

WEST WINDSOR TOWNSHIP PLANNING BOARD

	)	FINDINGS OF FACT
In the Matter of the Application of	)	AND
AvalonBay Communities, Inc. <u>for</u>	)	CONCLUSIONS OF LAW
	)	
<u>Preliminary and Final Major Site Plan and</u>	)	File No. PB 20-15
<u>Subdivision Approval</u> with Waivers	)	Block 6, Lots 8, 54, 55.01 and 76,
	)	and a portion of Block 5, Lot 8.05
	)	
	)	Approval granted:
	)	October 13, 2021

Be it resolved by the Planning Board of the Township of West Windsor that the action of this Board on October 13, 2021 in this matter is hereby memorialized by the adoption of this written decision setting forth the Board's findings and conclusions.

BACKGROUND

1. The site ("Site"), consisting of approximately 25.44 acres (1,064,648 s.f.) on Block 6, Lots 8, 54, 55.01 and 76, is located in the north-central portion of the Township. It is irregular in shape and fronts on Washington Road (portions along both County Route 526/571 and local Washington Road) and Station Drive.
2. The Site is presently developed with multiple office buildings and associated parking areas. The Site was declared an area in need of redevelopment on November 2, 2005 by the West Windsor Township Council.
3. Surrounding land uses consist of a warehousing building to the northeast, a vacant portion of the SRI (formerly Sarnoff) tract to the north, a restaurant, commercial and mixed uses, bus depot, and utilities lot to the east, and the Princeton Junction Train Station and its associated parking area to the south.
4. The Site is in the RP-1 Princeton Junction Redevelopment Plan District, which permits mixed use development with a maximum of 868 residential units, of which a minimum of 95 units must be age-restricted, including assisted living facilities. A 16.5% set aside for affordable

housing is required for the first 800 residential units and a 25% set-aside of the balance of 68 units.

5. The Site is identified in the Township's Housing Element and Fair Share Plan ("HEFSP") as a site to address the Township's affordable housing obligation. A concept plan included in the HEFSP estimated that the project would include 20 affordable senior rental units, 99 affordable family rental units and 13 for-sale family units (equivalent to the 16.5% set aside of the first 800 units, as required in the RP-1 District).

PROPOSED PLAN

Site Plan

6. The Applicant proposes to remove the existing improvements on the Site and redevelop it with a mixed-use town center consisting of residential units, including age-restricted units and commercial uses. The project proposes the construction of 868 total residential units consisting of: (i) 535 multi-family, apartment units; (ii) 150 townhouses; (iii) 48 condominium flats; and (iv) 135 units within an assisted living facility. The units are distributed throughout 19 proposed residential buildings on the Site. Of these, 149 units are to be reserved for low-income and moderate-income households, which are also distributed throughout the project. Approximately 21,300 s.f. of commercial and restaurant space is to be constructed. Associated parking for all uses will be provided, including two parking garages with a total of 804 parking spaces, of which 81 garage spaces will be dedicated for the senior housing units.

7. Certain roadway and storm water improvements will be constructed with County approval to allow for the realignment of New Jersey State Route 64 and its intersection with Washington Road (both County and local portions) via a newly constructed roundabout. Approximately three acres from Block 5, Lot 8.05 (SRI) will be acquired for these purposes, new rights-of-way for realigned Route 64 and Washington Road, and land to be utilized for storm water management purposes.

8. Three different developers are anticipated for the development: (i) AvalonBay Communities, Inc., the anticipated developer for 535 residential units to be known as Avalon West and Avalon East, the approximately 21,300 square feet of commercial and restaurant space, the two parking garages, and the promenade area; (ii) Pulte Homes, the anticipated developer of

the 150 townhouses and 48 condominium flats and their associated parking areas; and (iii) Atria, the anticipated developer of the proposed 135-unit senior assisted living facility.

9. The elements of the development are summarized as follows:

Apartments and Mixed-use Promenade Area (AvalonBay Communities)

10. The mixed-use promenade area in the southerly and southeasterly portion of the Site will consist of two mixed use buildings fronting along a promenade: Avalon Building East and Avalon Building West, altogether containing 535 residential units, including 100 affordable units. This element is referred to herein as the “AvalonBay” portion of the development.

11. The ground floor of Avalon Building West will contain a work lounge area and nonresidential tenant space, in addition to residential units. The ground floor of Avalon Building East will contain a lobby/leasing/lounge area, fitness center and nonresidential tenant space. The courtyard area in Building East will include a pool. Courtyard areas in both Building East and Building West will include other tenant recreation space.

12. A 72,745 s.f. walkable promenade will be located between Avalon Building East and Avalon Building West. It will be owned and maintained privately as a public space for use by residents of the project as well as by the West Windsor community. Its design will permit temporary restriction of vehicular traffic from all or portions of it, as required by the public events to be organized and held within the space. It will contain various pedestrian amenities including benches, tables, lounge chairs, ottomans, an interactive fountain play area, and a pavilion. Parallel parking spaces are being provided along either side of the promenade’s roadway.

Other Residential Elements (Condos, Townhouses, Senior Living)

13. *Centralized Residential Condo Building (Pulte Homes)*. Referred to herein as “Pulte Homes,” the residential condominium building is located at the northerly terminus of the promenade space. The ground floor of the building will contain 50 parking spaces while the remaining residential floors contain 48 condo units, including 7 affordable units. All of the units will be 2-bedroom units. Its façade will be mostly brick veneer, composite paneling, horizontal siding, and a concrete stone masonry veneer.

