the following rights: the right to cure, right to possession, right to assume control of mortgagor, right to enter into possession of and operate premises, right to the entry of a judgment of strict foreclosure, right to recover on the underlying loan obligation without first proceeding with foreclosure, right to proceed to foreclosure, separately from or together with suit on the underlying obligation, and such other rights as are specifically provided in N.J.S.A. 55:17-8.

7.2 No Termination for Mortgage Default. This Agreement, being a lease or financial arrangement made by a governmental body or agency of the State of New Jersey pursuant to statutes in connection with a project for redevelopment, renewal or rehabilitation, shall continue in full force and effect beyond any

default in or foreclosure of any mortgage loan made to finance the Project, as though such default or foreclosure had not occurred, subject to the provisions of N.J.S.A. 55:17-1 et seq.

7.3 Attornment. The Township agrees to execute recognition and attornment documents that may reasonably be required by any lender and that are reasonably acceptable to the Township, and further to make any technical, non-substantive modifications to this Agreement that may be reasonably required for the Financing; provided, however, that the Redeveloper shall reimburse the Township for all costs incurred in connection with the review and approval of said documents (including the preparation of any approving resolutions) by the Township Attorney.

7.4 Notice to Mortgagee. Whenever the Township shall deliver any notice or demand to the Redeveloper with respect to any Event of Default by the Redeveloper of its obligations or covenants under this Agreement, the Township shall simultaneously forward a copy of such notice or demand to each holder of any mortgage at the last known address of such holder shown in the land records of the County or any other address provided to the Township by such mortgage holder. No such notice to the Redeveloper shall be effective unless a copy is also sent to the holder of such mortgage. No Default will become effective if the holder of any Financing is curing such Default.

7.5 Mortgagee's Right to Cure Default and Assume Redeveloper's Obligations. After any Event of Default, each holder of any Financing shall (insofar as the rights of the Township are concerned) have the right, at its option, to cure or remedy such Default and to add the cost thereof to its mortgage and shall have an additional thirty (30) days to do so, provided that, if the Default relates to construction of the Project, nothing contained in this Agreement shall be deemed to require the holder to obtain the Township's approval, either before or after foreclosure or any action in lieu thereof, to undertake or continue the construction or completion of the Project or any part thereof. Any such holder who shall properly complete the Project or applicable part thereof shall be entitled, upon written request made to the Township, to receive the certificate of occupancy for the units or buildings within the Project and the Certificates of Completion as set forth in Section 4.5 hereof.

SECTION 8. NONDISCRIMINATION AND RESTRICTIONS ON TRANSFER

8.1 Nondiscrimination. The Redeveloper agrees, and all Deed(s) for any parcels

in the Project Site shall contain covenants running with the land, perpetual in duration, binding on the Redeveloper, its successors and assigns, and every successor in interest to the parcels, that the owners of the properties to be redeveloped shall not discriminate upon the basis of race, color, creed, or national origin in the sale, lease, or rental or in the use or occupancy of the properties or any improvements erected or to be erected thereon, or any part thereof.

It is intended and agreed, and the Deed(s) shall so expressly provide, that the agreements and covenants provided herein above shall be covenants running with the land and that they shall, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in this Agreement, be binding, to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by, the Township, its successors and assigns, any successor in interest to the parcels, or in any part thereof, and the owner of any other land (or any other interest in such land) in the Project Site which is subject to the land use requirements and restrictions of the Redevelopment Plan, against the Redeveloper, its successors and assigns, and every successor in interest to the parcels.

8.2 Restrictions on Transfer. (a) Prior to the issuance of a Certificate of Completion for the Project or any part thereof, pursuant to N.J.S.A. 40A:12A-9(a), the Redeveloper shall, except as set forth in subsection (b) below, be without power to sell, lease, assign, mortgage, or otherwise transfer or encumber (any of the foregoing, a "Transfer") this Agreement, the Project, the Project Site or any such part of or interest in the foregoing, without the written consent of the Township, which consent shall not be unreasonably withheld, conditioned or delayed, subject to compliance with subsection (c) below.

(b) Notwithstanding the foregoing, prior to the Certificate of Completion, the following transfers and encumbrances ("Permitted Transfers") shall be permitted without any consent or any further approval by the Township Committee: (i) leases or contracts of sale for individual residential units (ii) a mortgage or mortgages and other liens and encumbrances for the purposes of financing costs associated with the acquisition, development, construction and marketing of the Project; (iii) utility, access, ingress, egress and other development easements; (iv) environmental covenants and restrictions imposed by a regulatory agency as a condition of any permit or approval; (v) a transfer of an interest in the Redeveloper or the Project Site to an entity owned or controlled by the Redeveloper (for purposes of this Agreement defined to mean at least a 51% or greater ownership interest), including transfer to an urban renewal entity if necessary in relation to any tax abatement that may be approved; (vi) a transfer of

an interest in the Redeveloper limited liability company for the benefit of children, parents or heirs of a party owning an interest in the Redeveloper; and (vii) any contract or agreement with respect to any of the foregoing exceptions. The foregoing shall not apply, and therefore no approval will be required with respect to, a change of form of the Redeveloper entity, provided that there is no change in the beneficial ownership of the Redeveloper.

(c) If, prior to the Certificate of Completion, there is a Transfer which is not a Permitted Transfer as set forth in subsection (b) above, such Transfer shall require the consent of the Township Committee, the Township Committee's consent shall be conditioned upon the Redeveloper satisfying the following conditions to the reasonable satisfaction of the Township Committee: (i) the Redeveloper presents evidence demonstrating the reputability of the transferee or assignee and the financial ability of the transferee or assignee to fulfill the obligations of this Agreement (or, if the Transfer is of a part of the Project Site or rights hereunder, the obligations relating to such part); and (ii) the Redeveloper presents evidence demonstrating the competence and experience of management of the proposed transferee or assignee to complete the relevant section of the Project.

(d) A determination of compliance with the criteria set forth in subsection (c) above shall be based on the following information and documentation to be submitted by the transferee or assignee: (i) financial statements indicating (1) net worth, or (2) unencumbered lines of credit; (ii) evidence of loan commitments sufficient to carry out the Project of the transferee or assignee; and (iii) a letter of recommendation from a prior project manager or owner for whom the prospective transferee or assignee has at least ten (10) years of experience in the construction of residential multi-family housing in the State of New Jersey, and (iv) has undertaken a comparable development in the State of New Jersey.

(e) A proposed transferee or assignee shall be presumed to be reputable and have the necessary financial ability if the above information demonstrates: (i) that the proposed transferee or assignee is of good character and reputability as evidenced by the letter from a prior manager or owner for whom the prospective transferee or assignee has undertaken a comparable development in the State of New Jersey; and (ii) that the proposed transferee or assignee has sufficient net worth and credit worthiness to carry out the Project, or part thereof, or loan commitments in amounts and on terms sufficient to permit the completion of the Project, or relevant part thereof.

(f) Upon the granting of such consent, the Township shall issue a certificate to the transferee or assignee evidencing such consent and certifying that no Default

by the Redeveloper or any other entity under this Agreement shall impair such transferee's or assignee's rights under this Agreement.

8.3. Subsequent Conveyance by Redeveloper. Upon the issuance of a Certificate of Completion for any portion of the Project on the Project Site, the Redeveloper shall have the right to sell, lease or otherwise transfer its interest in the real property of such portion of the Project without limitation.

SECTION 9. AFFORDABLE RENTAL HOUSING.

9.1 The Affordable Units shall be constructed, marketed, rented and maintained in strict accordance with the Fair Housing Act, N.J.S.A. 52:27D-301 et seq., Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq., Township Affordable Housing Ordinances; and rules or regulations adopted by the New Jersey Council on Affordable Housing, New Jersey Department of Community Affairs and/or New Jersey Court of competent jurisdiction, as well as any successor statutes, rules, regulations or ordinances (collectively the "Fair Housing Laws"). Consistent with the obligation to construct the Project in accordance with the Fair Housing Laws, but not intending to limit that obligation, each Affordable Unit shall be deed restricted with affordability controls as prescribed by the Fair Housing Laws. The affordability controls shall remain in place until released by the Township and for a minimum period of thirty (30) years. Redeveloper shall cooperate with the Township in providing any information that is necessary to complete the Township's annual monitoring. Prior to the issuance of any Certificates of Occupancy, Redeveloper shall provide the Township with an Affordable Housing Deed Restriction for Rental Projects in the form attached hereto and incorporated herein as **Exhibit F** covering all of the Affordable Units.

SECTION 10. REPRESENTATIONS AND WARRANTIES

10.1. The Redeveloper. The Redeveloper represents and warrants as follows:

(a) it is a limited liability company duly created under the laws of the State of New Jersey and is duly organized and existing in good standing;

(b) it has full power and authority to enter into this Agreement, to consummate the transactions contemplated herein and to perform all of its obligations hereunder;

(c) the execution, delivery and performance by the Redeveloper of this Agreement has been duly authorized, the person executing this Agreement on its

behalf is authorized to do so, and this Agreement constitutes a valid and legally binding obligation of the Redeveloper;

(d) it is financially capable to undertake and fulfill the obligations of the Redeveloper hereunder, subject to the terms and conditions of Section 4.1. above;

(e) the Redeveloper has the necessary expertise, qualifications, staff and resources to undertake and fulfill its obligations hereunder;

(f) there is no action, proceeding or investigation now pending or threatened, nor any basis therefore, known or believed to exist which (i) questions the validity of this Agreement or any action or act taken or to be taken by the Redeveloper pursuant to this Agreement; or (ii) is likely to result in a material adverse change in its agency, property, assets, liabilities or condition or which will materially and substantially impair its ability to perform pursuant to the terms of this Agreement; and

(g) the execution, delivery, or performance of this Agreement will not constitute a violation of any of the Redeveloper's organizational documents, or of any mortgage, indenture, instrument, judgment or other agreement to which it is a party or by which it is bound.

9.1. The Township. The Township represents and warrants as follows:

(a) that the Township Committee duly adopted the Redevelopment Plan in accordance with the Redevelopment Law;

(b) that the Township Committee is duly and properly designated as the Redevelopment Entity, pursuant to the Redevelopment Law;

(c) that the Township is executing this Agreement in its capacity as the designated redevelopment agency for the Project Site and that this Agreement constitutes a valid and legally binding obligation of the Township;

(d) that there is no action, proceeding or investigation now pending or threatened, nor any basis therefore, known or believed to exist which (i) questions the validity of this Agreement or any action or act taken or to be taken by the Township pursuant to this Agreement; or (ii) is likely to result in a material adverse change in its agency, property, assets, liabilities or condition or which will materially and substantially impair its ability to perform pursuant to the terms of this Agreement; and

(e) that the zoning of the Project Site, as amended pursuant to the Amended Redevelopment Plan, permits the Redevelopment of the Project Site for the Project, subject to Board and all other Approvals.

SECTION 11. FEES; INDEMNIFICATION

11.1 Escrow Fees. The Redeveloper shall have the obligation to maintain an escrow account for the purposes of paying for the Township's professional and administrative costs related to the Project in accordance with the terms of that certain Funding Agreement approved by the Township on August 15, 2019 (the "Funding Agreement"). The obligation to maintain such escrow account shall continue until such time as the final Certificate of Completion is issued by the Township for the Project, at which time the escrow account shall close and the Redeveloper shall no longer have the obligation to pay for the Township's professional and administrative costs related to the Project. Upon issuance of the final Certificate of Completion, the Township shall provide the Redeveloper with a final invoice for the Reimbursable Costs incurred by the Township. Any balance due the Redeveloper of any of the Escrow Funds, will be refunded at the end of the Interim Period, or shall be disbursed in accordance with the Redeveloper's instructions.

In accepting the above referenced escrow deposit from the Redeveloper, the Township shall comply fully with the standards set forth in N.J.S.A. 40:55D-53, et al. At any time prior to the completion of the Project, upon thirty (30) days written notice, the Township will provide Redeveloper with a full and detailed accounting of any and all costs charged to the Redeveloper pursuant to the escrow agreement between the parties.

The phrase "Reimbursable Costs" shall include, but not be limited to, all reasonable fees and costs related to the Project including those fees and costs incurred by the Township as a result of the Township's utilization of qualified professional consultants, including but not limited to planners, engineers and attorneys as designated by the Township, who shall participate in the review of any and all other plans, renderings, or reports directly relating to the proposed Redevelopment Project and the drafting and negotiation of the Redevelopment Agreement and Financial Agreement. The Redeveloper shall not be responsible for any professional or administrative costs incurred by the Township or work performed by Township employees, consultants or professionals, which work was performed for any prior redeveloper of the Property.

11.2 Escrow Funds. In accordance with the terms of the Funding Agreement, the

Redeveloper has deposited the sum of Twenty Five Thousand (\$25,000.00) Dollars in escrow with the Township pursuant to this Agreement. Said amount shall continue to be maintained by the Township in a separate escrow account and shall be drawn down upon the Township to pay the Reimbursable Costs. This Twenty Five Thousand (\$25,000.00) Dollar amount shall be referred to as the Escrow Funds. If, as a result of the Township's payment of the Reimbursable Costs, the Escrow Funds drop below Three Thousand (\$3,000.00) Dollars, the Township shall notify the Redeveloper in writing along with copies of all invoices and a ledger of disbursements made as of the date of the written notice. The Redeveloper shall replenish the Escrow Funds in accordance with the terms of the Funding Agreement. Provided that during such period the Township has expended any Reimbursable Costs, every thirty (30) days, the Township shall provide the Redeveloper with a statement of those Reimbursable Costs paid from the proceeds of the Escrow Funds. The Township shall further provide the Redeveloper with individual invoices on a regular basis when received by the Township that are identified as the Reimbursable Costs. Any failure on part of the Township to affirmatively provide the Redeveloper with either a statement(s) of the Reimbursable Costs and/or invoices describing same shall not relieve the Redeveloper of its obligation to pay to the Township the Escrow Costs as provided for herein.

11.3 Indemnification. The Redeveloper agrees to indemnify and hold harmless the Township and the Township Committee against, and the Redeveloper shall pay, any and all liability, loss, cost, damage, claims, judgments or expenses of any and all kinds or nature and however arising, imposed by law, which the Township may sustain, be subject to or be caused to incur by reason of any claim, suit or action based upon personal injury, death, or damage to property, whether real, personal or mixed, resulting from the Redeveloper's activities in constructing the Project or the Redeveloper's actual breach of any contracts entered into by the Redeveloper which relate to construction of the Project, or resulting solely from the Redeveloper's ownership of portions of the Project Site, or resulting from the acquisition, construction or installation of the Project, including but not limited to any and all claims by workmen, employees and agents of the Redeveloper and unrelated third parties, which claims result from the construction of the Project, the maintenance and functioning of Project improvements, or any other activities of the Redeveloper within the Project Site during the construction of the Project. It is mutually agreed by the Redeveloper and the Township that neither the Township nor its elected and appointed officials, volunteers, officers, agents, servants or employees shall be liable in any event for any action performed under this Agreement and that the Redeveloper shall save the Township and its elected and appointed officials, volunteers, officers, agents and employees harmless from

any claim or suit in connection with the Redeveloper's obligations under this Agreement, except for any claim or suit arising from the intentional, willful and negligent acts of the Township or its elected and appointed officials, volunteers, officers, agents, servants or employees.

The Redeveloper, at its own cost and expense, shall defend any and all such claims, suits and actions, as described in this Section, which may be brought or asserted against the Township or its elected and appointed officials, volunteers, officers, agents, servants or employees. Any reasonable attorneys' fees in situations where it is necessary under applicable law for the Township to engage its own attorneys, reasonable experts' testimony costs and all costs to defend the Township or any of its elected and appointed officials, volunteers, officers, agents, servants, or employees shall be reimbursed to it by the Redeveloper in connection with such indemnification claim.

As between the Redeveloper and the Township, the Redeveloper agrees and specifically assumes any and all responsibility for the investigation and remediation of all environmental conditions, whether known or unknown, on, under or migrating to or from the Project Site or anything affected off-site, as may be required by applicable Environmental Laws, and the Redeveloper shall bear all costs for such investigation and remediation of the Project Site. The Redeveloper shall use reasonable efforts to obtain all environmental approvals that may be required for the remediation of the Project Site. Any and all environmental costs shall be the sole responsibility of the Redeveloper.

Without limitation on any obligation to defend and indemnify pursuant to this Agreement, and without limitation to such obligation which the Redeveloper may have as a matter of law, the Redeveloper shall indemnify, defend, release and hold the Township and its officials and agents harmless against (a) all claims or alleged claims and response costs and fines and penalties against the Township and its officials and agents or the Redeveloper by any governmental authority or third party due to the presence of Hazardous Substances on or within the Project Site, or the discharge of Hazardous Substances in excess of any limitations provided by the applicable Environmental Laws, whenever such Hazardous Substances become present on or within the Project Site, whether prior to or after the Effective Date, (b) all claims or alleged claims against the Township and its officials and agents by any governmental authority or third party for injunctive relief for the abatement of a nuisance or related to the presence of Hazardous Substances on or within the Project Site or the discharge of Hazardous Substances in excess of any limitations provided by the applicable Environmental Laws, whether prior to or after the Effective Date, and (c) all claims or alleged claims of

bodily injury or property damage asserted against the Township and its officials and agents by third Parties due to the presence of Hazardous Substances which become present on or within the Project Site, or the discharge of Hazardous Substances in excess of any limitations provided by the applicable Environmental Laws, whenever such Hazardous Substances become present on or within the Project Site whether prior to or after the Effective Date. This indemnity shall survive termination of this Redevelopment Agreement.

SECTION 12. CONSTRUCTION PROVISIONS.

12.1 Illumination, Noise and Pollution. The Redeveloper shall follow all applicable construction laws, regulations, ordinances, and standards in the industry relating to illumination, noise and pollution.

12.2 Security and Safety. The Redeveloper shall be cognizant of and address all traffic safety issues by complying with all applicable traffic safety provisions both during and after construction of the Project.

12.3 Hours of Construction. Hours of construction, including, installation of any improvements, shall be 7:00 a.m. to 5:00 p.m., Monday through Friday and 8:00 a.m. to 5:00 p.m. on Saturday. There shall be no construction on Sundays and federal holidays outside or on the exterior of the building. Interior work shall be permitted on all days.

12.4 Township Observation, Access and Inspections. The Township, and its consultants, employees and agents, shall be given free access to observe construction of the Project, including, but not limited to, roadways, sanitary sewers/septics, water mains/wells, storm sewers, landscaping for buffer areas, street lighting, woodland management and appurtenances associated with the Board-approved Plans. The purpose of such observations shall be limited to providing the Township with a greater degree of confidence that such improvements will be constructed in accordance with the Redeveloper's approved submittals. The Township, or its representatives, consultants, employees or agents, shall not supervise, direct or have control over the Redeveloper's work during such observations or as a result thereof nor shall they have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by the Redeveloper, for safety precautions and programs incident to the work of the Redeveloper or for any failure of the Redeveloper to comply with applicable laws, rules, regulations, ordinances, codes or orders. The Redeveloper is not an agent or employee of the Township.