14. *Townhouse Building (Pulte Homes)*. The northerly portion of the development will consist of 15 townhome buildings containing 150 units, including 15 affordable units, also part of the Pulte Homes element. Ranging in size, these buildings will contain between six and 18 units: 32 are to be traditional townhomes, 118 stacked townhomes. The façades of the townhouses will generally consist of vertical siding board and batten, horizontal siding, brick veneer and panel siding.

15. *Senior Living (Atria)*. A senior living component, referred to herein as the Atria development, is proposed within the northwesterly portion of the Site and will consist of 110 assisted living units and 25 memory care units. Of these, 22 will be affordable assisted living units that will result in 27 credits against the Township's affordable housing obligation pursuant to applicable State regulations. In addition to these units, the first floor of the senior building will contain retail/doctor tenant space and shared facilities. The façade of the building will consist mostly of brick, panels and EIFS.

Parking Garages

16. Two parking garages are proposed. Parking Garage West, which is attached to Avalon Building West and the senior living building, will contain 309 parking spaces, including 81 spaces which will be available to the senior housing component (assisted living facility). Parking Garage East will be attached to and screened by Avalon Building East and is to contain 495 spaces.

Subdivision

17. The Applicant proposes to subdivide the overall property into 14 parcels to accommodate the various users, common areas and roadways.

RELIEF SOUGHT

18. The Applicant seeks preliminary and final major subdivision and preliminary and final major site plan approval for the construction of the project. Fifteen waivers are sought, including three design waivers and 12 submission waivers, as follows:

Design waivers

- From Section 200-31K(4), requiring footcandles of 0.6 in residential areas whereas 0.8 are proposed;
- From Section 100-29M(4), requiring hairpin striping whereas single line parking stalls are proposed; and
- From Section 200-36C, establishing supplemental design criteria, including the requirement to provide 3.5 acres of recreational space and certain types of recreational amenities, whereas not all such amenities are being provided.

Submission waivers

Subdivision Checklist (8 waivers)

- From Section 200-53C(8), which requires that existing and proposed electric and gas utilities be shown on the plat, whereas not all such utilities have been shown;
- From Section 200-53C(17), which requires the submission of an Environmental Impact Statement (EIS), whereas no such EIS has been provided;
- From Section 200-54C(13)(a), which requires a grading plan, whereas no such plan is being provided;
- From Section 200-54C(13)(b), which requires a final drainage plan, whereas no such plan is being provided;
- From Section 200-54C(14), which requires a copy of the preliminary approval resolution, whereas no such resolution is being provided;
- From Section 200-54C(18)(a) and (b), which require an as-built lot grading plan, whereas no such plan is being provided; and
- From Section 200-54C(17), which requires a Traffic Signage Plan, whereas no such traffic signage plan has been submitted.

Site Plan Checklist (4 waivers)

- From Section 200-13C(3)(o), which requires that existing and proposed electric and gas utilities be shown on the plat, whereas such utilities are not being shown;
- From Section 200-13C(3)(r), which requires various signage details to be provided, whereas not all such details are being provided;
- From Section 200-14C(1)(a), which requires a copy of the preliminary site plan approval resolution, whereas no such resolution is being provided; and
- From Section 200-14C(1)(b)[4], which requires sign elevations, whereas such elevations are not being provided.

19. No variance relief is requested.

THE APPLICANT

20. The Applicant is the contract purchaser and redeveloper of the Site pursuant to a June 2018 Settlement Agreement and Redeveloper's Agreement entered into by the Applicant and the Township.

NOTICE AND HEARING

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

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

23. The notice and publication stated that the hearing would be held at the meeting of the Board scheduled for September 22, 2021. The hearing started on that date and was continued on October 6, 2021 and October 13, 2021, with no further notice being required.

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

PLANS PRESENTED

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

- Existing Conditions Plan prepared by Maser Consulting, dated February 4, 2021
- Boundary and Topographic Survey prepared by Langan, dated December 5, 2017
- Existing Conditions Plan prepared by Maser Consulting, dated November 16, 2018 (last revised December 4, 2020)
- Preliminary and Final Site Plan prepared by Maser Consulting, dated December 18, 2020 (last revised July 23, 2021)
- Final Plat Subdivision Plan prepared by Maser Consulting, dated April 23, 2021 (last revised June 25, 2021)
- Roadway Improvement Plans prepared by Maser Consulting, dated October 14, 2020
- Landscape Architecture Plan prepared by Merillo Bauer Carman Associates, dated March 4, 2021 (last revised July 23, 2021)
- Architectural and Elevation Plan (Pulte) prepared by Minno Wasko Architects and Planners, dated April 23, 2021 (last revised July 23, 2021)

- Atria Senior Living Development Plan prepared by C+TC Design Studio, dated April 23, 2021 (last revised July 23, 2021)
- East and West Building Plans prepared by LRK, dated April 23, 2021 (last revised July 23, 2021)
- Parking Plan prepared by Maser Consulting, dated December 18, 2020 (last revised June 25, 2021)
- Snow Removal Plan prepared by Maser Consulting, dated April 7, 2021
- Circulation Exhibits prepared by Maser Consulting, dated December 18, 2020 (last revised June 25, 2021)

TOWNSHIP REPORTS

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

- Memorandum from David Novak, P.P., A.I.C.P. to the Board dated August 18, 2021
- Memorandum from Francis Guzik, P.E. to the Board dated August 18, 2021
- Memoranda from Jeffrey L'Amoreaux, P.E. to the Board dated August 18, 2021 and August 20, 2021
- Memorandum from Daniel Dobromilsky, L.L.A., to the Board dated August 18, 2021
- Memorandum from Timothy M. Lynch, West Windsor Township Fire & Emergency Services to the Board dated August 18, 2021
- Memorandum from West Windsor Affordable Housing Committee to Jill Swanson, dated October 7, 2021