In addition to all remedies at law or in equity, in the event that Redeveloper fails or refuses to comply with any oral or written representation made to any municipal official (including but not limited to the Township Engineer, Administrator, Zoning Officer or Township Committee member), the Township Engineer or Zoning Officer shall provide written notice to the Redeveloper of such failure or refusal and allow the Redeveloper to cure said failure or refusal within ten (10) days . If the failure or refusal continues unabated after the aforesaid ten (10) days, the Township Engineer or Zoning Officer shall have the right to issue a Stop Work Order on the Project until the failure or refusal is abated to the satisfaction of the Township Engineer or Zoning Officer.

12.5 Attached hereto as **Exhibit G** is the proposed Landscape Plan as required by Resolution PB 20-05 approving Redeveloper's Site Plan. The Landscape Plan may be modified and supplemented by the Township Engineer and Township Planner prior to installation of the plantings identified on the attached Landscape Plan.

SECTION 13. PERFORMANCE, MAINTENANCE AND OTHER GUARANTEES.

13.1 Guarantees Required. Redeveloper shall post performance and maintenance guarantees in accordance with the provisions of N.J.S.A. 40:55D-53 *et seq.* of the MLUL and all applicable laws, in the following manner:

(a) Prior to the commencement of construction, a performance bond or irrevocable letter of credit (or such other form of guarantee allowed in accordance with the MLUL at the discretion of the Redeveloper) in a form reasonably acceptable to the Township Attorney (provided that the New Jersey Department of Community Affairs' standard form shall be deemed reasonably acceptable to the Township Attorney) for those improvements for which a performance guarantee may be required pursuant to the MLUL and as may be required pursuant to the approved site plan and Planning Board resolution, in an amount not to exceed 120% of the cost of installation, which cost shall be determined by the Township Engineer according to the method of calculation set forth in N.J.S.A. 50:55D-53. Notwithstanding the foregoing, under no circumstances shall any form of performance guarantee be required for any building comprising the Project.

(b) A maintenance guarantee in respect of those improvements which may be bonded in accordance with the MLUL in the form of a surety bond (or such other form of guarantee allowed in accordance with the MLUL at the discretion of the Redeveloper) for a period not to exceed two (2) years after final acceptance of the improvements, in an amount not to exceed fifteen (15%)

percent of the cost of installation of the improvements which are being released, which cost shall be determined by the Township Engineer according to the method of calculation set forth in N.J.S.A. 40:55D-53.

(c) If authorized by ordinance duly adopted by the Warren Township Committee prior to the commencement of construction, Redeveloper may be required to post a temporary certificate of occupancy bond and/or a safety and stabilization bond, as necessary, in accordance with the MLUL and the Township ordinances.

(d) If applicable, all bonds must name the Township as an obligee, and Redeveloper shall deliver a copy of the bonds to the Township prior to the commencement of construction. To the extent that a surety bond is provided, it shall be provided by a company licensed by the New Jersey Department of Banking and Insurance or otherwise authorized by the New Jersey Department of Banking and Insurance to do business in the State. In the event that any insurance company, financial institution or other entity issuing a performance guarantee hereunder shall become insolvent, or shall declare bankruptcy or otherwise be subject to reorganization, rehabilitation, or other action, whereby state or federal agencies have taken over management of the entity, Redeveloper shall replace the bond within thirty (30) days of notice from the Redeveloper.

(e) In the event that any bond should lapse, be cancelled or withdrawn, or otherwise not remain in full force and effect as the result of any act or omission by Redeveloper, then until an approved replacement of the lapsed bond has been deposited with the Township, the Township may require Redeveloper to cease and desist any and all work on the Project, unless the improvements required to be bonded have been completed and approved by the Township. In the event any bond shall lapse, be cancelled or withdrawn, or otherwise not remain in full force and effect through no act or omission of the Redeveloper, then unless the Redeveloper fails to replace the bond within ten (10) days of notice given to the Redeveloper by the Township, the Township may require Redeveloper to cease and desist work on the project unless the improvements required to be bonded have been completed and approved by the Township.

(f) In the event that other governmental agencies or public utilities automatically will own the utilities to be installed, or the improvements are covered by a performance or maintenance guarantee to another governmental agency, no performance or maintenance guarantee, as the case may be, shall be

required by the municipality for such utilities or improvements.

(g). Any extension of the time allowed for installation of the improvements for which a performance guarantee has been provided and any release or partial release of any performance guarantee provided pursuant to this Agreement shall be pursuant to the MLUL.

SECTION 14. MISCELLANEOUS

14.1 Force Majeure. The failure of either Party to perform any of the provisions of this Agreement by reason of any of the following shall not constitute a Default or breach of this Agreement: labor disputes, strikes, picket lines, unavailability of materials, freight and delivery delays, energy shortages, boycott efforts, fires, floods, freezes, epidemics, pandemics, extreme weather conditions, accidents, war (whether or not declared), riots, acts of God, acts of government (including, without limitation, any agency or department of the United States of America or the State of New Jersey, acts or omissions of Third Parties (including litigation by Third Parties), or other causes which are beyond the reasonable control of the Party asserting an excusable delay that are subsequent to the date of this Agreement ("Force Majeure") provided however (A) that the non-performing party, (i) give the other party prompt written notice describing the particulars of the claimed Force Majeure, including, but not limited to, the nature of the occurrence and its expected duration within thirty (30) days of the commencement of same, (ii) continue to furnish timely regular reports with respect thereto during the period of the Force Majeure and (iii) provide notice of the termination of the Force Majeure; (B) the suspension of performance is of no greater scope and of no longer duration than is required by the Force Majeure and the reasonable time required to secure any applicable insurance settlement; (C) the Force Majeure shall not excuse any pre-existing Event of Default hereunder; (D) the non-performing party uses commercially reasonable efforts to remedy its inability to perform and to mitigate, in an expeditious manner, any losses to the other party; (E) the Force Majeure described above is not otherwise due to the willful or negligent acts or omissions of the party relying on such Force Majeure; and (F) Economic hardship, including changes in tax laws and/or loss of profits, shall not constitute a Force Majeure.

14.2 Tax Assessments. The parties acknowledge that, to the extent that a Financial Agreement is entered into between the Redeveloper and the Township, such Financial Agreement will control the payments in lieu of taxes applicable for

the Property. Otherwise, the Redeveloper shall pay standard ad valorem taxes on the Project Site.

14.3 Paragraph Headings. The headings and numbering of paragraphs and sections of this Agreement are set forth for ease of reference only and are not to be construed or considered to impart meaning to any provision of this Agreement.

14.4 Governing Law. This Agreement shall be governed by and construed under the laws of the State of New Jersey, and any litigation relating to this Agreement shall be brought in the Superior Court of New Jersey and venued in the County of Somerset.

14.5 Amendments to Agreement. This Agreement and the documents and exhibits appended hereto and incorporated herein by reference represents the entire agreement by and between the Parties with respect to the development of the Project Site and the construction of the Project. No amendment to this Agreement shall be considered binding on either of the Parties unless such amendment is in writing and specifically recites that it is being entered into by and between the Township and the Redeveloper with the specific intention to modify the terms of this Agreement. In the event that any such amendment is agreed to by the Parties, such amendment shall not modify, change or amend any portion of this Agreement except those specific portions that are recited in the amendment as being modified by such amendment. All other portions of this Agreement not so specifically amended in writing shall remain in full force and effect.

14.6 Severability. Should any provision, term, paragraph or other portion or portions of this Agreement be held by any court of competent jurisdiction to be in violation of any applicable law or against public policy or held to be null and void for any reason whatsoever, such portion shall be deemed severable, so that such determination, unless it prohibits or prevents the performance of this Agreement in substantial part, shall not affect the validity of any other provisions of this Agreement, and such other provisions shall be deemed to be in full force and effect and binding on the Parties unless amended in accordance with Section 14.5 of this Agreement.

14.7 Incorporation of Recitals. The recitals set forth in Section 1 of this Agreement are hereby incorporated by reference and are considered part of this Agreement.

14.8 Casualty. In the event that all or any substantial portion of the Project Site is damaged or destroyed by casualty prior to completion of construction, the Redeveloper may, at its option, terminate this Agreement by written notice to the Township within thirty (30) days after the damage or casualty. For purposes of this provision "substantial portion" shall be defined as any portion which is equal to or in excess of twenty-five percent (25%) of the total acreage of the Project Site or that portion which, in the sole opinion of the Redeveloper, would prevent the successful completion of the Project as envisioned by this Agreement.

14.9 Insurance. The Redeveloper shall purchase and maintain during the construction of the improvements a Comprehensive General Liability Insurance Policy with minimum limits of One Million (\$1,000,000.00) Dollars per occurrence, and One Million (\$1,000,000.00) Dollars in the aggregate. Said insurance coverage shall be in accordance with the requirements of the Township Attorney. The policy shall indicate the Township of Warren as additional insured with respect to their interest in work performed by the above-named insured at the Project. The coverage shall include endorsements for broad form property damage; explosion, collapse and underground hazards; completed operations; and contractual liability. The contractual liability coverage shall specifically apply to the above indemnification clause. All liability coverage shall be on an occurrence basis. Certificates of Insurance evidencing the foregoing coverage shall be provided to the Township before work on the improvements begins and on an on-going basis, as the insurance is reviewed from time to time.

14.10 Waivers. Any right or remedy which any Party may have under this Agreement may be waived in writing by the relevant Party without the execution of a new or supplemental agreement. Except as otherwise provided in this Agreement, said right of waiver shall include the right to waive a default. No waiver made by any Party with respect to the performance, or manner or time thereof, of any obligation of any other Party or any condition to its own obligation under this Agreement shall be considered a waiver of any rights of the Party making the waiver with respect to the particular obligation of the other Party or condition of its own obligation beyond those expressly waived and to the extent thereof, or a waiver in any respect in regard to any other rights of the Party making the waiver.

14.11 No Significance of Party Drafting. The Parties agree that in the construction or interpretation of this Agreement, no significance shall be attributed, in presumption or otherwise, to the identity of the party drafting the provision or provisions in question.

14.12 Recordation. A short form memorandum of this Agreement, and any modifications thereof or additions thereto, may be duly recorded by the Redeveloper in the Book of Deeds of the County of Somerset, and the cost of such recordation and the cost of any and all federal revenue stamps, which legally must be attached to such memorandum, shall be paid by the Redevelop

14.13 Notices. Any notice provided or required to be given under this Agreement must be in writing and shall be served (and shall be deemed to have been served) by delivering a copy thereof to the Party being served in person, by commercial courier or by email, with electronic proof of delivery, as follows:

As to the Township:

Township of Warren
46 Mountain Boulevard
Warren, NJ 07059
Attn: Township Administrator
Email:

With a copy to:

Jeffrey B. Lehrer, Esq.
DiFrancesco Bateman et als
15 Mountain Blvd.
Warren, N.J. 07059
Email: jlehrer@newjerseylaw.net

As to the Redeveloper:

Brian S. Silbert, President & CEO
Silbert Realty and Management Co., Inc.
152 Liberty Corner Road, Suite 203
Warren, New Jersey 07059

With a copy to:

Brian Wolfson, Esq.
O'Toole Scrivo
14 Village Park Road
Cedar Grove, New Jersey 07009

From time to time, either Party may designate a different person or address for all of the purposes of this notice provision by giving the other Party no less than ten (10) days notice in advance of such change of address in accordance with the provisions hereof.

14.14 Counting of Days. Unless otherwise specifically set forth, all references to counting of days shall be calendar days; provided, however, that consistent with R. 1:3-1, in computing a period of time of less than seven (7) days, Saturdays and Sundays and legal holidays shall be excluded.

14.15 Waiver of Jury Trial. The Township and the Redeveloper hereby waive trial by jury in any action, proceeding or counterclaim brought by or against either Party on, or in respect of, any matter whatsoever arising out of, relating to or pertaining to this Agreement, the relationship between the Township and the Redeveloper and/or any claim of injury or damage from any other relationship between the Parties hereto.

14.16 Successors Bound. This Agreement shall be binding upon the respective Parties hereto and, subject to the limitations on transfer set forth in Section 8, their successors and assigns.

SECTION 15. ESTOPPEL CERTIFICATE.

15.1 Estoppel Certificate. Within thirty (30) days following written request therefor by a party hereto, the other party shall issue a signed estoppel certificate either stating that this Agreement is in full force and effect and that there is no default or breach under this Agreement (nor any event which, with the passage of time or the giving of notice would result in a default or breach under this Agreement), or stating the nature of the default or breach or event, if any. In the event the estoppel certificate discloses such a default, breach or event, it shall also state the manner in which such default, breach and/or event may be cured.

[Signature page to follow]

1/31/2024

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the Effective Date.

TOWNSHIP OF WARREN

Attest:

Cathy Reese, Township Clerk

By: _____

Michael Marion, Mayor

Witness:

**SILBERT REALTY & MANAGEMENT
COMPANY, INC.**

By: _____

Name:

Title:

1/31/2024

EXHIBIT A

SITE PLAN

[On file with Planning Board]

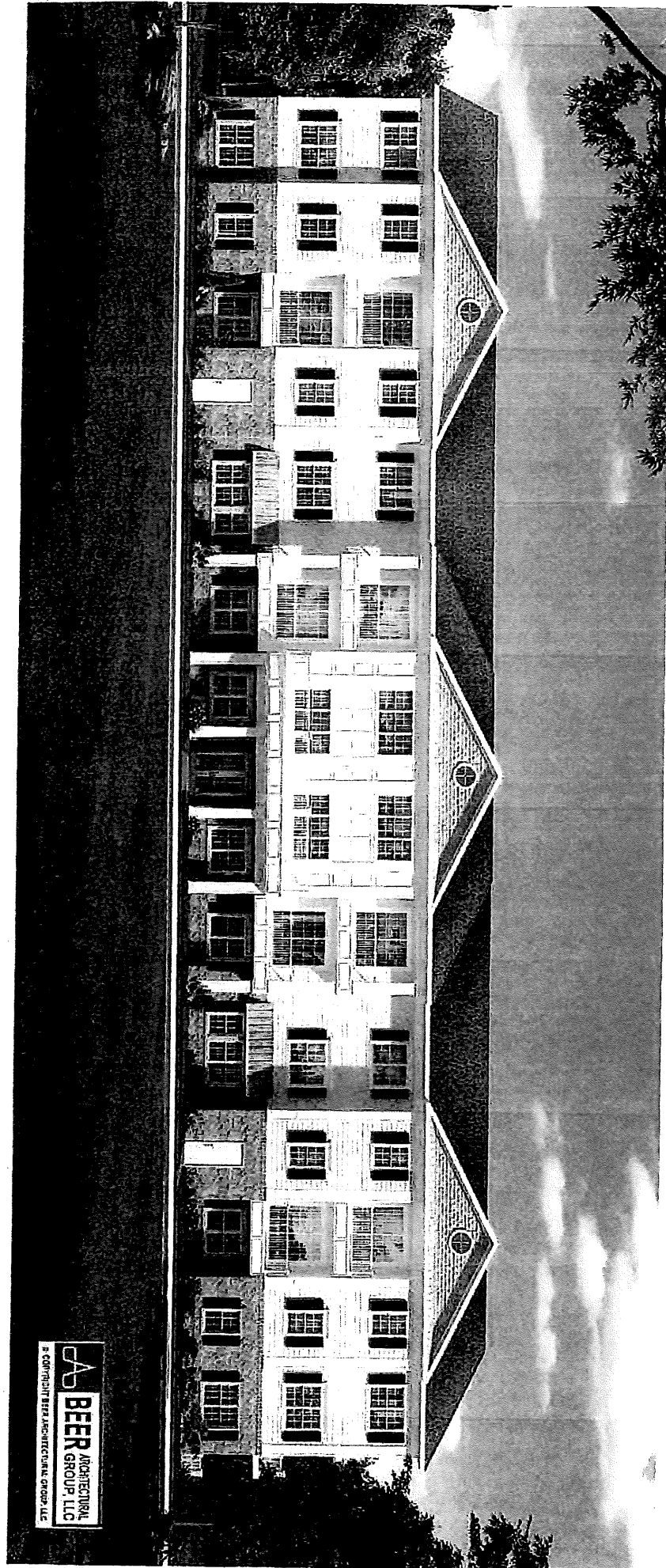
1/31/2024

EXHIBIT B
ARCHITECTURAL PLANS
[On file with Planning Board]

1/31/2024

EXHIBIT B-1
ARCHITECTURAL RENDERING OF PROJECT

1/31/2024



1/31/2024

EXHIBIT C
PLANNING BOARD RESOLUTION PB 20-05

1/31/2024



Township of Warren

Somerset County

46 Mountain Boulevard • Warren, New Jersey 07059
(908) 753-8000 • Fax (908) 757-9173 • www.warrennj.org

OFFICE OF THE
Planning Board
908-753-8000 Ext. 243
908-753-7768 (fax)

November 23, 2020

Lawrence Cutalo
O'Toole Scrivo
14 Village Park Road
Cedar Grove, NJ 07009

RE: PB 20-05
40 Mountain Blvd., LLC
Township of Warren, Somerset County NJ
Preliminary and Final Major Site Plan

Dear 40 Mountain Blvd. LLC,

Attached please find the signed copy of Resolution PB 20-05, memorialized at the November 23, 2020 meeting of the Warren Township Planning Board for the above-named project. Notice of Decision to memorialize resolution for approval of this application has been submitted for publication.

Please review and respond in writing to all of the conditions of the resolutions, attaching all necessary documentation, so that the compliance process may begin. Two complete sets of the plans must be submitted with the compliance package. The documents will be signed by the appropriate Board Officers when the compliance process is complete.

Respectfully,

Maryellen Vautin
Land Use Coordinator

Cc: 40 Mountain Blvd, LLC, c/o Silbert Realty & Management Company, Inc., 152 Liberty Corner Road, Warren, NJ 07059
Jeff Beer, A.I.A., Beer Architectural Group, 112 Town Center Drive, Warren, NJ 07059

Planning Board
Township of Warren, New Jersey
Resolution PB20-05

WHEREAS, 40 MOUNTAIN BLVD., LLC, Owner/Applicant, has applied to the Planning Board of the Township of Warren for Preliminary and Final Major Site Plan approval, Case PB 20-05, for premises known as Block 89, Lot 4, also known as 40 Mountain Boulevard, and

WHEREAS, the matter was heard and considered at a public hearing held on November 9, 2020, at which time the Board rendered its decision, and this resolution is intended to memorialize the same in accordance with *N.J.S.A. 40:55D-10(g) (2)*; and

WHEREAS, the Board, having considered the evidence presented by the Applicant, the arguments of its counsel, the plans and application on file and the reports of its consultants, makes the following findings of fact:

1) Applicant seeks Preliminary and Final Major Site Plan approval in accordance with plans prepared by Engineering and Land Planning Associates, Inc., dated September 2, 2020, consisting of 16 sheets, entitled "Preliminary and Final Major Site Plan 40 Mountain Boulevard Residential Project, Block 89, Lot 4, Tax Map Sheet 109, Warren Township, Somerset County, NJ," and architectural drawings by Beer Architectural Group, LLC, dated September 18, 2020, revised October 14, 2020, entitled, "40 Mountain Blvd. Apts." Sheets A-000 (cover sheet), A-100 (first floor plan), A-101 (second floor plan), A-102 (third floor plan), A-200 and A-201 (elevations).