EXHIBITS

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

- Exhibit A-1 – PowerPoint presentation prepared by the Applicant consisting of 72 pages/slides
- Exhibit PB-1 – Sketch prepared by Jeffrey L'Amoreaux showing the location of the proposed Vaughn Drive extension
- Exhibit PB-2 – Sketch prepared by Jeffrey L'Amoreaux showing the location of an interim measure for a connection from Road A to Vaughn Drive
- Exhibit O-1 – Sketch by William Rutledge for proposed alternate roadway design

TESTIMONY AND PUBLIC INPUT

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

Richard J. Hoff, Jr., Esq. represented the Applicant. Jeromie Lange, P.E., its civil engineer; Stuart Johnson, R.A., architect for the Pulte/townhome/condominium portion of the project; James Culpepper, R.A., architect for Atria (assisted living developer); Ken O'Brien, R.A., architect for the AvalonBay residential buildings; Thomas Carman, L.A. the landscape architect for the development; Maurice Rached, P.E., the traffic engineer for the development; James Mullen, representative of Pulte Homes; and Ron Ladell, representative of AvalonBay, testified on the Applicant's behalf.

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

David Novak, P.P.; Dan Dobromilsky, L.L.A.; Francis A. Guzik, P.E.; Samuel Surtees, Land Use Manager; Jeffrey L'Amoreaux, P.E., and Gerald J. Muller, Esq. and Martina Baillie, Esq.

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

- Alison Miller of 41 Windsor Drive expressed concerns about the height and placement of signage for designated parking and snow storage interfering with parking for the affordable units. She also expressed concern about the waiver for hairpin striping for parking spaces to preserve neighbors' cars.
- William Rutledge of 19 Scott Avenue expressed concerns about traffic.
- Eugene Szewczyk of 136 Washington Road expressed concerns about traffic and flooding.
- Mario Rubbo of 6 Coventry Circle expressed concerns about traffic.
- Cammy Anico of 37 Fieldston Road expressed concerns about traffic and flooding.
- Sharon Sibilia of 217 Washington Road expressed concerns about traffic and flooding.
- Sarah Kampel of 13 Wallingford Drive expressed concerns about traffic, flooding and emergency vehicle access.
- Michael Stevens of 25 Fieldston Road expressed concerns about traffic.
- Guy Pierson of 241 Fischer Place expressed concerns about traffic and public restrooms for the promenade.
- Michael Gumkowski of 204 Washington Road expressed concerns about traffic.
- Rodica Perciali of 114 Washington Road expressed concerns about recreation for older children.
- Sean Rucewicz of 248 Fisher Place expressed concerns about traffic.
- Laura Halderman of 17 Fieldstone Road expressed concerns about traffic.
- Dorothy Holmes of 19 Wallingford Drive expressed concerns about traffic.
- Colleen Foy of 4 Manor Avenue expressed concerns about traffic and flooding.

- Courtney Coffman of 248 Fisher Place expressed concerns about traffic, flooding and emergency vehicle access.
- Zack Weale expressed concerns about traffic, flooding and additional school children.
- Kathleen Russell of 8 Coventry Circle expressed concerns about traffic and flooding.
- Martin Rossman of 10 Coventry Circle expressed concerns about additional school children and traffic.
- Raymond Gallagher of 2 Fieldston Road expressed concerns about traffic.
- Jennifer Burns of 18 Fieldston Road expressed concerns about traffic.
- Tirza Wahrman of 5 Stonelea Drive expressed concerns about flooding.
- Nimesh Patel of 11 Wallingford Drive expressed concerns about traffic.
- Michael Perciali of 114 Washington Road testified in support of the application.
- John Church of 11 Princeton Place expressed concerns about the potential impact of the project on flooding and on a state-threatened bird species, and the cost and environmental impact of the Vaugh Drive extension.

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

31. The Board notes that the Site is part of the Township's court-approved HEFSP prepared in accordance with a Settlement Agreement between the Township and Fair Share Housing Center, entered on October 9, 2018, as amended, setting forth the Township's affordable housing obligations. The project would create 149 affordable units as part of a mixed-use development that integrates these units throughout the development with market rate units. This backdrop of affordable housing and the Township's carefully negotiated and court-approved goals to meet its affordable housing obligations, while not dispositive of this Board's decision, sensitizes the decision making somewhat differently than an ordinary development approval would, as the Board starts with a keen interest to ensure that the project is designed in such as way as to merit approval.

32. Concern was raised by the Board that some of the bedrooms in the affordable units did not have windows, and the question of whether this was permissible was raised. The Board Attorney, in a memorandum to the Board dated August 31, 2021, advised that the matter is governed by the State Housing Code, as adopted by West Windsor, and that the Board does not have jurisdiction on this issue, as the enforcement of such housing regulations resides with the municipal health officer. The Applicant indicated that it did not agree as to the applicability of the State Housing Code.

Master Plan Goals

33. The February 2020 Land Use Plan Element of the Master Plan envisions the RP-1 Princeton Junction Redevelopment Plan District as the core of the Princeton Junction Redevelopment area, where a mix of residential, retail, office and civic space offers a sense of a village-like community that accommodates a variety of demographics, both longer term residents and a more transient population that seeks and benefits from proximity to the train station. The Board finds that the proposed development meets the Master Plan goals.