2) The Board considered *inter alia* memoranda from the Township Engineer dated September 27, 2020, from the Township Planning Consultant dated September 28, 2020, from the Township Fire Marshall, dated September 22, 2020, from the Township

Health Department, dated September 28, 2020, Resolution No. 20-87 adopted by the Warren Township Sewerage Authority on October 21, 2020, and a freshwater letter of interpretation from the Division of Land Use Regulation, New Jersey Department of Environmental Protection, dated February 22, 2018.

3) The Board also reviewed and considered the 40 Mountain Boulevard (Block 89, Lot 4) Redevelopment Plan, prepared by John T. Chadwick, IV, P.P., dated March 31, 2020. On April 16, 2020 by Resolution No. 2020-091, the Township Committee designated 40 Mountain Boulevard, Block 89, Lot 4, as "an area in need of redevelopment" pursuant to the Local Redevelopment and Housing Law (N.J.S.A. 40A:12A-1 et seq.). The Township Committee then directed the Township Planner to prepare a redevelopment plan for the Redevelopment Area. This Redevelopment Plan serves to fulfill the statutory requirements pursuant to the LRHL. The objectives of the Plan are to:

- a) Revitalize the redevelopment area by providing the opportunity for redevelopment of the properties by redevelopers;
- b) Create land use and building requirements specific to the redevelopment area that will promote the development of a pedestrian friendly, human scale neighborhood with a cohesive, unified design theme;
- c) Utilize high quality design standards in construction of buildings and improvements; and
- d) Provide for a variety of affordable market rate housing units including income restricted units.

4) John E. Hansen, P.E. testified on behalf of applicant that the property, located in the UR-7 Zone, is adjacent to a township owned grassy field which is itself adjacent to the township library and municipal building. A gas station for many years, the building on Lot 4 had become vacant and dilapidated prior to applicant's acquisition of the property. According to the witness, the existing building has been demolished. The rear

of the property is wooded with a large area consisting of protected freshwater wetlands.

An aerial photograph of the site was marked A-1 and introduced into evidence.

5) Mr. Hansen reviewed the proposed solid waste and recycling area located at the rear of the parking lot, the proposed underground stormwater management system, a 38.5 sq. ft. site identification monumental sign proposed near the parking lot entrance, which he testified was consistent with other signs along the Boulevard, and the proposed parking, which would consist of 34 spaces as shown on the Site Plan. The witness conceded that the Residential Site Improvements Standards (RSIS) would require 51 parking spaces.

6) Brian Silbert, managing member of applicant, testified that in his opinion, which was based on his many years of owning and managing similar residential units, more than sufficient parking was being provided. The witness offered a car count survey undertaken in May 2019, of Liberty Village and Whispering Hills, both in Warren, by David J. Marconi, one of Silbert's employees, which was marked A-2 and entered into evidence. According to the witness, the two developments were very similar to the proposed development now under consideration. At Liberty Village, 53 total parking spaces are provided for 30 units. At 6 am and 7:30 pm, approximately 60% of the spaces were being utilized. Similarly, at Whispering Hills 104 parking spaces are provided for 60 units. At 6:15 am and 7:45 pm, approximately 70% of the spaces were being utilized. Applying those usage figures to the proposed development, the witness testified that in his opinion the proposed number of spaces was more than sufficient for both residents and visitors. Mr. Silbert also testified that the unit leases that will be offered to tenants would be written so that not more than 34 total parking spaces would be required.

7) Jeffrey Beer, AIA, applicant's architect, reviewed his floor plans and elevations. The proposed three-story building will be clad in stone on the first floor and earth-toned siding on floors two and three. Elevator serviced, the building measures 33' 8" to the top of the flat roof, with 30,221 total square feet. According to the witness, planned are eight affordable units and 18 market-rate units. All of the affordable units are located on the first floor. The unit breakdown is shown on Sheet A-000.

8) The Township Planning Consultant advised the Board that the filed plans substantially conformed to the Township's redevelopment plan for the site. The required number of affordable housing units is provided and the architectural plans conform to the Township design criteria and UHAC bedroom requirements. With respect to the proposed monument sign, he was of the opinion that the design is proportionate to the proposed development as well existing free standing signs along the Boulevard.

10) With respect to parking, the Redevelopment Plan provides that the RSIS "shall serve as guideline standards" to which the Board may grant "reasonable exceptions" provided the developer can demonstrate "that such design exception(s) will not substantially impair the intent of the Plan and will not present a substantial detriment to the public health, safety and welfare." Applicant's proposed 34 parking spaces is only two-thirds of the 51 required by RSIS but in the Board's opinion is more than sufficient for tenants and visitors alike. Applicant's testimony regarding actual parking space usage at two similar residential developments is persuasive. Conditioning approval on limiting by lease terms actual permitted parking usage to 34 spaces alleviates any concerns the Board might otherwise have regarding the adequacy of parking.

11) The Board is also persuaded by the testimony and exhibits, and so finds, that the proposed development is in substantial compliance with the Redevelopment Plan dated March 31, 2020. The high quality of the design, the number of affordable units provided and the location of the project near the heart of the downtown area is evidence that the proposed development satisfies the objectives of the redevelopment plan.

12) The following exhibits were marked into evidence:

A-1 Aerial Photo of Site

A-2 Parking Survey dated November 9, 2020

A-3 Sheet AF-1 with Arrows

Based upon its review of the evidence presented, the Board concludes that it is satisfied with the application for Preliminary and Final Major Site Plan approval subject to the conditions noted below, and the Board specifically approves the specifications, designs, plans and related matters as identified above and as modified by the conditions of this approval.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Warren on this 23rd day of November, 2020, that the application of **40 MOUNTAIN BLVD., LLC**, seeking Preliminary and Final Major Site Plan approval be, and the same hereby is, approved, subject, however, to the following conditions:

1) Applicant shall provide proof of payment of taxes through the fourth quarter of 2020.

2) Applicant shall obtain approval or waiver if necessary from the Somerset County Planning Board, the Somerset-Union Soil Conservation District, Warren Township Sewerage Authority and Warren Township Board of Health as to the latest revised plans.

3) Applicant shall comply with all federal, state, county and township statutes, ordinances, rules, regulations and requirements affecting development in the township, county and state.

4) The "typical light fixture" shown on Drawing No. 13/16 shall be replaced by a fixture more in keeping with the colonial style design of the building. The redesign shall be subject to the approval of the Township Planning Consultant and Township Engineer.

5) Applicant shall comply with the Fire Marshall's memorandum dated September 22, 2020. The Fire Marshall will be requested to verify the distance between the closest public hydrant and the rear lot area and revise his memorandum, if necessary.

6) Additional landscaping material shall be added to the site plan to soften the appearance of the proposed retaining wall, subject to the approval of the Township Planning Consultant.

7) The height, design and construction material used to build the proposed retaining wall shall be subject to the approval of the Township Planning Consultant and Township Engineer.

8) No building permits shall be issued until the Redevelopment Agreement has been fully executed.

9) Unit leases shall contain parking space restrictions that will effectively limit the total number of parking spaces required by the building's tenants to not more than 34 spaces.

10) Applicant, its successors and assigns, shall maintain all site plan details as set forth in the final approved plans.

11) All of the units in the building shall be subject to 30-year deed restrictions in accordance with Section 7.h. of the Fair Share Housing Corporation Settlement Agreement dated as of October 12, 2018 (the "Settlement Agreement"). The form of Deed Restriction shall be consistent with the COAH forms and shall be reviewed by the Township Attorney prior to recording.

12) A Sewer Reservation Agreement shall be executed between the applicant and the Warren Township Sewerage Authority prior to the issuance of any building permits.

13) All affordable housing units shall include the required bedroom distribution, be governed by controls on affordability and affirmatively marketed in conformance with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et. seq. or any successor regulation governing at the time of the applicable issuance of a construction permit, issuance of the certificate of occupancy or upon re-rent of the affordable housing units, with the exception that in lieu of 10 percent of affordable units in rental projects being required to be at 35 percent (35%) of median income, 13 percent (13%) of affordable units shall be required to be at 30 percent (30%) of median income, and all other applicable law. The Township has, as part of its Housing Element and Fair Share Plan (the "Plan") adopted and/or updated appropriate implementing ordinances in conformance with standard ordinances and guidelines developed by Council on Affordable Housing to ensure that this provision is satisfied. Income limits for all affordable housing units that are part of the Plan and for which income limits are not already established through a federal program exempted from the Uniform Housing Affordability Controls pursuant to

N.J.A.C. 5:80-26.1 shall be updated by the Township annually within 30 days of the publication of determinations of median income by HUD as follows:

a. Regional income limits shall be established for the region that the Township is located within (i.e. Region 3) based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated number of households within the County according to the most recent decennial Census. The resulting product for Somerset County within the housing region is summed. The sum is divided by the estimated total number of households from the most recent decennial Census in the Township's housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80 (80%) percent of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50 percent (50%) of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very low income unit for a household of four shall be 30 percent of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.

b. The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b) 3 shall be

calculated by the Township annually by taking the percentage increase of the income limits calculated pursuant to paragraph (a) above over the previous year's income limits, and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.

c. The Superior Court, as part of Township's Fairness Hearing, entered an order on October 11, 2018, implementing the regional income limits referenced in this paragraph, the terms of which are reflected in the Township's Affordable Housing Ordinance. A copy of Judge Miller's October 11, 2018 Order is attached to this Resolution as **Exhibit A** and made a part hereof. The Township reserves the right to increase the income limits in accordance with the terms of Judge Miller's Order.

14) Thirteen percent (13%) of all affordable units referenced in the Plan, and the units in the proposed building are to be very low income units, with half of the very low income units being available to families.

15) The applicant shall provide a narrative for the Township Planning Consultant to review and approve prior to the issuance of any building permits demonstrating the phasing for the construction of affordable housing units compared to the construction of market rate units.

16) A construction phasing schedule shall be reviewed and approved by the Township Engineer and Planning Consultant prior to the issuance of any building permits.

17) The sequencing for the construction of the affordable housing units to market rate units shall be in accordance with NJAC 5:93-5.6d, which Section is consistent with

Section 16-6.6 of the General Ordinances of the Township of Warren, as heretofore supplemented and amended.

18) The applicant shall comply with the Township's adopted Affirmative Marketing Plan as detailed in Resolution No, 2019-122 adopted by the Township Committee of the Township of Warren on May 9, 2019.

19) The applicant shall engage the services of Community Grants, Planning & Housing ("CGPH") as the Affordable Housing Administrative Agent as per Resolution 2019-123, adopted by the Township Committee of the Township of Warren on May 9, 2019.

20) The applicant shall comply with County of Somerset recycling requirements.

21) Subtitle 1 of Title 39 of the New Jersey Statutes shall be made applicable to the property.

22) Conditions 1 through 7 inclusive shall be satisfied before plans are signed by Board officers.

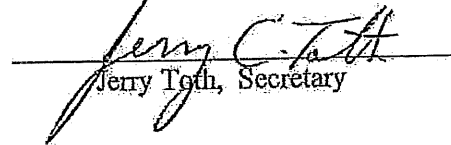
Roll Call Vote:

Motion	Second	Board Member	For	Against	Abstain	Absent
		Mayor Marion				
		Committeeman Lazo	✓			11/9
		Mr. Lindner	✓			
		Mr. Argiro	✓			
✓		Mr. Toth	✓			
		Mr. DiBianca	✓			11/9
		Mr. Pasi				
	✓	Mr. Scuderi-Alt. #1	✓			11/23
		Mr. Esposito-Alt. #2	✓			
		Mr. Gallic	✓			11/9
		Mr. Villani				

Certification

1/31/2024

*The foregoing is a true copy of a resolution adopted by the Planning Board of the
Township of Warren at a meeting held on November 23rd, 2020.*


Jerry Toth, Secretary

1/31/2024

JEFFREY R. SURENIAN AND ASSOCIATES, LLC
707 Union Avenue, Suite 301
Brielle, NJ 08730
(732) 612-3100

Attorneys for Declaratory Plaintiff, Township of Readington

By: Jeffrey R. Surenian (Attorney ID: 024231983)

Michael J. Edwards (Attorney ID: 032112012)

IN THE MATTER OF THE
DECLARATORY JUDGMENT ACTIONS
FILED IN THE COUNTY OF
SOMERSET, STATE OF NEW JERSEY,
PURSUANT TO In Re Adoption of
N.J.A.C. 5:96, 221 N.J. 1
(2015)

IN THE MATTER OF THE
DECLARATORY JUDGMENT ACTIONS
FILED IN THE COUNTY OF
HUNTERDON, STATE OF NEW
JERSEY, PURSUANT TO In Re
Adoption of N.J.A.C. 5:96, 221
N.J. 1 (2015)

IN THE MATTER OF THE
DECLARATORY JUDGMENT ACTIONS
FILED IN THE COUNTY OF WARREN,
STATE OF NEW JERSEY, PURSUANT
TO In Re Adoption of N.J.A.C.
5:96, 221 N.J. 1 (2015)

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION

DOCKET No.: SOM-L-000903-15

DOCKET No.: HNT-L-301-15

CIVIL ACTION - MOUNT LAUREL

ORDER SETTING AFFORDABLE
HOUSING REGIONAL INCOME LIMITS
FOR ALL MUNICIPALITIES IN
VICINAGE 13

This matter having come before the Court via Declaratory Judgment Complaints filed by approximately 60 municipalities filed in July of 2015 (hereinafter "DJ Actions"); and Fair Share Housing Center ("FSHC") having participated as an interested party in all of DJ Actions and intervenor in some of them; and an important function historically performed by the Council on Affordable Housing ("COAH") is setting income limits for each of the COAH

housing regions, which are used to determine eligibility for affordable housing, and setting rent increases for existing affordable housing; and COAH having not published income limits or rent increases since 2014; and the Court finding it necessary to establish income limits and rent increase information to comply with the directives of the Fair Housing Act, and to more generally ensure the implementation of municipalities' constitutional obligations through the availability of existing affordable housing and new affordable housing constructed pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) ("Mount Laurel IV"); and Mount Laurel IV having directed trial courts to adhere to the First and Second Round rules and aspects of the two earlier versions of the Third Round rules that were not found invalid by the appellate courts; and the Vicinage 13 Group and FSHC and the Court thus having deemed it appropriate to establish income limits and rent increases based on COAH's methodology for setting such income limits and rent increases, and to empower municipalities to update such income limits and rent increases on an annual basis themselves based on the process historically used by COAH; and the Court previously having approved such income limits for some municipalities through individual municipal orders and deeming it advisable to approve

income limits for all municipalities in Vicinage 13 to ensure consistency for applicants seeking affordable housing in Hunterdon, Somerset, and Warren Counties and for municipalities administering affordable housing, and such a vicinage-wide approval being consistent with COAH's past practice of having approved income limits universally for each region; and this Order having been submitted under the 5-day rule by Michael J. Edwards, Esq., counsel to the Vicinage 13 Group with the consent of Fair Share Housing Center, and good cause having been shown;

IT IS on this 11th day of October 2018 ORDERED as follows:

1. Income limits for all affordable housing units located in any municipality that has filed a DJ Action in Vicinage 13, and for which income limits are not already established through a federal program exempted from the Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26.1, shall be updated by each municipality annually within 60 days of the publication of determinations of median income by HUD as follows:

- a) Regional income limits shall be established for the region that the municipality is located within (i.e. Region 2 for Warren County and Region 3 for Hunterdon and Somerset Counties) based on the median income by household size, which shall be established by a

regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within the County according to the most recent decennial Census. The resulting product for each County within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial Census in the municipality's housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80 percent of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50 percent of the regional weighted average median income for a family of four. The income limit for a very low-income unit for a household of four shall be 30 percent of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no

event shall the income limits be less than those for the previous year.

b) The income limits attached hereto are the result of applying the percentages set forth in paragraph (a) above to HUD's determination of median income for for 2018, and shall be utilized until the municipality updates the income limits after HUD has published revised determinations of median income for the next fiscal year.

c) The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3 shall be calculated by the municipality annually by taking the percentage increase of the income limits calculated pursuant to paragraph (a) above over the previous year's income limits, and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.

2. In establishing sale prices and rents of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC, utilizing the regional income limits established pursuant to the process defined above:

a) The resale prices of owner-occupied low- and moderate- income units may increase annually based on the percentage increase in the regional median income limit for each housing region determined pursuant to paragraph 1 above. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.

b) The rent levels of very low, low and moderate income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the Northeast Urban Area, upon its publication for the prior calendar year. This increase shall not exceed nine percent in any one year. Rents for units constructed pursuant to low income housing tax credit regulations shall be indexed pursuant to the regulations governing low income housing tax credits.

3. A copy of the within Order shall be served upon all parties on the Service List within 7 days from the date of entry of this Order.

4. At the time of the entry of this Order, some of the municipalities impacted by the Order have settled their DJ

1/31/2024

Action and some have not settled their DJ Actions and may proceed in the future to a methodology trial. This Order is being entered to facilitate the establishment of up to date limits on income, rental increases and sales price increases related to the administration of affordable units and programs and is without prejudice to any party in an action that has not yet settled challenging the methodology or its basis in the future.

/s/ THOMAS C. MILLER, P.J.Cv.

Hon. Thomas C. Miller, P.J.Cv.