Stormwater Management

34. The proposed development is grandfathered from the NJ Stormwater Management Rules that went into effect on March 1, 2021. The New Jersey Department of Environmental Protection (“NJDEP”) has reviewed and, on May 12, 2021, approved the storm water management plans as part of its review of the Applicant’s Flood Hazard Area Individual Permit for the development. An overall site-wide decentralized storm water system is proposed, with interconnected storm water measures and two discharge points. Storm water management elements consist of eleven underground retention basins on site, one bio-retention basin, one extended detention basin, and two rain gardens on either side of condominium building, all of which are designed for the 100-year storm event. The project proposes more groundwater recharge than is required by applicable regulations. Two sets of flood hazard area verifications and individual permits were issued by NJDEP, one for the residential and non-residential uses of the project and another for the public roadway improvements proposed in connection with the project. A separate storm water management facility depicted on the County Route 526/571 roadway improvement plans would be a County-owned drainage basin for purposes of the roadway improvements.

35. Concern was expressed by members of the public that the development would increase flooding in the area, exacerbating already difficult existing conditions. In response to these concerns, Mr. Lange explained that regional flooding is attributed to the nearby Millstone River, whose flood waters back up into the Little Bear Brook watershed, overtopping Washington Road, and, at times, Alexander Road. Mr. Lange further explained that some of the more localized flooding that occurs on Washington Road when Millstone does not back up is due to the existing stormwater collection system being undersized, and that the Applicant is proposing to modernize and improve that system. Mr. Lange testified that the development’s stormwater management system will not increase flooding problems in the area as it is designed to reduce the peak flow rate from the project area, a conclusion with which the Township Engineer concurred. Accordingly, the Board finds that the storm water management elements of the proposed development are adequate and meet both local and state requirements.

Environmental considerations

36. No freshwater wetlands are located on the subject parcels, and the applicable flood hazard area has been verified by the NJDEP. A 50-foot wetlands buffer of intermediate resource value extends onto the property, for which a Letter of Interpretation (“LOI”) was issued on February 2, 2020. A deed notice with respect to the same has been recorded.

Parking

37. The project requires a total of 1,228 parking spaces, while the Applicant is proposing 1,289 spaces. Of these, 807 spaces will serve the AvalonBay buildings, 69 spaces will serve the condominium building, 330 spaces will serve the townhomes buildings and 81 spaces will serve the assisted living facility, as well as two car share service stalls. The nonresidential uses are required to provide 22 spaces and the application proposes 144 spaces, combining the garage spaces and on-street parking. The Applicant testified that the residential and nonresidential parking demands are not expected to peak at the same times, allowing for additional shared parking opportunities.

38. Eighty-six electric vehicle (“EV”) charging stalls are to be located in the AvalonBay parking garages, 50 in the East Garage and 36 in the West Garage. EV charging will be offered to each townhome owner and to each owner in the condominium building in the underground parking area. It is noted that new legislation requiring the incorporation of certain EV charging and other requirements went into effect on July 9, 2021, but is inapplicable to the present application as it was filed prior to the law becoming effective.

39. The Board finds the proposed parking provisions to be appropriate and in compliance with the parking ordinance.

Vehicular and pedestrian traffic

40. Access to the development will be provided for traffic coming from both County Route 526/571 (Princeton-Hightstown Road) and Washington Road. County Route 526/571 becomes State Route 64 over the Amtrak bridge and currently is hampered by sharp curves where it meets Washington Road. That condition will be greatly improved by the Applicant’s proposal to realign the roadway, improving the geometry and increasing capacity of the roadway intersection

by construction of a roundabout, all of which will be owned and maintained by Mercer County. A series of roads, designated Road A, Road B, Road C, Road D and Road E will be constructed to facilitate internal circulation, with Roads A and B accessing Washington Road. While the Applicant indicated that Road A and Road B should be public roads, the Board concludes that ownership of these roads is an issue to be determined by the Township.

41. The Applicant's Traffic Engineer, Mr. Rached, testified that the roundabout concept and design was the product of the Applicant working with representatives of Mercer County, the Township and New Jersey Department of Transportation ("NJDOT") to develop the realignment plan over a period of years. The Applicant has consulted with the County on reconfiguring and redesigning Route 64, County Route 526/571 and Washington Road, considering a variety of analyses, including examining the need for a signal, changing geometry and keeping it unsignalized. As a result of that investigation, the present design, which includes provision of the roundabout in lieu of a signalized intersection, was determined by the County to be the best approach. Mr. Rached indicated that the County favored the roundabout concept because it improves capacity and provides better access points. The proposed roundabout also has the capacity to handle a future secondary arterial road intersecting it as a fourth leg.

42. The seven driveways currently along Washington Road will be consolidated into two. The current driveway serving AI Industries, the owner/operator at Block 6, Lot 48 (the "AI Property"), does not have proper sight distances where it connects to Washington Road and will be reconfigured, as further described below. Mr. Rached further testified that the County approval would require seven-foot shoulders on both sides of the proposed realigned roadway for bicycle traffic, which varied from the original design of 12-foot travel lanes and 6-foot shoulders. The Applicant also agreed to work with the school district for bus stop locations.

43. A left-turn lane is proposed at the Road A/Washington Road intersection, but, in accordance with the August 24, 2021 conditional approval from the County Planning Board, left turns out onto Washington Road will be prohibited during peak hours from 7:00 -9:00AM and 4:00 -6:00 PM. During the restricted hours, west-bound traffic will need to make a right and go through the roundabout to head in the desired west-bound direction. Signage along Road A alerting motorists to the left turn prohibition, which will be enforced by West Windsor, will be provided.