EXHIBIT A

Prepared by Affordable Housing Professionals of New Jersey (AHPNJ) - April 2018

2018 AFFORDABLE HOUSING REGIONAL INCOME LIMITS BY HOUSEHOLD SIZE

Income limits not officially adopted by the State of New Jersey. Contact your municipality to see if applicable in your jurisdiction. Additional information about AHPNJ income limits is posted on

		1 Person	*1.5 Person	2 Person	*3 Person	4 Person	*4.5 Person	5 Person	6 Person	7 Person	8+ Person	Max Increase Rents**	Spies***	Regional Asset Limit****
Region 1	Median	\$63,597	\$68,140	\$72,682	\$81,767	\$90,853	\$94,487	\$98,121	\$105,389	\$112,657	\$119,926	2.2%	5.52%	\$178,079
Bergen, Hudson, Passaic and Sussex	Moderate	\$50,678	\$54,512	\$58,146	\$65,414	\$72,682	\$75,589	\$78,497	\$84,311	\$90,126	\$95,940			
	Low	\$31,798	\$34,070	\$36,341	\$40,884	\$45,428	\$47,243	\$49,058	\$52,095	\$56,329	\$59,863			
	Very Low	\$19,079	\$20,444	\$21,805	\$24,530	\$27,256	\$28,346	\$29,436	\$31,617	\$33,797	\$35,978			
Region 2	Median	\$60,755	\$71,523	\$76,291	\$85,828	\$95,364	\$99,179	\$102,993	\$110,622	\$118,252	\$125,881	2.2%	1.22%	\$182,955
Essex, Morris, Union and Warren	Moderate	\$53,104	\$57,218	\$61,033	\$68,662	\$76,291	\$79,343	\$82,395	\$88,498	\$94,601	\$100,705			
	Low	\$33,377	\$35,702	\$38,140	\$42,514	\$47,682	\$49,589	\$51,497	\$55,311	\$59,126	\$62,940			
	Very Low	\$20,026	\$21,457	\$22,887	\$25,748	\$28,609	\$29,754	\$30,898	\$33,187	\$35,475	\$37,764			
Region 3	Median	\$79,580	\$86,926	\$90,320	\$97,110	\$107,900	\$112,218	\$116,532	\$125,164	\$133,796	\$142,428	2.2%	2.37%	\$205,458
Hunterdon, Middlesex and Somerset	Moderate	\$60,424	\$64,740	\$68,056	\$77,688	\$86,320	\$89,773	\$93,226	\$100,131	\$107,037	\$113,942			
	Low	\$37,705	\$40,464	\$43,160	\$48,899	\$53,950	\$56,108	\$58,266	\$62,582	\$66,898	\$71,214			
	Very Low	\$22,650	\$24,278	\$25,896	\$29,133	\$32,370	\$33,655	\$34,940	\$37,549	\$40,159	\$42,768			
Region 4	Median	\$69,447	\$74,407	\$79,368	\$89,209	\$99,209	\$103,178	\$107,148	\$115,083	\$123,020	\$130,956	2.2%	5.13%	\$180,616
Mercer, Monmouth and Ocean	Moderate	\$59,357	\$59,596	\$63,494	\$71,431	\$79,368	\$82,542	\$85,717	\$92,066	\$98,416	\$104,765			
	Low	\$34,723	\$37,204	\$39,084	\$44,644	\$49,605	\$51,589	\$53,573	\$57,341	\$61,110	\$64,879			
	Very Low	\$20,834	\$22,322	\$23,810	\$26,787	\$29,763	\$30,953	\$32,144	\$34,525	\$36,906	\$39,287			
Region 5	Median	\$61,180	\$65,950	\$69,920	\$78,660	\$87,400	\$90,896	\$94,392	\$101,384	\$108,376	\$115,368	2.2%	5.05%	\$161,977
Burlington, Camden and Gloucester	Moderate	\$48,946	\$52,440	\$55,936	\$62,928	\$69,920	\$72,717	\$75,514	\$81,107	\$86,701	\$92,294			
	Low	\$30,590	\$32,775	\$34,960	\$39,330	\$43,700	\$45,448	\$47,196	\$50,692	\$54,188	\$57,684			
	Very Low	\$18,353	\$19,685	\$20,978	\$23,598	\$26,220	\$27,269	\$28,318	\$30,415	\$32,513	\$34,610			
Region 6	Median	\$51,085	\$54,734	\$58,383	\$65,681	\$72,979	\$75,898	\$78,817	\$84,855	\$90,494	\$96,333	2.2%	0.00%	\$138,680
Atlantic, Cape May, Cumberland, and Salem	Moderate	\$40,868	\$43,787	\$46,706	\$52,845	\$58,983	\$60,718	\$62,453	\$67,724	\$72,399	\$77,066			
	Low	\$25,543	\$27,367	\$29,192	\$32,840	\$36,489	\$37,949	\$39,409	\$42,328	\$45,247	\$48,166			
	Very Low	\$15,326	\$16,420	\$17,515	\$19,704	\$21,894	\$22,769	\$23,643	\$25,397	\$27,148	\$28,900			

Moderate income is between 80 and 50 percent of the median income. Low income is 50 percent or less of median income. Very low income is 30 percent or less of median income.

* These columns are for calculating the pricing for one, two and three bedroom sole and rental units as per N.J.A.C. 5:20-28.4(a).

** This column is used for calculating the pricing for rent increases for units (as previously calculated under N.J.A.C. 5:27-9.3). The increase for 2015 was 2.3%, the increase for 2016 was 1.1%, the increase for 2017 was 1.7%, and the increase for 2018 is 1.2% (Consumer Price Index for All Urban Consumers (CPI-U); Regions by expenditure category and commodity and service group). Landlords who did not increase rents in 2015, 2016, or 2017 may increase rent by up to the applicable combined percentage from their last rental increase for that unit. In no case can rent for any particular apartment be increased more than one time per year.

*** This column is used for calculating the pricing for resale increases for units (as previously calculated under N.J.A.C. 5:27-9.3). The price of owner-occupied low and moderate income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.

Low income tax credit developments may increase based on the low income tax credit regulations.

**** The Regional Asset Limit is used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.1(b)(3).

Note: Since the Regional Income Limits for Region 6 in 2017 were higher than the 2018 calculations, the 2017 income limits will remain in force for 2018 (as previously required by N.J.A.C. 5:97-9.2(c)).

EXHIBIT B

MUNICIPALITY

SOMERSET COUNTY

In the Matter of the Township of Bedminster
 In the Matter of the Township of Bernards
 In the Matter of the Township of Bernardsville
 In the Matter of the Township of Branchburg
 In the Matter of the Township of Bridgewater
 In the Matter of the Borough of Far Hills
 In the Matter of the Township of Franklin
 In the Matter of the Township of Greenbrook
 In the Matter of the Township of Hillsborough
 In the Matter of the Township of Montgomery
 In the Matter of the Borough of North Plainfield
 In the Matter of the Borough of Peapack-Gladstone
 In the Matter of the Borough of Raritan
 In the Matter of the Borough of Rocky Hill
 In the Matter of the Township of Warren
 In the Matter of the Borough of Watchung

DOCKET NO.

SOM-L-914-15
 SOM-L-899-15
 SOM-L-925-15
 SOM-L-898-15
 SOM-L-934-15
 SOM-L-903-15
 SOM-L-866-15
 SOM-L-929-15
 SOM-L-900-15
 SOM-L-924-15
 SOM-L-935-15
 SOM-L-905-15
 SOM-L-926-15
 SOM-L-901-15
 SOM-L-904-15
 SOM-L-902-14

HUNTERDON COUNTY

In the Matter of the Township of Alexandria
 In the Matter of the Township of Bethlehem
 In the Matter of the Borough of Bloomsbury
 In the Matter of the Township of Clinton
 In the Matter of the Town of Clinton
 In the Matter of the Township of East Amwell
 In the Matter of the Borough of Flemington
 In the Matter of the Township of Franklin
 In the Matter of the Township of Frenchtown
 In the Matter of the Borough of Glen Gardner
 In the Matter of the Borough of High Bridge
 In the Matter of the Township of Kingwood
 In the Matter of the City of Lambertville
 In the Matter of the Borough of Lebanon
 In the Matter of the Township of Lebanon
 In the Matter of the Township of Milford
 In the Matter of the Township of Raritan
 In the Matter of the Township of Readington
 In the Matter of the Township of Tewksbury
 In the Matter of the Township of Union
 In the Matter of the Township of West Amwell

HNT-L-300-15
 HNT-L-316-15
 HNT-L-298-15
 HNT-L-315-15
 HNT-L-304-15
 HNT-L-306-15
 HNT-L-308-15
 HNT-L-314-15
 HNT-L-309-15
 HNT-L-302-15
 HNT-L-310-15
 HNT-L-317-15
 HNT-L-311-15
 HNT-L-321-15
 HNT-L-299-15
 HNT-L-303-15
 HNT-L-312-15
 HNT-L-301-15
 HNT-L-313-15
 HNT-L-305-15
 HNT-L-307-15

WARREN COUNTY

In the Matter of the Township of Allamuchy
In the Matter of the Town of Belvidere
In the Matter of the Township of Blairstown
In the Matter of the Borough of Bloomsbury
In the Matter of the Township of Franklin
In the Matter of the Township of Frelinghuysen
In the Matter of the Township of Greenwich
In the Matter of the Township of Hackettstown
In the Matter of the Township of Hardwick
In the Matter of the Township of Harmony
In the Matter of the Township of Hope
In the Matter of the Township of Independence
In the Matter of the Township of Knowlton
In the Matter of the Township of Lopatcong
In the Matter of the Township of Mansfield
In the Matter of the Township of Oxford
In the Matter of the Township of Pohatcong
In the Matter of the Borough of Washington
In the Matter of the Township of Washington
In the Matter of the Township of White

WRN-L-232-15
WRN-L-238-15
WRN-L-226-15
WRN-L-298-15
WRN-L-224-15
WRN-L-231-15
WRN-L-228-15
WRN-L-234-15
WRN-L-240-15
WRN-L-239-15
WRN-L-237-15
WRN-L-246-15
WRN-L-215-15
WRN-L-241-15
WRN-L-242-15
WRN-L-243-15
WRN-L-220-15
WRN-L-230-15
WRN-L-244-15
WRN-L-245-15

1/31/2024

EXHIBIT D
LETTER FROM REDEVELOPER'S COUNSEL

1/31/2024

OTOOLE SCRIVO
ATTORNEYS AT LAW

BRIAN S. WOLFSON
bwolfson@oslaw.com

November 23, 2020

Via EMAIL

Mr. Jeffrey Lehrer
c/o DiFrancesco, Batemen, Coley,
Yospin, Kunzman, Davis, Lehrer & Flaum, P.C.
15 Mountain Boulevard
Warren, NJ 07059

**Re: 40 Mountain Blvd. LLC
Block 89, Lot 4 (the "Property")
40 Mountain Blvd., Warren, NJ 07059
Redeveloper's Agreement**

Dear Mr. Lehrer:

This firm represents the owner and developer of the Property in connection with the Redeveloper's Agreement. Recently the Warren Township Committee (the "Township Committee") expressed concerns regarding adequacy of parking and the planned landscaping at the Property. Please allow this letter to serve as the owner's response to those concerns.

As a threshold issue, the Planning Board has approved the developer's application for preliminary and final site plan approval and relied on the testimony of John Hansen, P.E. in support of the application. The application contemplates thirty-four (34) parking stalls as opposed to the fifty-one (51) recommended by RSIS. While the RSIS standards are guidance and not required, the developer is cognizant of the Township Committee's concerns and has taken affirmative steps to alleviate them.

First, although it is not contemplated that additional parking will be required, if there exists a need for additional parking the developer has received permission for the use of two neighboring properties' parking lots. Both Gateway East located at 53-55 Mountain Blvd., at the signalized intersection of the municipal building and a small office building located at 37 Mountain Blvd., directly across the street from the Property have agreed to allow use of their lots should the need arise for supplemental parking. To assuage any concerns, the owner and developer of the Property can represent that it has received permission from Gateway East and coincidentally has managed and operated the Gateway East center since its initial development. In addition, the owner and developer has negotiated a license agreement with Warrentown Associates, LLC, the owner of 37 Mountain Blvd. for periodic use of its parking lot. To aid in the Township Committee's review of this proposal, a colored aerial depiction of the site is attached to this letter.

1/31/2024

Second, regarding the landscape buffer between the Property and Warren Township's municipal complex, the owner and developer has previously agreed to certain conditions of approval contained in the resolution of approval from the Warren Township Planning Board. To wit, the landscape plan is to be submitted and approved by the Warren Township Planner and Engineer, respectively, as a condition of approval. Independently, the owner and developer will commit to providing landscaping between the pedestrian walking path within the municipal property and the small retaining wall within the parking lot. The landscape plan will satisfy both the Warren Township Engineer and Planner.

Finally, the owner is committed to constructing a luxury apartment complex that will be completely vertically integrated. It will be developed, owned, and managed by entities entirely within the control of the owner. It will be appealing, well-maintained and an asset to the community and local business. Moreover, the Property will be the site of eight (8) affordable units, which Warren has stipulated to as part of its affordable housing compliance plan.

Should you require any additional information, please do not hesitate to contact me directly. Thank you for your attention to this matter.

Very truly yours,

/s/ Brian S. Wolfson

Brian S. Wolfson

Encls.

cc: 40 Mountain Blvd. LLC
Maryellen Vautin, Warren Township Planning Board Land Use Coordinate (via email)

1/31/2024

West Warren NJ - Overview of Parking Availability



1/31/2024

EXHIBIT D-1

**LETTER DATED DECEMBER 22¹⁶, 2020 FROM
GARY DEAN, PE, TRAFFIC CONSULTANT FOR THE REDEVELOPER**

1/31/2024



181 WEST HIGH STREET
SOMERVILLE, NJ 08876

908 927 0100 p
908 927 0181 f

December 22, 2020

Via Email: jlehrer@newjerseylaw.net

Jeffrey Lehrer, Esq.
c/o DeFrancisco, Bateman, Coley, Yospin,
Kunzman, Davis, Lehrer & Flaum, P.C.
15 Mountain Boulevard
Warren, NJ 07059

Re: 40 Mountain Boulevard, LLC
Block 89, Lot 4
Parking Evaluation
Redevelopers Agreement
Warren Township, Somerset County

Dear Mr. Lehrer:

Our office represents the owner/applicant of the above-noted property who recently received Planning Board approval for a redevelopment consisting of 26 residential apartments including 8 affordable units. Our office assisted the applicant in evaluating the traffic and parking impacts of the proposal that most recently was operated as a motor vehicle repair facility, but prior to that was a motor vehicle service station. The net effect of the redevelopment is a substantial improvement through the consolidation of driveways on Mountain Boulevard as well as a reduction in overall traffic from an intensive commercial use to the proposed residential apartments.

It is our understanding from the applicant that a concern has been raised by the Warren Township committee regarding the adequacy of parking for the overall project. This correspondence addresses those concerns.

While there are certain parking standards that typically guide the development of residential projects, often certain circumstances arise where compliance with the required parking is neither practical nor warranted given the unique nature of the project. More specifically, for larger, suburban developments that feature wide expanses of unregulated parking, tenants typically have unrestricted access with no limit on the number of vehicles that they may have.

In the case of 40 Mountain Boulevard, LLC, the applicant has represented that the leasing of the apartments will contain a restriction regarding the total number of vehicles by the building's tenants to not more than 34 spaces. Each tenant will be made aware of the parking limitation upon leasing with one parking space available for each unit. Should tenants wish for additional on-site parking, such can be provided on a first come/first serve basis but will be managed through the leasing agent, possibly at additional cost to the tenant. Given the limited number of apartments, we believe this is an effective management tool that will curtail excessive on-site parking by future residents. To the extent that respective tenants require more parking than quite simply this building would not be a choice for those individuals.

TRAFFIC ENGINEERING
PARKING STUDIES
HIGHWAY DESIGN
DOT ACCESS PERMITS
MUNICIPAL CONSULTING

1/31/2024

40 MOUNTAIN BOULEVARD, LLC
BLOCK 89, LOT 4
WARREN TOWNSHIP, SOMERSET COUNTY

DECEMBER 22, 2020

However, to further ensure the adequacy of sufficient parking - particularly to accommodate occasional guests and visitors - the applicant has made arrangements if ever needed to use neighboring commercial properties that are in close walking distance to the subject property. Specifically, the owner of a small office building at 37 Mountain Boulevard directly across from the site has agreed to allow the use of their parking lot should the need arise for overflow parking particularly during later evening hours by visitors and guests as will be memorialized within a license agreement. Similarly, the surplus parking at Gateway East located at 53-55 Mountain Boulevard is also under the control of an affiliated entity of the applicant and can readily accommodate additional, after hours parking.

The general planning practice of such an arrangement is called "shared parking." This arrangement recognizes that different land uses each require experience their respective peak parking demands at different times of the day. For example, a commercial office building typically experiences peak parking demands during the core business hours generally between 9:00 a.m. and 5:00 p.m. Monday through Friday. By contrast, residential parking demands experience their peak after business hours in the evenings and weekends, when most residents are home.

At 37 Mountain Boulevard and at Gateway East, the office spaces would be vacant in the evening and on weekends and many of the retail tenants also either are not open or have limited hours during evenings and weekends. For this very reason, these otherwise empty parking spaces can be more efficiently used (i.e., "shared") by limited visitors and guests of 40 Mountain Boulevard. The use of these spaces is not intended to serve the tenant parking needs of 40 Mountain Boulevard, but rather the limited and infrequent use by visitors and guests.

There are 52 parking spaces at 37 Mountain Boulevard. As an office use, there is every expectation that these spaces will be available at the end of the business day and throughout the weekend. At Gateway East there are 85 parking spaces of which at least 20 will similarly be vacated by the second-floor office space and available during evenings and weekends. The two properties combined have 137 spaces of which only 20 (less than 15%) are the subject of the license agreement for use by 40 Mountain Boulevard. As will be demonstrated below, based on actual parking experience for other apartments in Warren Township, it is not expected that these 20 spaces will ever be needed, but are being offered to ensure that there are sufficient safeguards in place for 40 Mountain Boulevard. The combined supplemental parking license agreements will provide 20 additional spaces that combined with the on-site spaces will total 54 parking spaces - a ratio of more than 2 spaces per unit.

We find this arrangement to also be embodied within the Residential Site Improvement Standards (RSIS) as a sound land use practice considering the mixed-use nature that allows for a more efficient shared parking practice. Furthermore, we are aware that the owner-applicant provided the planning board with early morning/evening parking demand studies conducted at Liberty Village and Whispering Hills Apartments in Warren Township. These studies demonstrated that actual parking requirements for residents in these communities need only one space per unit to meet peak demands.

In recognition that the license agreement spaces at 37 Mountain Boulevard and 53-55 Mountain Boulevard will be empty during non-business hours, we believe this is a very practical and efficient use of existing areas with no impact on any public parking. Given the short walking distance to both sites, we find this to be a viable solution and will ensure that there will be no negative impacts associated on municipal facilities including on-street parking or other municipal parking areas.



1/31/2024

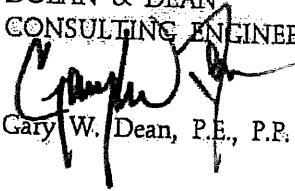
40 MOUNTAIN BOULEVARD, LLC
BLOCK 89, LOT 4
PARKING EVALUATION REDEVELOPERS AGREEMENT
WARREN TOWNSHIP, SOMERSET COUNTY

DECEMBER 16, 2020

I hope this assists the Township in considering the merits of the 40 Mountain Boulevard project and a very practical solution to remedy any lingering concerns the Committee may have regarding parking sufficiency.