44. The Applicant proposes eliminating the current driveway servicing the AI Property and relocating it to connect to Road A, which will be constructed for this development. This

proposed location for the AI access point was conditionally approved by the Mercer County Planning Board. However, counsel for AI indicated that AI desired that its sole point of access to its property remain directly from Washington Road, not with Road A. The Applicant and AI explored the potential for a relocation of the proposed AI driveway access on Washington Road, and the Applicant testified that the parties reached agreement on a concept to achieve that objective (the “Revised AI Drive”). It is understood that AI will present the Revised AI Drive plan for approval by the Mercer County Planning Board. If so approved, and if no further outside agency approval is required, the Revised AI Drive may be incorporated as part of the plan conformance review of the present Application upon review and approval of the same by the Planning Board professionals. If, however, the Revised AI Drive, is not approved or not constructed, then the original design submitted by the Applicant in this application, with the sole access point to the AI Property being from Road A, will be accepted and approved as submitted by the Applicant. The Board finds the foregoing to be an appropriate solution with respect to AI access, with the proviso that no costs associated with the construction of access to the AI property, whether through the Revised AI Drive or as currently proposed by the Applicant, shall be borne by AI. Several conditions address the foregoing understandings and agreements.

45. The Mercer County Planning Board on August 24, 2021 conditionally approved the County project and the public roadway improvements proposed.

46. The Board finds that the proposed roadway design for both public and private roadways complies with applicable ordinance standards and Residential Site Improvement Standards (RSIS) and can suitably accommodate buses, garbage trucks and emergency vehicles.

Pedestrian and bike circulation

47. Bike and pedestrian circulation is provided by internal and community pedestrian and vehicular connections, including a connection from the Site to the Princeton Junction train station (subject to NJDOT and NJ Transit approval) and to Vaughn Drive. Bicycle parking will be provided throughout the project for residents and visitors, together with sheltered bike storage for residents and public bike racks in the community.

48. Pedestrian crossings will be constructed at the roundabout and will include yield sign and pavement markings, in accordance with applicable standards.

49. The Board finds that the proposed plan offers a well-designed pedestrian and vehicular circulation plan.

Landscaping and recreational amenities

50. Mr. Carmen provided extensive testimony regarding the landscape plan for the project. Ornamental and native plants will be planted along street frontages, building façades, the promenade, stormwater basins and amenity spaces. Deciduous shade trees are to be located throughout, including a mix of maple, oak, elm and honey locust, among others. Evergreens are proposed along the edge of the stormwater basin. Foundation plantings are proposed along the AvalonBay and Atria buildings, as well as for the Pulte townhomes. The Atria and AvalonBay buildings will include courtyard areas that offer landscaping and other outdoor amenities.

51. Approximately 380 trees are to be removed, and approximately 460 replacements trees are to be planted.

52. The proposed lighting plan meets or exceeds all applicable ordinance requirements, subject to the waiver granted herein with respect to average footcandles in residential areas.

53. The promenade incorporates a flexible design. For example, Roadways D and E around the promenade may be altered or closed to allow for specific events, while still facilitating vehicular and pedestrian circulation. Theater-type seating will be constructed, taking advantage of the natural 6-foot grade change within the Site, with four different terraced seating areas being provided, including an area to set up a stage on a lower portion and amphitheater/sitting steps proposed within the north plaza. An open-air pavilion and a large lawn area offer other outdoor amenities that lend themselves to different uses. Sidewalks are designed in a meandering configuration and will be handicapped accessible and ADA-compliant, as will be the sloped walkway within the promenade. The proposed tree grove within the promenade offers a shaded area and additional seating, while trees and paving patterns offer definition and creative design elements in the area. A splash pad that can be switched on and off as needed is proposed. Bicycle racks, benches, seat walls, and other elements to enhance the pedestrian experience will be provided in the rear area of the promenade.

54. Electric and water service are being brought into the pavilion, although no public restrooms will be offered, an aspect that raised concern among several Board members in light of the intended use of the promenade for public events. While the inclusion of public restrooms

may be desirable and appropriate given the intended use of the promenade, the RP-1 District regulations do not require it and the Applicant provided testimony as to the practical difficulties with providing and managing such public facilities. On the other hand, the Applicant agreed as a condition of approval to provide potable water stations/fountains on the promenade.

55. The Redevelopment Agreement gives the public the right to use the promenade for various activities. The Applicant retains ownership of the promenade property and maintenance responsibilities, and will appoint a company liaison to maintain contact with Township representatives regarding the use of the promenade.

Utilities and recycling

56. Domestic water servicing the development will be provided by New Jersey American Water based on estimated demand of approximately 121,900 gallons per day (gpd). A water main is proposed to extend from an existing 12-inch main on Washington Road.

57. Public sanitary sewer will serve the project at a projected net demand of 183,126 gpd. An 8-inch (8") PVC gravity system is proposed throughout the project and will connect to an existing 24-inch interceptor in Washington Road.

58. With respect to recycling and waste disposal, compactor-driven dumpsters with roll off units that will be removed and replaced as needed through the use of a private hauler are to be provided for the AvalonBay buildings. The townhouse and stacked townhomes contain garbage bins in their garage areas and are to be wheeled curbside by residents. Refuse collection in the 48-unit condominium buildings is done internally, with containers to be wheeled out for pick up on designated collection days.

Condo Building and Townhouses (Pulte)

59. Stuart Johnson, R.A. provided testimony with respect to the Pulte component of the project (condominium apartments and townhouses). That element will include 15 three-story townhome and/or stacked townhouse buildings ranging from six to 18 units per building. The townhouses will consist of 150 units, including 15 affordable units. The front doors of the townhomes will face Road A, Road B and Road C, with the garage doors located in the rear of the buildings.