Very truly yours,

DOLAN & DEAN
CONSULTING ENGINEERS, LLC


Gary W. Dean, P.E., P.P.

cc: 40 Mountain Boulevard LLC
Brian S. Wolfson, Esq. bwolfson@oslaw.com
Somerset/Warren/Silber/D.../12-22 ParkingLetter

1/31/2024

EXHIBIT E
PROJECT SCHEDULE

Exhibit **E**

PROJECT SCHEDULE

- January 5th 2021: Site Work Commencement
- February: Footing / foundation (weather permitting)
- April-December: Framing, structure, roof /utilities/ rough MEP's
- October 2020 -March 2021: Interior apt construction
- April-May 2022: Final inspections and CO

1/31/2024

EXHIBIT F
FORM OF AFFORDABLE HOUSING
DEED RESTRICTION

1/31/2024

updated June 2007

APPENDIX E-2

MANDATORY DEED RESTRICTION FOR RENTAL PROJECTS

Deed Restriction

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

To Rental Property
With Covenants Restricting Rentals, Conveyance and Improvements
And Requiring Notice of Foreclosure and Bankruptcy

THIS DEED RESTRICTION, entered into as of this the ____ day of _____, 20____, by and between the [Administrative Agent] ("Administrative Agent"), or its successor, acting on behalf of _____ [Municipality], with offices at _____, and _____ a New Jersey [Corporation / Partnership / Limited Partnership] having offices at _____ the developer/sponsor (the "Owner") of a residential low- or moderate-income rental project (the "Project"):

WITNESSETH

Article 1. Consideration

In consideration of benefits and/or right to develop received by the Owner from the Municipality regarding this rental Project, 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

[If the project is a 100 percent affordable development, use the following:]

The Property consists of all of the land, and improvements thereon, that is located in the municipality of _____, County of _____, State of New Jersey, and described more specifically as Block No. _____ Lot No. _____, and known by the street address:

[Where restrictions are limited to specific units within the project, use the following:]

1/31/2024

updated June 2007

The Property consists of all of the land, and a portion of the improvements thereon, that is located in the municipality of _____, County of _____, State of New Jersey, and described more specifically as Block No. _____ Lot No. _____, and known by the street address: _____

More specifically designated as:

(List specific affordable units by address or apartment number.)

Article 3.

Affordable Housing Covenants

The following covenants (the "Covenants") shall run with the land for the period of time (the "Control Period"), determined separately with respect for each dwelling unit, commencing upon the earlier of the date hereof or the date on which the first certified household occupies the unit, and shall and expire as determined under the Uniform Controls, as defined below.

In accordance with N.J.A.C. 5:80-26.11, each restricted unit shall remain subject to the requirements of this subchapter, the "Control Period," until the municipality in which the unit is located elects to release the unit from such requirements. Prior to such a municipal election, a restricted unit must remain subject to the requirements of this subchapter for a period of at least 30 years; provided, however, that:

1. Units located in high-poverty census tracts shall remain subject to these affordability requirements for a period of at least 10 years; and
 2. Any unit that, prior to December 20, 2004, received substantive certification from COAH, was part of a judgment of compliance from a court of competent jurisdiction or became subject to a grant agreement or other contract with either the State or a political subdivision thereof, shall have its control period governed by said grant of substantive certification, judgment or grant or contract.
- A. 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").
 - B. The Property shall be used solely for the purpose of providing 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.
 - C. No improvements may be made to the Property that would affect the bedroom configuration of any of its dwelling units, and any improvements to the Property must be approved in advance and in writing by the Administrative Agent.

1/31/2024

updated June 2007

- D. The Owner shall notify the Administrative Agent and the Municipality of any foreclosure actions filed with respect to the Property within five (5) business days of service upon Owner.
- E. The Owner shall notify the Administrative Agent and the Municipality within three (3) 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 Grantee, 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, acceleration of all sums due under any mortgage, 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.

IN WITNESS WHEREOF, the Administrative Agent and the Owner have executed this Deed Restriction in triplicate as of the date first above written.

[THE ADMINISTRATIVE AGENT]

BY: _____
XXXXXXXXXXXXXXXXX
Title

[THE OWNER]

BY: _____
XXXXXXXXXXXXXXXXX
Title

APPROVED BY _____ [Municipality]

BY: _____
XXXXXXXXXXXXXXXXX
Title

ACKNOWLEDGEMENTS

1/31/2024

updated June 2007

On this the _____ day of _____, 20____ before me came _____, to me known and known to me to be the Administrative Agent for _____ [Municipality], who states that (s)he has signed said Agreement on behalf of said Municipality for the purposes stated therein.

NOTARY PUBLIC

On this the _____ day of _____, 20____ before me came _____, to me known and known to me to be _____, the Owner of the Property, who states that (s)he has signed said Agreement for the purposes stated therein.

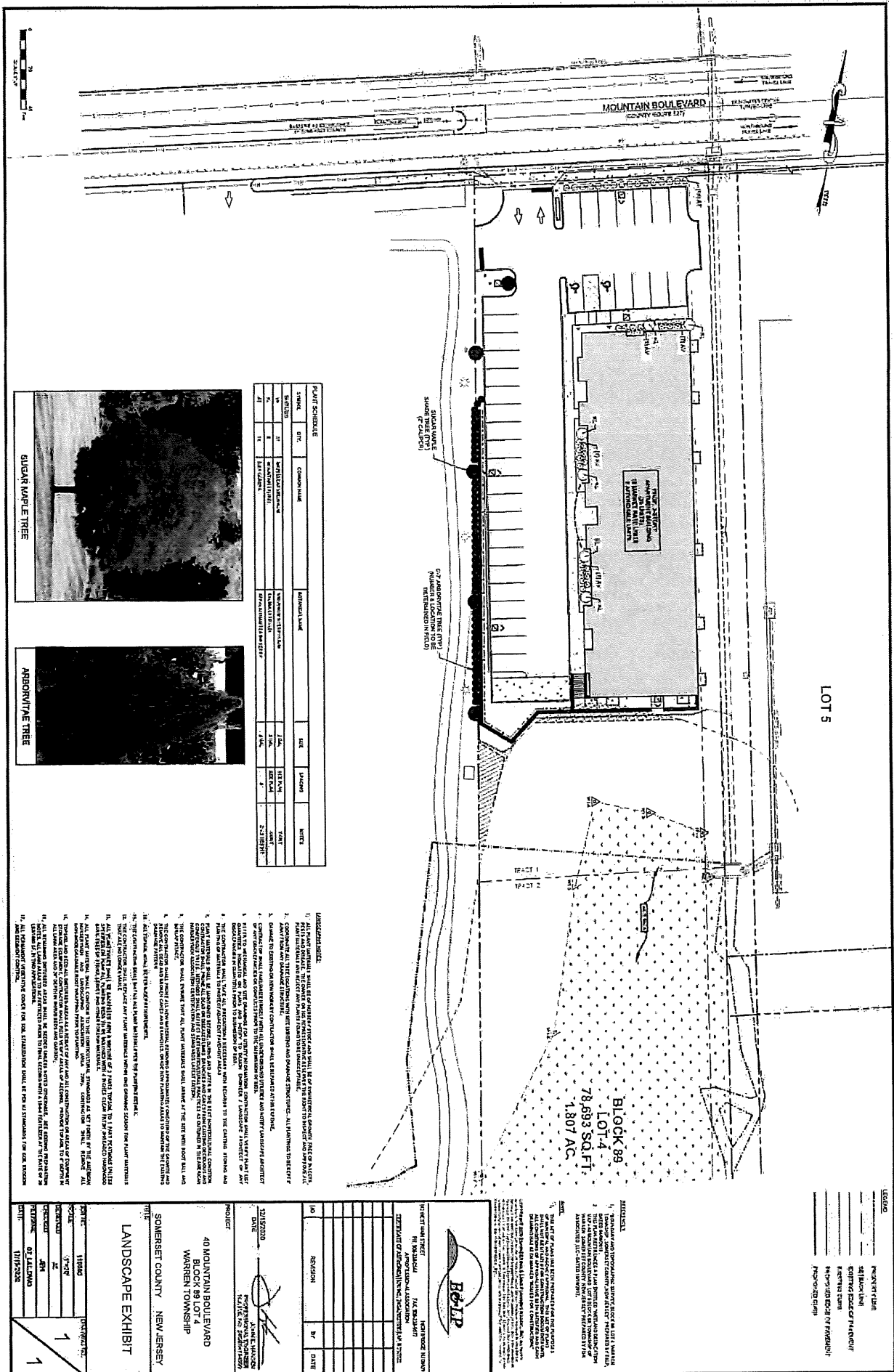
NOTARY PUBLIC

On this the _____ day of _____, 20____ before me came _____ known and known to me to be _____ of _____, the Municipality identified as such in the foregoing Agreement, who states that (s)he is duly authorized to execute said Agreement on behalf of said Municipality, and that (s)he has so executed the foregoing Agreement for the purposes stated therein

NOTARY PUBLIC

1/31/2024

EXHIBIT G
LANDSCAPE PLAN OF NORTHWESTERLY SIDE OF
DEVELOPMENT



1/31/2024

Reese, Cathy

From: Reese, Cathy
Sent: Tuesday, December 22, 2020 9:51 AM
To: Jeff Lehrer (jlehrer@newjerseylaw.net); Administrator; Gary DiNardo; George Lazo (george.lazo@marriott.com); Jolanta Maziarz (jmaziarz@warrennj.org); mm Marion@warrennj.org; vjsordillo@warrennj.org
Subject: special meeting?

Are we scheduling a special meeting for the 40 Mountain Blvd project, before the end of the year? Or do I add it to re-org?

Please advise

C

Cathy Reese

Township Clerk
Township of Warren
46 Mountain Blvd.
Warren, NJ 07059
908-753-8000 ext. 223
www.warrennj.org

1/31/2024

Reese, Cathy

From: Sordillo, Victor <vsordillo@sompo-intl.com>
Sent: Sunday, December 20, 2020 12:04 PM
To: Lazo, George
Subject: Re: RDA for 40 Mountain Boulevard Site

It looked fine to me. I have brought up holiday and event parking at severe applications when on the planning board and was always shot down.

Sent from my iPhone

On Dec 20, 2020, at 10:28 AM, Lazo, George <glazo@warrennj.org> wrote:

EXTERNAL SENDER

An interesting closing comment!!

Get Outlook for iOS

From: Jolanta Maziarz <jmaziarz@warrennj.org>
Sent: Friday, December 18, 2020 1:56:53 PM
To: Jeffrey Lehrer <jlehrer@newjerseylaw.net>; Reese, Cathy <creese@warrennj.org>; Krane, Mark <mkrane@warrennj.org>; Marion, Mick <mmarion@warrennj.org>; Lazo, George <glazo@warrennj.org>; Sordillo, Victor J. <vsordillo@warrennj.org>; DiNardo, Gary <gdinardo@warrennj.org>; jtcivplan@comcast.net <jtcivplan@comcast.net>
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1/31/2024

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Thanks, Jolanta

Sent from Mail for Windows 10

From: Jeffrey Lehrer

Sent: Friday, December 18, 2020 12:00 PM

To: Reese, Cathy; Krane, Mark; Jolanta Maziarz; Marion, Mick; Lazo, George; Sordillo, Victor J.; DiNardo, Gary; jtcivplan@comcast.net

Subject: RDA for 40 Mountain Boulevard Site

PRIVILEGED AND CONFIDENTIAL-ATTORNEY/CLIENT WORK PRODUCT-CONTRACT NEGOTIATION. THIS EMAIL AND ALL ATTACHMENTS HERETO ARE NOT SUBJECT TO DISCLOSURE UNDER THE OPEN PUBLIC RECORDS ACT.

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2. Copy of letter from Gary Dean, PE, the redeveloper's traffic consultant, addressing the issue of use of adjacent properties for any deficiency on the subject site for parking as requested by Committeewoman Maziarz. This letter is to be attached as new exhibit D-1 to the RDA; and
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Reese, Cathy

From: Lazo, George
Sent: Sunday, December 20, 2020 10:28 AM
To: Victor Sordillo
Subject: Fwd: RDA for 40 Mountain Boulevard Site

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Sent: Friday, December 18, 2020 12:00 PM

1/31/2024

To: Reese, Cathy; Krane, Mark; Jolanta Maziarz; Marion, Mick; Lazo, George; Sordillo, Victor J.; DiNardo, Gary;
itcivplan@comcast.net

Subject: RDA for 40 Mountain Boulevard Site

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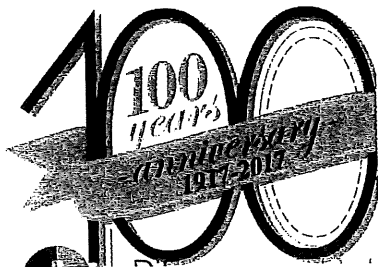
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Reese, Cathy

From: Jolanta Maziarz
Sent: Friday, December 18, 2020 1:57 PM
To: Jeffrey Lehrer; Reese, Cathy; Krane, Mark; Marion, Mick; Lazo, George; Sordillo, Victor J.; DiNardo, Gary; jtcivplan@comcast.net
Subject: RE: RDA for 40 Mountain Boulevard Site

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Reese, Cathy

From: Reese, Cathy
Sent: Thursday, December 17, 2020 11:30 AM
To: Administrator; Gary DiNardo; George Lazo (george.lazo@marriott.com); Jolanta Maziarz (jmaziarz@warrennj.org); mm Marion@warrennj.org; vjsordillo@warrennj.org
Subject: FW: 40 Mountain Blvd. - Letter from Gary Dean
Attachments: RDA AS OF 12-17-20 (A1284738x9D7D2).docx

From: Jeffrey Lehrer <jlehrer@newjerseylaw.net>
Sent: Thursday, December 17, 2020 10:51 AM
To: Brian Wolfson <BWolfson@oslaw.com>
Cc: jtcivplan@comcast.net; Krane, Mark <mkrane@warrennj.org>; Reese, Cathy <creese@warrennj.org>; Susan Bateman <sbateman@newjerseylaw.net>
Subject: Re: 40 Mountain Blvd. - Letter from Gary Dean

Brian: here is my redline of the RDA. I will attach all exhibits when I send it to the members of the TC for their review. Kindly review at your earliest convenience. Jeff

On Thu, Dec 17, 2020 at 9:47 AM Brian Wolfson <BWolfson@oslaw.com> wrote:

Perfect. Thanks for all your help.

Brian Wolfson
Of Counsel
BWolfson@oslaw.com
Phone: (973) 559-9848
Fax: (973) 239-3400

O'TOOLE SCRIVO
ATTORNEYS AT LAW

New Jersey	New York
14 Village Park Road	200 Park Ave, Suite 1700
Cedar Grove, NJ 07009	New York, NY 10166

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From: Jeffrey Lehrer <jlehrer@newjerseylaw.net>
Sent: Thursday, December 17, 2020 9:46 AM
To: Brian Wolfson <BWolfson@oslaw.com>
Subject: Re: 40 Mountain Blvd. - Letter from Gary Dean

1/31/2024

Excellent letter by Gary Dean. I will work on the revised RDA and get it over to you today. If ok by you, I will circulate it to the TC members so we can get a special meeting before Christmas (if possible) but certainly before the end of the year. Jeff

On Wed, Dec 16, 2020 at 5:04 PM Brian Wolfson <BWolfson@oslaw.com> wrote:

Jeff,

Attached please find a letter from Gary Dean re: traffic as well as some architectural renderings for your review. Please let me know if these are sufficient for your purposes. Thank you very much.

Brian Wolfson
Of Counsel

BWolfson@oslaw.com
Phone: (973) 559-9848
Fax: (973) 239-3400

O'TOOLE SCRIVO
ATTORNEYS AT LAW

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REDEVELOPMENT AGREEMENT

BETWEEN THE

TOWNSHIP OF WARREN

AND

SILBERT REALTY & MANAGEMENT COMPANY, INC.

FOR THE

REDEVELOPMENT OF

40 MOUNTAIN BOULEVARD

WARREN, NEW JERSEY

THIS REDEVELOPMENT AGREEMENT, made this ____ day of _____ 2020, by and between the **TOWNSHIP OF WARREN** (hereinafter referred to as the “Township”) located at 46 Mountain Boulevard, Warren, New Jersey 07059 and **SILBERT REALTY & MANAGEMENT COMPANY, INC.** or an urban renewal entity formed pursuant to Section 7.1(b) (hereinafter referred to as “Redeveloper”) with offices located at 152 Liberty Corner Road, Suite 203, Warren, New Jersey 07059

SECTION 1. RECITALS

WHEREAS, the Township is a political subdivision of the State of New Jersey, located in the County of Somerset; and

WHEREAS, the Township Committee of the Township of Warren (the “Township Committee”), by Resolution No. 2019-218 duly adopted on August 15, 2019, authorized the Planning Board to undertake a preliminary investigation to determine whether the area identified as Block 89, Lot 4 as shown on the Tax Map of the Township of Warren, Somerset County, New Jersey (the “Study Area”), should be declared “an area in need of redevelopment” according to the criteria set forth in Section 5 of the Local Redevelopment and Housing Law, N.J.S.A.40A:12A-1, *et seq.* (hereinafter “Redevelopment Law”); and

WHEREAS, John T. Chadwick, IV, P.P., Township Planner, submitted a report to the Planning Board entitled “Preliminary Investigation Report, 40 Mountain Blvd.” dated February 2020 (the “Redevelopment Area Report”), detailing the statutory criteria for determining whether the Study Area constituted an “area in need of redevelopment,” and which Redevelopment Study provided extensive information supporting a recommendation to the Planning Board that the aforesaid Study Area met the statutory criteria; and

WHEREAS, after a public hearing held on March 11, 2020 and in accordance with N.J.S.A. 40:12A-6, the Planning Board, on March 11, 2020, adopted a Resolution determining that the Study Area should be designated as an “area of redevelopment” and recommending that the Study Area be designated as a Non-Condensation “area in need of redevelopment” pursuant to the Redevelopment Law; and

WHEREAS, after a review of the Study Area and the recommendation of the Planning Board, the Township Committee adopted Resolution No. 2020-09 on April 16, 2020, designating the Study Area as a Non-Condensation “area in need of redevelopment” pursuant to the Redevelopment Law (the “Redevelopment Area”); and

WHEREAS, the Township Planner prepared and submitted a redevelopment plan entitled “40 Mountain Boulevard (Block 89, Lot 4) Redevelopment Plan” (the “Redevelopment

Plan”), outlining the planning, development and redevelopment of the Redevelopment Area in accordance with the provisions of N.J.S.A. 40A:12A-7; and

WHEREAS, on August 13, 2020 the Township Committee adopted Ordinance No. 20-20 adopting the Redevelopment Plan for the Redevelopment Area; and

WHEREAS, pursuant to the Redevelopment Plan, the Redeveloper proposes to redevelop Block 89 Lot 4 located in the Redevelopment Area (hereinafter referred to as the “Project Site”), by constructing a residential development consisting of a three-story apartment building containing 26 rental units, including six (6) affordable units (the “Affordable Units”); together with associated parking (the “Project”); and

WHEREAS, the Township Committee has determined that it is in the best interest of the Township and its residents for the Township to enter into this Redevelopment Agreement with the Redeveloper to set forth the principles of agreement between the Township and the Redeveloper for the redevelopment of the Project Site with the Project in the Redevelopment Area in accordance with the Redevelopment Plan; and

WHEREAS, the Township and the Redeveloper desire to fully and thoroughly address the issues, items and conditions precedent to the redevelopment of the Project Site by way of this Agreement; and

WHEREAS, the Township and the Redeveloper acknowledge that the mutual promises contained in this Agreement are good and valuable consideration for the binding execution of this Agreement;

NOW, THEREFORE, for good and valuable consideration, it is agreed upon, as of the date set forth above, by the Township and Redeveloper, as follows:

SECTION 2. DEFINITIONS

2.1. Governing Definitions. When used in this Agreement, the following words, phrases or terms shall have the meaning set forth in the subsections that follow:

2.1.1. **Agreement** shall mean the instant document, which is entitled "Redevelopment Agreement between the Township of Warren and Silbert Realty & Management Company, Inc. (or an urban renewal entity to be formed) for the Redevelopment of 40 Mountain Boulevard" and the documents and exhibits appended hereto and incorporated herein by reference.