60. The 48-unit condominium building will provide 24 tandem parking spaces assigned to the same building. Some units within the condominium building will have balconies. The proposed size of the affordable units complies with the applicable Township ordinance. The affordable units shall be for-sale units.

61. With respect to bicycle storage, the condominium building will have internal storage for residents of the condominium building while the townhomes have space within the garage areas.

62. All of the condominium building, stacked townhomes and traditional townhomes will have some level of fire sprinklers. While the traditional townhomes do not require fire suppression pursuant to the building code, Pulte agreed to incorporate it.

Age Restricted Building (Atria)

63. The 135-unit facility will include 25 memory care units that serve 32 residents (as certain units allow for dual occupancy). The building will provide 2,100 square feet of outdoor area, which will be secured.

64. Mr. Culpepper provided testimony establishing that the architectural aspects of the Atria building comply with the RP-1 District regulations.

AvalonBay Buildings

65. Kenneth O'Brien, R.A. provided testimony with respect to the AvalonBay element of the project. Avalon West will consist of 159 units of which 126 will be market rate and 33 affordable units. Avalon East will consist of 376 units of which 309 are to be market rate units and 67 affordable units.

66. Parking for the Avalon units will be provided by two parking garages:

- a. The West Garage will contain 309 spaces, including 50 EV charging spaces and will share parking with the Atria building. In the West Garage, 81 spaces will be available to the Atria building and 228 spaces for the Avalon residents. Within the West Garage, 11 resident bike parking spaces will also be provided.
- b. The East Garage will contain 495 spaces, 60 of which would be shared public access spaces. It will include 29 resident bike parking spaces and 36 EV charging stations.

67. Mr. O'Brien provided testimony establishing that the architectural aspects of the AvalonBay buildings comply with the RP-1 District regulations.

Objector

68. As noted above, the Applicant proposes eliminating the current driveway servicing the AI property and relocating it to access Road A, which will be constructed for this development. Counsel for AI, Richard Fornaro, Esq., on behalf of his client, objected in writing to this proposed relocation. Discussions subsequently took place between AI and the Applicant as to an alternative solution whereby AI will propose a direct single access point on Washington Road, which plan will be submitted to the County for approval. The terms of the agreement reached are described above and incorporated as Condition 73z(ii). As a further condition of approval, the Applicant agreed to ensure continued uninterrupted access to the AI site throughout its construction of the project.

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

FINDINGS AND CONCLUSIONS RE: PRELIMINARY AND FINAL MAJOR
SUBDIVISION APPROVAL

70. Mr. Lange, the Applicant's engineer, testified that the subdivision plan will facilitate the implementation of the mixed-use plan by accommodating the various uses, common areas and roadway more efficiently. The Board finds the proposed subdivision plan to be reasonable and appropriate.

71. Findings and conclusions re: preliminary and final major subdivision approval. The Board finds that, with submission waivers granted and conditions imposed, the Applicant has met all Township major subdivision standards. Preliminary and final subdivision approval, accordingly, are granted.

FINDINGS AND CONCLUSIONS RE: WAIVERS

72. The application necessitates 15 waivers, consisting of three design waivers and 12 submission waivers. The waivers and Board's action on them are as follows:

Design waivers

a. Waiver. From Section 200-31K(4), which requires an average intensity in footcandles of 0.6 in residential areas, whereas an average of 0.8 footcandles is proposed.

Waiver granted. The proposed lighting will result with a better-lit, safer site but not an overly-lit site, and no increased negative impact is anticipated from the proposed lighting plan, which meets the Illuminating Engineering Society's guidelines for residential development. The Board notes that the lighting standards did not set a maximum footcandle average, and a higher average may therefore be appropriate in certain circumstances, including the present application. Literal enforcement of this requirement would exact undue hardship upon the Applicant, since it would require the Applicant to redesign the lighting plan, which is not feasible without potentially impacting the safety of the site or compromising appropriate levels of visibility. For the foregoing reasons, the Board finds this waiver request to be reasonable and within the general purpose and intent of the Ordinance, which is to provide adequate and safe lighting, and such lighting is being provided. This waiver is therefore granted.

b. Waiver. From Section 200-29M(4), which requires double spaced hairpin striping for parking spaces at 18 inches center-to-center, whereas four-inch single white striping is proposed.

Waiver granted. The parking spaces within the development are intended for long term parking which generate less turnover and therefore less vehicular movement. The only short-term parking is parallel parking stalls, which are not typically striped with hairpin striping. Literal enforcement of this requirement would exact undue hardship upon the Applicant since it would require it to redesign the parking plan and eliminate parking spaces, without a corresponding benefit with respect to safety. For the foregoing reasons, the Board finds this waiver request to be reasonable and within the general purpose and intent of the Ordinance, which is to provide adequate and safe parking, and adequate and safe parking is being provided. Accordingly, this waiver is granted.

c. Waiver. From Section 200-36C, establishing supplemental design criteria, including the requirement to provide 3.5 acres of recreational space and certain types of recreational amenities, whereas not all such amenities are being provided.

Waiver granted. The proposed development meets the provisions of the RP-1 Zoning Regulations, including the construction of the promenade, a unique public and private amenity consisting of an amphitheater-style seating area, a collection of plazas to host public and private events, small and large, and substantial landscaping throughout the area to create an inviting, aesthetically pleasing environment for all. Literal enforcement of this requirement would exact undue hardship upon the Applicant since it would require installation of facilities that could not be accommodated in the plan as presently designed, whereas as several outdoor amenities are already being provided, as contemplated by the RP-1 Zoning requirements. For the foregoing reasons, the Board finds this waiver request to be reasonable and within the general purpose and intent of the Ordinance, which is to ensure that certain developments provide adequate recreational elements and amenities, and such elements and amenities are being provided. This waiver is therefore granted.

Submission waivers

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

Subdivision checklist (8 waivers)

- | | | |
|---|---|--|
| 1 | <u>Waiver</u> : From Section 200-53C(8), which requires that existing and proposed electric and gas utilities be shown on the plat, whereas not all such utilities have been shown. | <u>Waiver granted</u> : The layout of existing and proposed electric and gas utilities is subject to the design of the respective utility companies. Showing these utilities is a condition of approval. |
| 2 | <u>Waiver</u> : From Section 200-53C(17), which requires the submission of an EIS, whereas no such EIS has been provided. | <u>Waiver granted</u> . The Applicant agreed as a condition of approval to provide a copy of the proposed remediation plan from the LSRP. |

3 Waiver: From Section 200-54C(13)(a), which requires a grading plan, whereas no such plan is being provided.

Waiver granted. This item relates to a situation where preliminary and final major subdivision approval are sought separately, whereas concurrent approvals are sought in this application.

4 Waiver: From Section 200-54C(13)(b), which requires a final drainage plan, whereas no such plan is being provided.

Waiver granted. This item relates to a situation where preliminary and final major subdivision approval are sought separately, whereas concurrent approvals are sought in this application.

5 Waiver: From Section 200-54C(14), which requires a copy of the preliminary approval resolution, whereas no such resolution is being provided.

Waiver granted. This item relates to a situation where preliminary and final major subdivision approvals are sought separately, whereas concurrent approvals are sought in this application.

6-7 Waivers: From Sections 200-54C(18)(a) and (b), which require an as-built lot grading plan, whereas no such plan is being provided.

Waiver granted. This item relates to a situation where preliminary and final major subdivision approval are sought separately, whereas concurrent approvals are sought in this application.

8 Waiver: From Section 200-54C(17), which requires a Traffic Signage Plan, whereas no such traffic signage plan has been submitted.

Temporary waiver granted. This item relates to a situation where preliminary and final major subdivision approval are sought separately, whereas concurrent approvals are sought in this application. A condition of approval is that the Applicant provide a full traffic signage and striping plan.

Site Plan checklist (4 waivers)

9 Waiver: From Section 200-13C(o), which requires that existing and proposed electric and gas utilities be shown on the plat, whereas such utilities are not being shown.

Waiver granted. The layout of existing and proposed electric and gas utilities is subject to the design of the respective utility companies. Showing these utilities is a condition of approval.

10 Waiver: From Section 200-13C(3)(r), which requires various signage details to be provided, whereas not all such details are being provided.

Temporary waiver granted. A condition of approval is that the Applicant provide a full traffic signage and striping plan.

11 Waiver: From Section 200-14C(1)(a), which requires a copy of the preliminary site plan approval resolution, whereas no such resolution is being provided.

Waiver granted. This item relates to a situation where preliminary and final major site plan approvals are sought separately, whereas concurrent approvals are sought in this application.

12 Waiver: From Section 200-14C(1)(b)[4], which requires sign elevations, whereas such elevations are not being provided.

Waiver granted. This item relates to a situation where preliminary and final major site plan approvals are sought separately, whereas concurrent approvals are sought in this application.

CONDITIONS REQUIRED

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

Site plan and subdivision

- a. The site plan shall be implemented in the manner consistent with Exhibit A-1, except where inconsistent with the plans approved by the Board or any other condition.
- b. Utilities shall be shown on the final site plan.
- c. The subdivision plat shall conform to the Title Recording Act.
- d. The zoning data table shall be annotated to show that although approval for 79.9% impervious coverage is being requested, the actual impervious cover reflected by the site plans being approved by the Board is 71.5%. Storm water management and collection systems shall be designed based on the higher value.

Landscaping & Environmental

- e. The Applicant shall provide a copy of the proposed site Remediation Plan from the LSRP, which shall be subject to review by the Township Engineer. If the remediation

plan submitted conflicts with the site plans such as to require amended approval, then the Applicant shall return to the Board for such amended approval.

- f. Public drinking water fountains shall be installed on the promenade.

Traffic, circulation, and parking

g. The Applicant shall, as part of resolution compliance, provide a full traffic signage and striping plan identifying restrictions and prohibitions to be enforced under Title 39, subject to the review and approval of the Township Engineer and traffic consultant.

h. The Applicant shall arrange for requests to the Township for Title 39 enforcement, either for the project as a whole or from the developer of each segment of the project.

i. The Applicant shall provide 10-scale enlargements of designs for all barrier-free ramps/parking spaces and building access areas.

j. The Applicant shall cooperate with the Township and other state agencies, including New Jersey Transit and NJDOT, with respect to the establishment of alternate access via an interim Road A connection to the Transit parking lot and the proposed Vaughn Drive extension.

k. The Applicant shall provide seven-foot bicycle lanes/shoulders on Washington Road unless such plans are modified by Mercer County, which has jurisdiction over such Washington Road improvements.

l. Long-term parking on Road B shall be limited such that it is available for non-residential uses, subject to the review and approval by the Township Engineer.