- 2.1.2 **Approvals** shall mean, as to any Phase of the Project, all governmental approvals, permits, licenses, agreements and capacity reservations from any governmental authority having jurisdiction over the Redevelopment Area that are required to permit construction of the relevant Phase of the Project to commence, including, but not limited to, local and county planning approvals, construction permits, and other various state and local approvals; excluding, however, approvals, permits and the like normally obtained during the ordinary course of construction.
- 2.1.3 **Board** shall mean the Warren Township Planning Board.
- 2.1.4. **Township** shall mean the Township of Warren, acting through its Township Committee.
- 2.1.5 **Certificate of Completion** shall mean a certificate or certificates certifying that the Redeveloper has performed its duties and obligations under this Redevelopment Agreement with respect to all or a portion of the Project or certifying that the Project, or any portion thereof, has been completed; provided, however, to the extent that the Project, or any portion thereof, has been substantially completed, the Certificate to be provided shall certify that the Project, or any portion thereof, has been substantially completed. The Township Committee recognizes and consents to the fact that the Project may be developed and constructed in phases and that the Redeveloper shall be entitled to a Certificate of Completion for any phase of the Project that has been completed in accordance with the Approvals.
- 2.1.6. **Certificate of Occupancy** means a temporary or permanent Certificate of Occupancy, as such term is defined in the New Jersey Administrative Code, issued with respect to all or a portion of the Project upon completion of all or a portion of the Project.
- 2.1.7. **Commencement of Construction, Commencement Date, Commence Construction** or similar phrases shall have the meaning set forth in Section 5.3.
- 2.1.8. **Conditions Precedent** shall have the meaning set forth in Section 4.1.
- 2.1.9 **Township Committee** shall mean the governing body of the Township.
- 2.1.10 **Default** shall have the meaning defined in Sections 6.1 and 6.2.

- 2.1.11 **Default Notice** shall mean such notice from the Township to the Redeveloper as defined in Section 6.3.
- 2.1.12 **DEP** shall mean the New Jersey Department of Environmental Protection.
- 2.1.13 **Effective Date** shall be the date upon which this Agreement is fully executed by all parties.
- 2.1.14 **Environmental Laws** shall mean any federal, state or local law, ordinance, rule or regulation, including, without limitation, (a) the New Jersey Spill Compensation and Control Act, as amended, N.J.S.A. 58:10-23.11 et seq.; (b) the New Jersey Industrial Site Recovery Act, as amended, N.J.S.A. 13:1K-6 et seq.; (c) the New Jersey Leaking Underground Storage Tank Act, as amended, N.J.S.A. 58:10-21 et seq.; (d) the Comprehensive Environmental Response, Compensation & Liability Act, as amended, 42 U.S.C. Section 9601 et seq.; (e) the Resource Conservation and Recovery Act, as amended, 42 U.S.C. Section 6901 et seq.; (f) the Hazardous Material Transportation Act, as amended, 49 U.S.C. Section 180, et seq.; (g) the Occupational Safety and Health Act, as amended, 29 U.S.C. Section 651, et seq.; or (h) any and all laws, regulations, and executive orders, whether federal, state or local, pertaining to environmental matters, as the same may be amended or supplemented from time to time.
- 2.1.15 **Event of Default** shall have the meaning set forth in Section 6.2.
- 2.1.16 **Final Approval** shall mean an Approval for which the limiting period on appeal or for an appeal set forth statutorily or in the rules of court has expired without an appeal or further appeal having been taken.
- 2.1.17. **Financing** shall mean any construction, permanent or other financing, including institutional equity and debt financing and related party equity and debt financing, obtained by the Redeveloper in connection with the Project. It is understood and agreed that the Township shall not under any circumstances guaranty any Redeveloper Financing.
- 2.1.18 **Force Majeure** shall have the meaning set forth in Section 14.1.
- 2.1.19 **Hazardous Substances** shall mean any hazardous substances or wastes now or in the future regulated under Environmental Laws, excluding, however, customary construction, maintenance, janitorial and cleaning supplies in reasonable quantities

to be used in the ordinary course of construction and operation of the Project and which are used and disposed of in accordance with all applicable Environmental Laws.

2.1.20 **Parties** shall mean both the Township and the Redeveloper together and shall not refer to any other person or entity.

2.1.21 **Permitted Transfers** shall have the meaning set forth in Section 8.2.

2.1.22. **Project** shall be as generally described in Section 2.2.1 of this Agreement.

2.1.23 **Project Schedule** shall be as detailed in Exhibit C to this Agreement.

2.1.24. **Project Site** shall be defined as set forth in the Recitals in Section 1 of this Agreement.

2.1.25 **Redeveloper** shall mean Silbert Realty & Management Company, Inc. and its successors or assigns or an urban renewal entity to be formed in which Brian Silbert is the majority member.

2.1.26 **Redevelopment** shall mean the design and construction of the improvements on the Project Site as contemplated by this Agreement.

2.1.27. **Redevelopment Area** shall be defined as set forth in the Recitals in Section 1 of this Agreement.

2.1.28. **Redevelopment Entity** shall mean the Township Committee of the Township of Warren acting as a redevelopment entity.

2.1 29. **Redevelopment Law** shall be defined as set forth in the Recitals in Section 1 of this Agreement.

2.1.30 **Redevelopment Plan or Plan** shall mean the Township of Warren Redevelopment Plan adopted by the Township Committee pursuant to Ordinance No. 20-20 on August 13, 2020.

2.1.31 **Redevelopment Plan Ordinance** shall have the meaning set forth in the recitals to this Agreement, subject to such amendments as may hereafter be adopted.

2.1.32. **Remediation** shall mean any clean up, containment, correction or adjustment in strict accordance with Environmental Laws to any environmental contamination to any natural resource, including but not limited to air, groundwater, surface water, or soil.

2.1.33 **Site Plan** shall have the meaning set forth in Section 2.2.1.

2.1.34. **Third Party** means a person or entity other than (i) the Township; (ii) any agent, employee, agency, board, elected official or representative of the Township; (iii) the Redeveloper; (iv) any member, shareholder, partner, officer, representative, employee or agent of the Redeveloper or (v) any entity owned or controlled by, under common control with, or that owns or controls, the Redeveloper or any member, shareholder or partner of the Redeveloper.

2.1.35. **Transfer** shall have the meaning set forth in Section 8.2.

2.2 Project Definitions. When used in this Agreement, the following words, phrases or terms shall have the meanings set forth in the subsections that follow:

2.2.0. Purpose. The purpose of this Agreement is to set forth the respective rights, obligations, conditions and agreements of the Township and the Redeveloper in connection with the redevelopment of the Project by the Redeveloper. The Redeveloper has been designated by the Township Committee as the Redeveloper of the Project.

2.2.1. The Project. The Project shall generally be designed in accordance with the Site Plan (the "Site Plan") entitled "Preliminary and Final Major Site Plan, 40 Mountain Boulevard Residential Project, Block 89, Lot 4, tax Map Sheet 109, Warren Township, Somerset county, NJ" prepared by E & LP Associates, Inc. dated September 2, 2020, and on the architectural plans (the "Architectural Plans") dated September 18, 2020, revised October 14, 2020, prepared by Beer Architectural Group, LLC attached hereto as **Exhibits A and B**, respectively. Attached hereto as Exhibit B-1 is a rendering of the proposed Project prepared by Beer Architectural Group, LLC. The Site Plan may be subject to the modifications as required by the Board in accordance with this Agreement, the Redevelopment Plan and the land development ordinances of the Township. The Township Committee agrees that the present Site Plan is consistent with the requirements of the Redevelopment Plan, including but not limited to, the number of residential units provided. Redeveloper shall construct only the residential units established and permitted in the current Redevelopment Plan.

SECTION 3 REDEVELOPER RESPONSIBILITIES.

3.1. Infrastructure Improvements; Redeveloper Responsibilities. The Redeveloper will be responsible for its undertakings described herein after the satisfaction of the Conditions Precedent (as defined in Section 4.1), and at a time designed to allow construction of the Project to commence consistent with the terms of this Agreement.

3.2. Infrastructure Improvements On Site. The Redeveloper is responsible, at its sole cost and expense, for the construction of all on-site infrastructure improvements on the Project Site which are required to accommodate full development of the Project, including but not limited to internal streets, sanitary sewers, storm sewers, and utility lines necessary for the Project, as more particularly set forth in Warren Township Planning Board Resolution 20-05 (Resolution 20-05) adopted on November 23, 2020, a copy of which is attached hereto and made a part hereof as Exhibit C

3.3. Infrastructure Improvements Off-Site and Off-Tract. The Redeveloper shall have no responsibility for the cost of any Township off-site or off-tract improvements under the terms of this Agreement other than for bringing water and sewer to the Project Site and any other improvements required by the Board as set forth in Resolution 20-05.. 3.4 Approval of Project Site Plan and Architectural Plans. The Township agrees that the Site Plan and Architectural Plans depicted on **Exhibit A and B** to this Agreement are consistent with the requirements of the Redevelopment Plan. Furthermore, the Redeveloper acknowledges that it will be required to comply with the provisions of the Redevelopment Plan and Resolution 20-05. 3.5. Project Site. The Redeveloper or entities owned and controlled by the Redeveloper is/are the owner(s) of the Project Site.

3.6 Additional Parking. If required, Redeveloper shall provide additional parking at 53-55 Mountain Boulevard and/or 37 Mountain Boulevard ~~as necessary~~ (the "Shared Parking Properties"), as more particularly set forth in a letter from Redeveloper's Counsel dated November 23, 2020, a copy of which is attached hereto and made a part hereof s **Exhibit D** and as detailed in the letter written by the Redeveloper's traffic consultant, Gary Dean, PE, dated December 16, 2020, a copy of which is attached hereto and made a part hereof as **Exhibit D-1**. Redeveloper shall provide the Township with a copy of the fully executed license agreement(s) with the owners of the Shared Parking Properties ~~Warrenville Associates, LLC~~ prior to the issuance of a Building Permit ~~Certificate of Occupancy~~.

SECTION 4. CONTINGENCIES

4.1 Contingencies. The respective obligations of the Parties to proceed with the Redevelopment under this Agreement are contingent upon the satisfaction or waiver, by the party whose performance is contingent upon the satisfaction of the contingency, of the contingencies set forth in Sections 4.1 and 4.2 hereof within the time periods set forth therein (the “Conditions Precedent”).

4.2 Approvals. The obligation of the Parties to proceed with the Project is contingent upon receipt of all Approvals, (including but not limited to building permits, Somerset County Planning Board approval, Somerset-Union Soils Conservation District Approval, New Jersey Department of Transportation approval, Department of Community Affairs and New Jersey Department of Environmental Protection approval) for the Project. The Township will reasonably cooperate and assist where possible, including expediting the processing of all such applications.

4.3. Project Schedule. It is acknowledged by the Parties that the construction of the Project is time sensitive and will require the coordination of a multitude of efforts by the Redeveloper, the Township and other governmental and private concerns. The Redeveloper’s schedule for commencement and completion of the various elements of the Project (subject to delays caused by Force Majeure) is set forth on **Exhibit E** to this Agreement. The Redeveloper shall use good faith efforts to complete the Project as expeditiously as possible in accordance with **Exhibit E**. Notwithstanding the foregoing, any applicable dates contained in the Project Schedule shall not be deemed time is of the essence.

4.4 Effect of Termination. If any of the Contingencies or Conditions Precedent in this section are not satisfied or waived by the appropriate Party prior to the expiration of the applicable time period therefore as set forth herein, then Redeveloper may terminate this Agreement upon written notice to the Township. If this Agreement is terminated under this Section 3, this Agreement shall automatically terminate, neither party shall have any further liability to the other, and any and all unexpended fees, escrows and payments made by the Redeveloper pursuant to Section 11.1 and/or Section 11.2 hereof shall be refunded to the Redeveloper by the Township.

SECTION 5. IMPLEMENTATION OF THE PROJECT

5.1 Project Development. The Redeveloper, subject to the contingencies set forth in this Agreement, agrees to develop the Project Site in accordance with this Agreement.

5.2 Development Approvals. The Parties acknowledge that the Approvals must be obtained prior to the commencement of any work on the Project Site. The Redeveloper agrees to obtain all Approvals that may be necessary to commence and complete the Project. The Redeveloper agrees to proceed in a reasonable and diligent manner to obtain all Approvals that may be necessary to commence and complete the Project. The Township agrees that it will use good faith efforts, without cost or expense to the Township except for payroll and internal administrative costs, to assist or provide information in its possession to the Redeveloper when such assistance or information is needed by the Redeveloper to obtain any necessary permits or approvals, including, but not limited to, signing any and all applications for permits or other approvals necessary for the development of the Project, if necessary. To the extent permitted under applicable law, the Township agrees to support and endorse and, if possible, sign, any applications of the Redeveloper that are in accordance with this Agreement. The Township agrees to expedite the processing of applications for building permits and other municipal permits. The Township, and all officers, employees and agents of the Township shall take all reasonable steps to foster and facilitate development of the Project in accordance with this Agreement. The Township shall cooperate in all efforts of the Redeveloper to secure necessary municipal, county and state permits and approvals in an expeditious fashion.

5.3 Commencement of Project. The Redeveloper agrees that it will use good faith efforts, subject to delays caused by Force Majeure, to obtain the necessary building permits and commence construction of the Project by not later than ninety (90) days after the last to occur of the following events: (i) all Final Approvals have been obtained, (ii) the final Site Plan has been signed by the appropriate Township officials, and (iii) the satisfaction of all conditions in the Resolution granting final Site Plan approval for the Project. For purposes of this Agreement, the phrase, "Commencement Date" or "commencement of construction" or equivalent phrases, however worded, shall mean the commencement of physical construction or site preparation work at the Project Site by the Redeveloper in furtherance of the plans for the construction of the Project. After the commencement of construction for any improvement in the Project, the Redeveloper will thereafter diligently and continuously prosecute that portion of the Project to completion, subject to delays caused by Force Majeure, in accordance with this Agreement.

5.4 Certificate of Occupancy and Certificate of Completion. Upon completion of the construction of the Project, or any part thereof, and issuance of a temporary certificate of occupancy for such part, subject only to punch list items for all or any part of the building(s) to be constructed, then, provided the Redeveloper has substantially complied with this Agreement and Resolution 20-05, the Township agrees to issue a Certificate of

Completion in proper form for recording, which shall acknowledge that the Redeveloper has performed all of its duties and obligations under this Agreement with respect to the Project, or portion of the Project for which the certificate has been issued, and has completed construction in accordance with the requirements of this Agreement with respect to the part of the Project to which the Certificate relates. Such Certificate of Completion shall constitute a conclusive determination of the satisfaction and termination of the agreements and covenants in this Agreement and in the Redevelopment Plan with respect to the relevant obligations of the Redeveloper to construct the Project. The Township shall provide such Certificate of Completion within thirty (30) days after written request by the Redeveloper or, within ten (10) days of such request, provide the Redeveloper with a written statement setting forth in detail the respects in which it believes that the Redeveloper has failed to complete the Project and what reasonable measures or acts will be necessary in the opinion of the Township in order for the Redeveloper to be entitled to such Certificate of Completion. Pursuant to *N.J.S.A. 40A:12A-9(a)*, upon the issuance of a Certificate of Completion for the Project, the conditions that were determined to exist at the time that the area was determined to be in need of redevelopment shall be deemed to no longer exist, and the land and improvements thereon shall no longer be subject to eminent domain as a result of those determinations.

5.5 Cooperation and Compliance. The Parties hereto agree to cooperate with each other and to provide all necessary and reasonable documentation, certificates, and consents in order to satisfy the terms and conditions of this Agreement. The Township Committee further agrees to take such action as may be reasonably requested by any mortgagee of the Redeveloper in connection with obtaining Financing for the Project.

5.6 Fees. The Redeveloper shall be subject to application and escrow fees for Township approvals and review processes in accordance with the Township's Land use Procedures and Land Development ordinances

SECTION 6. DEFAULT PROVISIONS

6.1 Redeveloper's Default. The Township shall have the right to declare the Redeveloper in default of this Agreement ("Default") in the event that any of the events set forth below in Section 6.2 occur. For purposes of this Agreement, the term "Default" shall mean the occurrence of any of the events set forth in Section 5.2, after notice and opportunity to cure, and which may result in the Township exercising any or all of its remedies under Section 6.4 of this Agreement to terminate the Redeveloper's rights under this Agreement.

6.2 Default Events. The Township shall have the right to declare the Redeveloper in default of this Agreement in the event of the occurrence of any of the following (each, an "Event of Default"):

- The Redeveloper's failure to perform substantially, or substantial defect in performance by the Redeveloper, of any of its material obligations under this Agreement; or
- A final and un-appealable determination by a court of competent jurisdiction that the Redeveloper is insolvent; or
- The Redeveloper shall file a voluntary petition in bankruptcy; or
- The sending of a notice to the Township by the Redeveloper that it has determined not to proceed with the Project, unless the Redeveloper has the right not to proceed, under the terms of this Agreement; or
- Any judgment of bankruptcy against the Redeveloper, or any general assignment for the benefit of creditors by the Redeveloper, or any appointment of a receiver for the Redeveloper which is not stayed or dismissed within ninety (90) days of such appointment; or
- Abandonment of the Project by the Redeveloper for a period of more than ninety (90) consecutive days after commencement, without explanation, which shall mean the failure to staff adequately or diligently to prosecute the Approvals or to construct the Project to ensure the achievement of the Project Schedule.

6.3 Default Notice. Upon an occurrence of an Event of Default, the Township shall notify the Redeveloper in writing that it has declared the Redeveloper in default (hereinafter "Default Notice"). Absent such Default Notice, no declaration of Default shall be deemed binding against the Redeveloper. The Default Notice shall be given by the Township Committee within ten (10) days of action by the Township Committee or its designee determining that an Event of Default has occurred and shall state the basis for determining that an Event of Default has occurred. Upon receipt of the Default Notice, the Redeveloper shall have thirty (30) days after the Redeveloper's receipt of the Default Notice, in the case of a financial obligation, to respond to such Default Notice, or in the case of a non-financial obligation, the Redeveloper shall have forty-five (45) days after the Redeveloper's receipt of the Default Notice, to commence to cure the Event of Default and shall be afforded additional time to cure, provided that the Redeveloper has, within the applicable time period, commenced and is diligently and continuously proceeding to correct same. In the event that the Redeveloper does not cure the Default as set forth herein, the Township shall have the right to exercise the remedies set forth below. The Parties may agree in writing, notwithstanding the provisions of this paragraph, to extend the period of time by which the Redeveloper must respond to the Default Notice or the period of time in

which the Redeveloper must cure the Default.

6.4 Default Rights and Remedies of Township: Upon the occurrence of a Default which has not been cured pursuant to Section 6.3, the Township shall, to the fullest extent permitted by law, have each of the following rights and remedies: (i) Terminate this Agreement, in whole or in part, upon the expiration of the applicable cure period with respect to the Project; (ii) Withhold the issuance of any Certificate of Completion as to the Project until the Default has been corrected; and (iii) any other remedy at law or equity, including but not limited to, de-designating the Redeveloper and any statutory rights of the Township, none of which are waived by the execution of this Agreement.

6.5 Rights and Remedies of the Township; No Waiver by Delay. The exercise of any rights and remedies of the Township, whether provided by this Agreement or otherwise, shall not constitute a waiver of any other rights or remedies provided under this Agreement and, except as otherwise specifically provided by this Agreement, the exercise by the Township of any one or more of such rights or remedies shall not preclude the exercise, at the same or at different times, of any other such rights or remedies for the same Default, or for the same failure in respect to any of the terms, covenants, conditions or provisions of this Agreement or any of its remedies for any other default or breach. No delay by the Township in asserting any rights or exercising any remedy shall operate as a waiver of such rights or remedy or otherwise deprive the Township of, or limit such rights and remedies in any way (it being the intent of this provision that the Township shall not be constrained, so as to avoid the risk of being deprived of or limited in the exercise of any remedy provided in this Section because of concepts of waiver, laches, or otherwise, to exercise such remedy at a time when it may still hope otherwise to resolve the problems created by the Default involved); nor shall any waiver by the Township with respect to any specific Default by the Redeveloper under this Section be considered or treated as a waiver of the rights of the Township with respect to any other Defaults by the Redeveloper under this Section or with respect to the particular Default, except to the extent specifically waived in writing.

6.6 Township Default. The failure of the Township to substantially perform, or a substantial defect in performance by the Township of, any of its obligations under this Agreement ("Township Event of Default") shall constitute a default by the Township.

6.7 Cure by Township. The Township shall have the right to cure any Township

Event of Default, provided that the Township commences the cure thereof within forty-five (45) days of the date that the Redeveloper notifies the Township, in writing, that a Township Event of Default has occurred, unless a longer period is expressly required to comply with statutory limitations or requirements; provided, further, that if the Township diligently and continuously proceeds to cure the Township Event of Default, the Township shall be afforded an additional reasonable period of time to complete the cure, given the nature of the Default.

6.8 Rights and Remedies of Redeveloper. In the event that the Township does not cure the Township Event of Default as set forth herein, the Redeveloper shall be entitled to all remedies at law and equity, including the remedy of specific performance.

SECTION 7 LENDER PROTECTIVE PROVISIONS

7.1 Rights of Mortgagee. In the event of any default in connection with the terms and provisions of any lease or financial arrangement providing for a mortgage interest upon the Project or Project Site, the relevant financial institutions shall be entitled to the protection of N.J.S.A. 55:17-1 et seq. providing for notification, a reasonable opportunity (in light of the nature of the default and the available means to correct it), to cure the same, and shall be afforded additional time to diligently and continuously proceed to correct same in a reasonable period of time given the nature of the breach, provided that the financial institution or lender has, within thirty (30) days of the receipt of notice, commenced and is diligently pursuing the correction of such failure or defect. In order to provide additional and supplemental remedies to the holder of a mortgage loan on the Project or Project Site in the event of a default with the terms and provisions of its mortgage loan, which remedies are deemed necessary and appropriate to the feasibility of making private funds available to finance the Project, the holder of a loan may exercise the following rights: the right to cure, right to possession, right to assume control of mortgagor, right to enter into possession of and operate premises, right to the entry of a judgment of strict foreclosure, right to recover on the underlying loan obligation without first proceeding with foreclosure, right to proceed to foreclosure, separately from or together with suit on the underlying obligation, and such other rights as are specifically provided in N.J.S.A. 55:17-8.

7.2 No Termination for Mortgage Default. This Agreement, being a lease or financial arrangement made by a governmental body or agency of the State of New Jersey pursuant to statutes in connection with a project for redevelopment, renewal or rehabilitation, shall continue in full force and effect beyond any

default in or foreclosure of any mortgage loan made to finance the Project, as though such default or foreclosure had not occurred, subject to the provisions of N.J.S.A. 55:17-1 et seq.

7.3 Attornment. The Township agrees to execute recognition and attornment documents that may reasonably be required by any lender and that are reasonably acceptable to the Township, and further to make any technical, non-substantive modifications to this Agreement that may be reasonably required for the Financing; provided, however, that the Redeveloper shall reimburse the Township for all costs incurred in connection with the review and approval of said documents (including the preparation of any approving resolutions) by the Township Attorney.

7.4 Notice to Mortgagee. Whenever the Township shall deliver any notice or demand to the Redeveloper with respect to any Event of Default by the Redeveloper of its obligations or covenants under this Agreement, the Township shall simultaneously forward a copy of such notice or demand to each holder of any mortgage at the last known address of such holder shown in the land records of the County or any other address provided to the Township by such mortgage holder. No such notice to the Redeveloper shall be effective unless a copy is also sent to the holder of such mortgage. No Default will become effective if the holder of any Financing is curing such Default.

7.5 Mortgagee's Right to Cure Default and Assume Redeveloper's Obligations. After any Event of Default, each holder of any Financing shall (insofar as the rights of the Township are concerned) have the right, at its option, to cure or remedy such Default and to add the cost thereof to its mortgage and shall have an additional thirty (30) days to do so, provided that, if the Default relates to construction of the Project, nothing contained in this Agreement shall be deemed to require the holder to obtain the Township's approval, either before or after foreclosure or any action in lieu thereof, to undertake or continue the construction or completion of the Project or any part thereof. Any such holder who shall properly complete the Project or applicable part thereof shall be entitled, upon written request made to the Township, to receive the certificate of occupancy for the units or buildings within the Project and the Certificates of Completion as set forth in Section 4.5 hereof.

SECTION 8. NONDISCRIMINATION AND RESTRICTIONS ON TRANSFER

8.1 Nondiscrimination. The Redeveloper agrees, and all Deed(s) for any parcels

in the Project Site shall contain covenants running with the land, perpetual in duration, binding on the Redeveloper, its successors and assigns, and every successor in interest to the parcels, that the owners of the properties to be redeveloped shall not discriminate upon the basis of race, color, creed, or national origin in the sale, lease, or rental or in the use or occupancy of the properties or any improvements erected or to be erected thereon, or any part thereof.

It is intended and agreed, and the Deed(s) shall so expressly provide, that the agreements and covenants provided herein above shall be covenants running with the land and that they shall, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in this Agreement, be binding, to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by, the Township, its successors and assigns, any successor in interest to the parcels, or in any part thereof, and the owner of any other land (or any other interest in such land) in the Project Site which is subject to the land use requirements and restrictions of the Redevelopment Plan, against the Redeveloper, its successors and assigns, and every successor in interest to the parcels.

8.2 Restrictions on Transfer. (a) Prior to the issuance of a Certificate of Completion for the Project or any part thereof, pursuant to N.J.S.A. 40A:12A-9(a), the Redeveloper shall, except as set forth in subsection (b) below, be without power to sell, lease, assign, mortgage, or otherwise transfer or encumber (any of the foregoing, a “Transfer”) this Agreement, the Project, the Project Site or any such part of or interest in the foregoing, without the written consent of the Township, which consent shall not be unreasonably withheld, conditioned or delayed, subject to compliance with subsection (c) below.

(b) Notwithstanding the foregoing, prior to the Certificate of Completion, the following transfers and encumbrances (“Permitted Transfers”) shall be permitted without any consent or any further approval by the Township Committee: (i) leases or contracts of sale for individual residential units (ii) a mortgage or mortgages and other liens and encumbrances for the purposes of financing costs associated with the acquisition, development, construction and marketing of the Project; (iii) utility, access, ingress, egress and other development easements; (iv) environmental covenants and restrictions imposed by a regulatory agency as a condition of any permit or approval; (v) a transfer of an interest in the Redeveloper or the Project Site to an entity owned or controlled by the Redeveloper (for purposes of this Agreement defined to mean at least a 51% or greater ownership interest), including transfer to an urban renewal entity if necessary in relation to any tax abatement that may be approved; (vi) a transfer of

an interest in the Redeveloper limited liability company for the benefit of children, parents or heirs of a party owning an interest in the Redeveloper; and (vii) any contract or agreement with respect to any of the foregoing exceptions. The foregoing shall not apply, and therefore no approval will be required with respect to, a change of form of the Redeveloper entity, provided that there is no change in the beneficial ownership of the Redeveloper.

(c) If, prior to the Certificate of Completion, there is a Transfer which is not a Permitted Transfer as set forth in subsection (b) above, such Transfer shall require the consent of the Township Committee, the Township Committee's consent shall be conditioned upon the Redeveloper satisfying the following conditions to the reasonable satisfaction of the Township Committee: (i) the Redeveloper presents evidence demonstrating the reputability of the transferee or assignee and the financial ability of the transferee or assignee to fulfill the obligations of this Agreement (or, if the Transfer is of a part of the Project Site or rights hereunder, the obligations relating to such part); and (ii) the Redeveloper presents evidence demonstrating the competence and experience of management of the proposed transferee or assignee to complete the relevant section of the Project.

(d) A determination of compliance with the criteria set forth in subsection (c) above shall be based on the following information and documentation to be submitted by the transferee or assignee: (i) financial statements indicating (1) net worth, or (2) unencumbered lines of credit; (ii) evidence of loan commitments sufficient to carry out the Project of the transferee or assignee; and (iii) a letter of recommendation from a prior project manager or owner for whom the prospective transferee or assignee has at least ten (10) years of experience in the construction of residential multi-family housing in the State of New Jersey, and (iv) has undertaken a comparable development in the State of New Jersey.

(e) A proposed transferee or assignee shall be presumed to be reputable and have the necessary financial ability if the above information demonstrates: (i) that the proposed transferee or assignee is of good character and reputability as evidenced by the letter from a prior manager or owner for whom the prospective transferee or assignee has undertaken a comparable development in the State of New Jersey; and (ii) that the proposed transferee or assignee has sufficient net worth and credit worthiness to carry out the Project, or part thereof, or loan commitments in amounts and on terms sufficient to permit the completion of the Project, or relevant part thereof.

(f) Upon the granting of such consent, the Township shall issue a certificate to the transferee or assignee evidencing such consent and certifying that no Default

by the Redeveloper or any other entity under this Agreement shall impair such transferee's or assignee's rights under this Agreement.

8.3. Subsequent Conveyance by Redeveloper. Upon the issuance of a Certificate of Completion for any portion of the Project on the Project Site, the Redeveloper shall have the right to sell, lease or otherwise transfer its interest in the real property of such portion of the Project without limitation.

SECTION 9. AFFORDABLE RENTAL HOUSING.

9.1 The Affordable Units shall be constructed, marketed, rented and maintained in strict accordance with the Fair Housing Act, N.J.S.A. 52:27D-301 et seq., Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq., Township Affordable Housing Ordinances; and rules or regulations adopted by the New Jersey Council on Affordable Housing, New Jersey Department of Community Affairs and/or New Jersey Court of competent jurisdiction, as well as any successor statutes, rules, regulations or ordinances (collectively the "Fair Housing Laws"). Consistent with the obligation to construct the Project in accordance with the Fair Housing Laws, but not intending to limit that obligation, each Affordable Unit shall be deed restricted with affordability controls as prescribed by the Fair Housing Laws. The affordability controls shall remain in place until released by the Township and for a minimum period of thirty (30) years. Redeveloper shall cooperate with the Township in providing any information that is necessary to complete the Township's annual monitoring. Prior to the issuance of any Certificates of Occupancy, Redeveloper shall provide the Township with an Affordable Housing Deed Restriction for Rental Projects in the form attached hereto and incorporated herein as **Exhibit F** covering all of the Affordable Units.

SECTION 10. REPRESENTATIONS AND WARRANTIES

10.1. The Redeveloper. The Redeveloper represents and warrants as follows:

(a) it is a limited liability company duly created under the laws of the State of New Jersey and is duly organized and existing in good standing;

(b) it has full power and authority to enter into this Agreement, to consummate the transactions contemplated herein and to perform all of its obligations hereunder;

(c) the execution, delivery and performance by the Redeveloper of this Agreement has been duly authorized, the person executing this Agreement on its

behalf is authorized to do so, and this Agreement constitutes a valid and legally binding obligation of the Redeveloper;

(d) it is financially capable to undertake and fulfill the obligations of the Redeveloper hereunder, subject to the terms and conditions of Section 4.1. above;

(e) the Redeveloper has the necessary expertise, qualifications, staff and resources to undertake and fulfill its obligations hereunder;

(f) there is no action, proceeding or investigation now pending or threatened, nor any basis therefore, known or believed to exist which (i) questions the validity of this Agreement or any action or act taken or to be taken by the Redeveloper pursuant to this Agreement; or (ii) is likely to result in a material adverse change in its agency, property, assets, liabilities or condition or which will materially and substantially impair its ability to perform pursuant to the terms of this Agreement; and

(g) the execution, delivery, or performance of this Agreement will not constitute a violation of any of the Redeveloper's organizational documents, or of any mortgage, indenture, instrument, judgment or other agreement to which it is a party or by which it is bound.

9.1. The Township. The Township represents and warrants as follows:

(a) that the Township Committee duly adopted the Redevelopment Plan in accordance with the Redevelopment Law;

(b) that the Township Committee is duly and properly designated as the Redevelopment Entity, pursuant to the Redevelopment Law;

(c) that the Township is executing this Agreement in its capacity as the designated redevelopment agency for the Project Site and that this Agreement constitutes a valid and legally binding obligation of the Township;

(d) that there is no action, proceeding or investigation now pending or threatened, nor any basis therefore, known or believed to exist which (i) questions the validity of this Agreement or any action or act taken or to be taken by the Township pursuant to this Agreement; or (ii) is likely to result in a material adverse change in its agency, property, assets, liabilities or condition or which will materially and substantially impair its ability to perform pursuant to the terms of this Agreement; and

(e) that the zoning of the Project Site, as amended pursuant to the Amended Redevelopment Plan, permits the Redevelopment of the Project Site for the Project, subject to Board and all other Approvals.

SECTION 11. FEES; INDEMNIFICATION

11.1 Escrow Fees. The Redeveloper shall have the obligation to maintain an escrow account for the purposes of paying for the Township's professional and administrative costs related to the Project in accordance with the terms of that certain Funding Agreement approved by the Township on August 15, 2019 (the "Funding Agreement"). The obligation to maintain such escrow account shall continue until such time as the final Certificate of Completion is issued by the Township for the Project, at which time the escrow account shall close and the Redeveloper shall no longer have the obligation to pay for the Township's professional and administrative costs related to the Project. Upon issuance of the final Certificate of Completion, the Township shall provide the Redeveloper with a final invoice for the Reimbursable Costs incurred by the Township. Any balance due the Redeveloper of any of the Escrow Funds, will be refunded at the end of the Interim Period, or shall be disbursed in accordance with the Redeveloper's instructions.

In accepting the above referenced escrow deposit from the Redeveloper, the Township shall comply fully with the standards set forth in N.J.S.A. 40:55D-53, et al. At any time prior to the completion of the Project, upon thirty (30) days written notice, the Township will provide Redeveloper with a full and detailed accounting of any and all costs charged to the Redeveloper pursuant to the escrow agreement between the parties.

The phrase "Reimbursable Costs" shall include, but not be limited to, all reasonable fees and costs related to the Project including those fees and costs incurred by the Township as a result of the Township's utilization of qualified professional consultants, including but not limited to planners, engineers and attorneys as designated by the Township, who shall participate in the review of any and all other plans, renderings, or reports directly relating to the proposed Redevelopment Project and the drafting and negotiation of the Redevelopment Agreement and Financial Agreement. The Redeveloper shall not be responsible for any professional or administrative costs incurred by the Township or work performed by Township employees, consultants or professionals, which work was performed for any prior redeveloper of the Property.

11.2 Escrow Funds. In accordance with the terms of the Funding Agreement, the

Redeveloper has deposited the sum of Twenty Five Thousand (\$25,000.00) Dollars in escrow with the Township pursuant to this Agreement. Said amount shall continue to be maintained by the Township in a separate escrow account and shall be drawn down upon the Township to pay the Reimbursable Costs. This Twenty Five Thousand (\$25,000.00) Dollar amount shall be referred to as the Escrow Funds. If, as a result of the Township's payment of the Reimbursable Costs, the Escrow Funds drop below Three Thousand (\$3,000.00) Dollars, the Township shall notify the Redeveloper in writing along with copies of all invoices and a ledger of disbursements made as of the date of the written notice. The Redeveloper shall replenish the Escrow Funds in accordance with the terms of the Funding Agreement. Provided that during such period the Township has expended any Reimbursable Costs, every thirty (30) days, the Township shall provide the Redeveloper with a statement of those Reimbursable Costs paid from the proceeds of the Escrow Funds. The Township shall further provide the Redeveloper with individual invoices on a regular basis when received by the Township that are identified as the Reimbursable Costs. Any failure on part of the Township to affirmatively provide the Redeveloper with either a statement(s) of the Reimbursable Costs and/or invoices describing same shall not relieve the Redeveloper of its obligation to pay to the Township the Escrow Costs as provided for herein.