Stormwater management

m. Construction of any areas tributary to Basin F shall not begin until Basin F is constructed and stabilized.

n. A revised BMP Maintenance Manual shall be provided, subject to the approval of the Township Engineer.

o. Homeowners' Association documents shall be subject to review and approval by the Township Engineer and Board Attorney with respect to the assignment or allocation of responsibility for various storm water management facilities among the developers or owners.

p. The Applicant shall revise the Redeveloper's Agreement with the Township in accordance with Section 200-105.1, requiring the installation and maintenance by the Applicant and its successors of all stormwater management improvements proposed and approved (excluding the basin that the County will be responsible for), and the filing of annual inspection and maintenance reports with the Township. Such agreement shall be subject to the review of the Township Engineer and Redevelopment Attorney with approval by Township Council.

Utilities

q. The Township sewer interceptor in this area of Washington Road shall be monitored by the Applicant during construction due to the extent of construction activity that will be happening near and over the top of it.

r. The Applicant shall submit to the Township Engineer a Treatment Works Approval application showing the sewer allocation amounts requested for the project. It will be submitted to the Township Council for resolution approval.

Emergency services

s. The number and location of any fire hydrants required on the site shall be subject to review and approval of the Fire Official.

Affordable housing

t. The Applicant shall comply with all requirements of the Uniform Housing and Affordability Controls, *N.J.S.A. 5:80-26.1*, et seq., except as modified by the terms of the Redeveloper Agreement and the RP-1 Zoning regulations.

u. The signage for the designated parking spaces for the affordable units in the condo building requiring surface parking spaces shall be marked with above ground post signs clearly indicating that the spaces are reserved for the affordable units.

v. Signage for affordable unit parking in the townhouse section shall be provided above ground clearly indicating that the parking is reserved for affordable units.

Other

w. The lease agreements for units with mezzanines shall provide that the mezzanines may not be used as bedrooms.

x. Block and Lot numbers for the parcels to be created shall be subject to the review and approval of the Township Engineer.

y. Street names and unit numbering shall be subject to the review and approval of the Township Engineer, the local US Postmaster and Emergency Services.

z. With respect to the AI Property:

- i. Access to the AI property (Block 8, Lot 54) shall be maintained at all times during construction.
- ii. The Application proposes eliminating the current driveway servicing the AI Property and relocating it on Road A, which will be constructed for this development. The proposed location for the AI access point was conditionally approved by the Mercer County Planning Board. However, counsel for AI indicated that AI desired that its sole point of access to its property remain directly from County Route 526/571, not on Road A. The Applicant and AI explored the potential for a relocation of the proposed AI driveway access on Washington Road, and the Applicant testified that the parties reached agreement on a concept to achieve that objective, namely the Revised AI Drive. It is understood that AI will present the Revised AI Drive plan for approval by the Mercer County Planning Board. If so approved, and if no further outside agency approval is

required, the Revised AI Drive may be incorporated as part of the plan conformance review of the present application upon review and approval of the same by the Planning Board professionals. If, however, the Revised AI Drive is not approved, or not constructed, then the original design submitted by the Applicant in this application, with the sole access point to the AI Property being from Road A, will be accepted and approved as submitted by the Applicant. AI will not be responsible for the cost of the above-referenced improvements.

aa. The Applicant shall provide a copy of the agreement with the County with respect to the transfer of the Washington Road right-of-way.

bb. The Applicant shall provide metes and bounds descriptions for each parcel to be created and all easements and dedications to be granted, along with closure calculations, subject to review and approval by the Township Engineer and Board Attorney.

cc. The Applicant shall provide two engineer's estimates for probable construction costs, one to include all site improvements for purpose of establishing the required construction inspection escrow fees and the other to establish the required performance guarantee amount.

dd. If construction cost estimates are submitted for bonding and inspection fees and they are allocated among different developers/parties, the Applicant shall clarify which party is responsible for which portion.

ee. The following approvals shall be obtained:

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

CONCLUSION

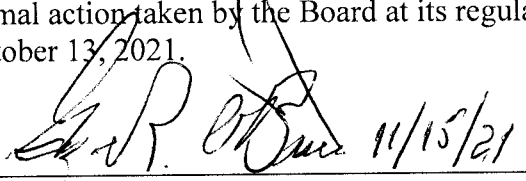
Based on the foregoing, the Board at its October 13, 2021 meeting voted to approve the plans with revisions made therein and as supplemented and modified by the exhibits

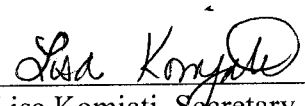
and to grant the relief identified above subject to the conditions and to be revised in accordance with the conditions set forth herein.

This resolution of memorialization was adopted on November 10, 2021 by a vote of those who voted to grant the relief sought by the Applicant.

The date of decision shall be October 13, 2021 except that the date of the adoption of this memorializing resolution is the date of decision for purposes of (1) mailing a copy of the decision to the applicant within 10 days of the date of the decision; (2) filing a copy of the decision with the administrative officer; and (3) publication of a notice of this decision. The date of the publication of the notice of decision shall be the date of the commencement of the vesting protection period.

We do hereby certify that the foregoing resolution was adopted by the Planning Board at its regular meeting held on November 10, 2021. This resolution memorializes formal action taken by the Board at its regular meeting held October 13, 2021.


Gene R. O'Brien, Chair


Lisa Komjati, Secretary

Michael Karp, Vice Chair – Yea
Sue Appelget – Absent
Anis Baig – Absent
Linda Geevers – Yea
Curtis Hoberman – Yea
Hemant Marathe – Yea
Simon Pankove – Absent
Allen Schectel – Absent
Iyotika Bahree, Alternate II – Absent