11.3 Indemnification. The Redeveloper agrees to indemnify and hold harmless the Township and the Township Committee against, and the Redeveloper shall pay, any and all liability, loss, cost, damage, claims, judgments or expenses of any and all kinds or nature and however arising, imposed by law, which the Township may sustain, be subject to or be caused to incur by reason of any claim, suit or action based upon personal injury, death, or damage to property, whether real, personal or mixed, resulting from the Redeveloper's activities in constructing the Project or the Redeveloper's actual breach of any contracts entered into by the Redeveloper which relate to construction of the Project, or resulting solely from the Redeveloper's ownership of portions of the Project Site, or resulting from the acquisition, construction or installation of the Project, including but not limited to any and all claims by workmen, employees and agents of the Redeveloper and unrelated third parties, which claims result from the construction of the Project, the maintenance and functioning of Project improvements, or any other activities of the Redeveloper within the Project Site during the construction of the Project. It is mutually agreed by the Redeveloper and the Township that neither the Township nor its elected and appointed officials, volunteers, officers, agents, servants or employees shall be liable in any event for any action performed under this Agreement and that the Redeveloper shall save the Township and its elected and appointed officials, volunteers, officers, agents and employees harmless from

any claim or suit in connection with the Redeveloper's obligations under this Agreement, except for any claim or suit arising from the intentional, willful and negligent acts of the Township or its elected and appointed officials, volunteers, officers, agents, servants or employees.

The Redeveloper, at its own cost and expense, shall defend any and all such claims, suits and actions, as described in this Section, which may be brought or asserted against the Township or its elected and appointed officials, volunteers, officers, agents, servants or employees. Any reasonable attorneys' fees in situations where it is necessary under applicable law for the Township to engage its own attorneys, reasonable experts' testimony costs and all costs to defend the Township or any of its elected and appointed officials, volunteers, officers, agents, servants, or employees shall be reimbursed to it by the Redeveloper in connection with such indemnification claim.

As between the Redeveloper and the Township, the Redeveloper agrees and specifically assumes any and all responsibility for the investigation and remediation of all environmental conditions, whether known or unknown, on, under or migrating to or from the Project Site or anything affected off-site, as may be required by applicable Environmental Laws, and the Redeveloper shall bear all costs for such investigation and remediation of the Project Site. The Redeveloper shall use reasonable efforts to obtain all environmental approvals that may be required for the remediation of the Project Site. Any and all environmental costs shall be the sole responsibility of the Redeveloper.

Without limitation on any obligation to defend and indemnify pursuant to this Agreement, and without limitation to such obligation which the Redeveloper may have as a matter of law, the Redeveloper shall indemnify, defend, release and hold the Township and its officials and agents harmless against (a) all claims or alleged claims and response costs and fines and penalties against the Township and its officials and agents or the Redeveloper by any governmental authority or third party due to the presence of Hazardous Substances on or within the Project Site, or the discharge of Hazardous Substances in excess of any limitations provided by the applicable Environmental Laws, whenever such Hazardous Substances become present on or within the Project Site, whether prior to or after the Effective Date, (b) all claims or alleged claims against the Township and its officials and agents by any governmental authority or third party for injunctive relief for the abatement of a nuisance or related to the presence of Hazardous Substances on or within the Project Site or the discharge of Hazardous Substances in excess of any limitations provided by the applicable Environmental Laws, whether prior to or after the Effective Date, and (c) all claims or alleged claims of

bodily injury or property damage asserted against the Township and its officials and agents by third Parties due to the presence of Hazardous Substances which become present on or within the Project Site, or the discharge of Hazardous Substances in excess of any limitations provided by the applicable Environmental Laws, whenever such Hazardous Substances become present on or within the Project Site whether prior to or after the Effective Date. This indemnity shall survive termination of this Redevelopment Agreement.

SECTION 12. CONSTRUCTION PROVISIONS.

12.1 Illumination, Noise and Pollution. The Redeveloper shall follow all applicable construction laws, regulations, ordinances, and standards in the industry relating to illumination, noise and pollution.

12.2 Security and Safety. The Redeveloper shall be cognizant of and address all traffic safety issues by complying with all applicable traffic safety provisions both during and after construction of the Project.

12.3 Hours of Construction. Hours of construction, including, installation of any improvements, shall be 7:00 a.m. to 5:00 p.m., Monday through Friday and 8:00 a.m. to 5:00 p.m. on Saturday. There shall be no construction on Sundays and federal holidays outside or on the exterior of the building. Interior work shall be permitted on all days.

12.4 Township Observation, Access and Inspections. The Township, and its consultants, employees and agents, shall be given free access to observe construction of the Project, including, but not limited to, roadways, sanitary sewers/septics, water mains/wells, storm sewers, landscaping for buffer areas, street lighting, woodland management and appurtenances associated with the Board-approved Plans. The purpose of such observations shall be limited to providing the Township with a greater degree of confidence that such improvements will be constructed in accordance with the Redeveloper's approved submittals. The Township, or its representatives, consultants, employees or agents, shall not supervise, direct or have control over the Redeveloper's work during such observations or as a result thereof nor shall they have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by the Redeveloper, for safety precautions and programs incident to the work of the Redeveloper or for any failure of the Redeveloper to comply with applicable laws, rules, regulations, ordinances, codes or orders. The Redeveloper is not an agent or employee of the Township.

In addition to all remedies at law or in equity, in the event that Redeveloper fails or refuses to comply with any oral or written representation made to any municipal official (including but not limited to the Township Engineer, Administrator, Zoning Officer or Township Committee member), the Township Engineer or Zoning Officer shall provide written notice to the Redeveloper of such failure or refusal and allow the Redeveloper to cure said failure or refusal within ten (10) days . If the failure or refusal continues unabated after the aforesaid ten (10) days, the Township Engineer or Zoning Officer shall have the right to issue a Stop Work Order on the Project until the failure or refusal is abated to the satisfaction of the Township Engineer or Zoning Officer.

12.5 ~~Attached hereto as Exhibit G is the proposed Redeveloper shall provide a Landscape Plan to the satisfaction of the Township Engineer and Township Planner as required by Resolution PB 20-05 approving Redeveloper's Site Plan. The Landscape Plan may be modified and supplemented by the Township Engineer and Township Planner prior to installation of the plantings identified on the attached Landscape Plans shall include landscaping as more specifically set forth in Exhibit D.~~

SECTION 13. PERFORMANCE, MAINTENANCE AND OTHER GUARANTEES.

13.1 Guarantees Required. Redeveloper shall post performance and maintenance guarantees in accordance with the provisions of N.J.S.A. 40:55D-53 *et seq.* of the MLUL and all applicable laws, in the following manner:

(a) Prior to the commencement of construction, a performance bond or irrevocable letter of credit (or such other form of guarantee allowed in accordance with the MLUL at the discretion of the Redeveloper) in a form reasonably acceptable to the Township Attorney (provided that the New Jersey Department of Community Affairs's standard form shall be deemed reasonably acceptable to the Township Attorney) for those improvements for which a performance guarantee may be required pursuant to the MLUL and as may be required pursuant to the approved site plan and Planning Board resolution, in an amount not to exceed 120% of the cost of installation, which cost shall be determined by the Township Engineer according to the method of calculation set forth in N.J.S.A. 50:55D-53. Notwithstanding the foregoing, under no circumstances shall any form of performance guarantee be required for any building comprising the Project.

(b) A maintenance guarantee in respect of those improvements which may be bonded in accordance with the MLUL in the form of a surety bond (or such other form of guarantee allowed in accordance with the MLUL at the

discretion of the Redeveloper) for a period not to exceed two (2) years after final acceptance of the improvements, in an amount not to exceed fifteen (15%) percent of the cost of installation of the improvements which are being released, which cost shall be determined by the Township Engineer according to the method of calculation set forth in N.J.S.A. 40:55D-53.

(c) If authorized by ordinance duly adopted by the Warren Township Committee prior to the commencement of construction, Redeveloper may be required to post a temporary certificate of occupancy bond and/or a safety and stabilization bond, as necessary, in accordance with the MLUL and the Township ordinances.

(d) If applicable, all bonds must name the Township as an obligee, and Redeveloper shall deliver a copy of the bonds to the Township prior to the commencement of construction. To the extent that a surety bond is provided, it shall be provided by a company licensed by the New Jersey Department of Banking and Insurance or otherwise authorized by the New Jersey Department of Banking and Insurance to do business in the State. In the event that any insurance company, financial institution or other entity issuing a performance guarantee hereunder shall become insolvent, or shall declare bankruptcy or otherwise be subject to reorganization, rehabilitation, or other action, whereby state or federal agencies have taken over management of the entity, Redeveloper shall replace the bond within thirty (30) days of notice from the Redeveloper.

(e) In the event that any bond should lapse, be cancelled or withdrawn, or otherwise not remain in full force and effect as the result of any act or omission by Redeveloper, then until an approved replacement of the lapsed bond has been deposited with the Township, the Township may require Redeveloper to cease and desist any and all work on the Project, unless the improvements required to be bonded have been completed and approved by the Township. In the event any bond shall lapse, be cancelled or withdrawn, or otherwise not remain in full force and effect through no act or omission of the Redeveloper, then unless the Redeveloper fails to replace the bond within ten (10) days of notice given to the Redeveloper by the Township, the Township may require Redeveloper to cease and desist work on the project unless the improvements required to be bonded have been completed and approved by the Township.

(f) In the event that other governmental agencies or public utilities automatically will own the utilities to be installed, or the improvements are

covered by a performance or maintenance guarantee to another governmental agency, no performance or maintenance guarantee, as the case may be, shall be required by the municipality for such utilities or improvements.

(g). Any extension of the time allowed for installation of the improvements for which a performance guarantee has been provided and any release or partial release of any performance guarantee provided pursuant to this Agreement shall be pursuant to the MLUL.

SECTION 14. MISCELLANEOUS

14.1 Force Majeure. The failure of either Party to perform any of the provisions of this Agreement by reason of any of the following shall not constitute a Default or breach of this Agreement: labor disputes, strikes, picket lines, unavailability of materials, freight and delivery delays, energy shortages, boycott efforts, fires, floods, freezes, epidemics, pandemics, extreme weather conditions, accidents, war (whether or not declared), riots, acts of God, acts of government (including, without limitation, any agency or department of the United States of America or the State of New Jersey, acts or omissions of Third Parties (including litigation by Third Parties), or other causes which are beyond the reasonable control of the Party asserting an excusable delay that are subsequent to the date of this Agreement (“Force Majeure”) provided however (A) that the non-performing party, (i) give the other party prompt written notice describing the particulars of the claimed Force Majeure, including, but not limited to, the nature of the occurrence and its expected duration within thirty (30) days of the commencement of same, (ii) continue to furnish timely regular reports with respect thereto during the period of the Force Majeure and (iii) provide notice of the termination of the Force Majeure; (B) the suspension of performance is of no greater scope and of no longer duration than is required by the Force Majeure and the reasonable time required to secure any applicable insurance settlement; (C) the Force Majeure shall not excuse any pre-existing Event of Default hereunder; (D) the non-performing party uses commercially reasonable efforts to remedy its inability to perform and to mitigate, in an expeditious manner, any losses to the other party; (E) the Force Majeure described above is not otherwise due to the willful or negligent acts or omissions of the party relying on such Force Majeure; and (F) Economic hardship, including changes in tax laws and/or loss of profits, shall not constitute a Force Majeure.

14.2 Tax Assessments. The parties acknowledge that, to the extent that a Financial Agreement is entered into between the Redeveloper and the Township,

such Financial Agreement will control the payments in lieu of taxes applicable for the Property. Otherwise, the Redeveloper shall pay standard ad valorem taxes on the Project Site.

14.3 Paragraph Headings. The headings and numbering of paragraphs and sections of this Agreement are set forth for ease of reference only and are not to be construed or considered to impart meaning to any provision of this Agreement.

14.4 Governing Law. This Agreement shall be governed by and construed under the laws of the State of New Jersey, and any litigation relating to this Agreement shall be brought in the Superior Court of New Jersey and venued in the County of Somerset.

14.5 Amendments to Agreement. This Agreement and the documents and exhibits appended hereto and incorporated herein by reference represents the entire agreement by and between the Parties with respect to the development of the Project Site and the construction of the Project. No amendment to this Agreement shall be considered binding on either of the Parties unless such amendment is in writing and specifically recites that it is being entered into by and between the Township and the Redeveloper with the specific intention to modify the terms of this Agreement. In the event that any such amendment is agreed to by the Parties, such amendment shall not modify, change or amend any portion of this Agreement except those specific portions that are recited in the amendment as being modified by such amendment. All other portions of this Agreement not so specifically amended in writing shall remain in full force and effect.

14.6 Severability. Should any provision, term, paragraph or other portion or portions of this Agreement be held by any court of competent jurisdiction to be in violation of any applicable law or against public policy or held to be null and void for any reason whatsoever, such portion shall be deemed severable, so that such determination, unless it prohibits or prevents the performance of this Agreement in substantial part, shall not affect the validity of any other provisions of this Agreement, and such other provisions shall be deemed to be in full force and effect and binding on the Parties unless amended in accordance with Section 14.5 of this Agreement.

14.7 Incorporation of Recitals. The recitals set forth in Section 1 of this Agreement are hereby incorporated by reference and are considered part of this Agreement.

14.8 Casualty. In the event that all or any substantial portion of the Project Site is damaged or destroyed by casualty prior to completion of construction, the Redeveloper may, at its option, terminate this Agreement by written notice to the Township within thirty (30) days after the damage or casualty. For purposes of this provision "substantial portion" shall be defined as any portion which is equal to or in excess of twenty-five percent (25%) of the total acreage of the Project Site or that portion which, in the sole opinion of the Redeveloper, would prevent the successful completion of the Project as envisioned by this Agreement.

14.9 Insurance. The Redeveloper shall purchase and maintain during the construction of the improvements a Comprehensive General Liability Insurance Policy with minimum limits of One Million (\$1,000,000.00) Dollars per occurrence, and One Million (\$1,000,000.00) Dollars in the aggregate. Said insurance coverage shall be in accordance with the requirements of the Township Attorney. The policy shall indicate the Township of Warren as additional insured with respect to their interest in work performed by the above-named insured at the Project. The coverage shall include endorsements for broad form property damage; explosion, collapse and underground hazards; completed operations; and contractual liability. The contractual liability coverage shall specifically apply to the above indemnification clause. All liability coverage shall be on an occurrence basis. Certificates of Insurance evidencing the foregoing coverage shall be provided to the Township before work on the improvements begins and on an on-going basis, as the insurance is reviewed from time to time.

14.10 Waivers. Any right or remedy which any Party may have under this Agreement may be waived in writing by the relevant Party without the execution of a new or supplemental agreement. Except as otherwise provided in this Agreement, said right of waiver shall include the right to waive a default. No waiver made by any Party with respect to the performance, or manner or time thereof, of any obligation of any other Party or any condition to its own obligation under this Agreement shall be considered a waiver of any rights of the Party making the waiver with respect to the particular obligation of the other Party or condition of its own obligation beyond those expressly waived and to the extent thereof, or a waiver in any respect in regard to any other rights of the Party making the waiver.

14.11 No Significance of Party Drafting. The Parties agree that in the construction or interpretation of this Agreement, no significance shall be attributed, in presumption or otherwise, to the identity of the party drafting the provision or provisions in question.

14.12 Recordation. A short form memorandum of this Agreement, and any modifications thereof or additions thereto, may be duly recorded by the Redeveloper in the Book of Deeds of the County of Somerset, and the cost of such recordation and the cost of any and all federal revenue stamps, which legally must be attached to such memorandum, shall be paid by the Redevelop

14.13 Notices. Any notice provided or required to be given under this Agreement must be in writing and shall be served (and shall be deemed to have been served) by delivering a copy thereof to the Party being served in person, by commercial courier or by email, with electronic proof of delivery, as follows:

As to the Township:

Township of Warren
46 Mountain Boulevard
Warren, NJ 07059
Attn: Township Administrator
Email:

With a copy to:

Jeffrey B. Lehrer, Esq.
DiFrancesco Bateman et als
15 Mountain Blvd.
Warren, N.J. 07059
Email: jlehrer@newjerseylaw.net

As to the Redeveloper:

Brian S. Silbert, President & CEO
Silbert Realty and Management Co., Inc.
152 Liberty Corner Road, Suite 203
Warren, New Jersey 07059

With a copy to:

Brian Wolfson, Esq.
O'Toole Scrivo
14 Village Park Road
Cedar Grove, New Jersey 07009

From time to time, either Party may designate a different person or address for all of the purposes of this notice provision by giving the other Party no less than ten (10) days notice in advance of such change of address in accordance with the provisions hereof.

14.14 Counting of Days. Unless otherwise specifically set forth, all references to counting of days shall be calendar days; provided, however, that consistent with R. 1:3-1, in computing a period of time of less than seven (7) days, Saturdays and Sundays and legal holidays shall be excluded.

14.15 Waiver of Jury Trial. The Township and the Redeveloper hereby waive trial by jury in any action, proceeding or counterclaim brought by or against either Party on, or in respect of, any matter whatsoever arising out of, relating to or pertaining to this Agreement, the relationship between the Township and the Redeveloper and/or any claim of injury or damage from any other relationship between the Parties hereto.

14.16 Successors Bound. This Agreement shall be binding upon the respective Parties hereto and, subject to the limitations on transfer set forth in Section 8, their successors and assigns.

SECTION 15. ESTOPPEL CERTIFICATE.

15.1 Estoppel Certificate. Within thirty (30) days following written request therefor by a party hereto, the other party shall issue a signed estoppel certificate either stating that this Agreement is in full force and effect and that there is no default or breach under this Agreement (nor any event which, with the passage of time or the giving of notice would result in a default or breach under this Agreement), or stating the nature of the default or breach or event, if any. In the event the estoppel certificate discloses such a default, breach or event, it shall also state the manner in which such default, breach and/or event may be cured.

[Signature page to follow]

1/31/2024

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the Effective Date.

TOWNSHIP OF WARREN

Attest:

Cathy Reese, Township Clerk

By: _____
Michael Marion, Mayor

Witness:

**SILBERT REALTY & MANAGEMENT
COMPANY, INC.**

By: _____

Name:

Title:

1/31/2024

EXHIBIT A

SITE PLAN

[On file with Planning Board]

1/31/2024

EXHIBIT B

ARCHITECTURAL PLANS

[On file with Planning Board]

1/31/2024

EXHIBIT B-1

ARCHITECTURAL RENDERING OF PROJECT

1/31/2024

EXHIBIT C

PLANNING BOARD RESOLUTION PB 20-05

1/31/2024

EXHIBIT D

LETTER FROM REDEVELOPER'S COUNSEL

1/31/2024

EXHIBIT D-1

LETTER DATED DECEMBER 16, 2020 FROM
GARY DEAN, PE, TRAFFIC CONSULTANT FOR THE REDEVELOPER

1/31/2024

EXHIBIT E
PROJECT SCHEDULE

1/31/2024

EXHIBIT F
FORM OF AFFORDABLE HOUSING
DEED RESTRICTION