

**BOROUGH OF DEMAREST
PLANNING BOARD**

**IN THE MATTER OF THE APPLICATION OF
BERGEN COUNTY UNITED WAY/MADELINE HOUSING PARTNERS, LLC
FOR PRELIMINARY AND FINAL SITE PLAN APPROVAL FOR AN AFFORDABLE
HOUSING RESIDENTIAL BUILDING AT PREMISES KNOWN AS
127 HARDENBURGH AVENUE, LOT 13 IN BLOCK 23,
BOROUGH OF DEMAREST, NEW JERSEY**

BE IT RESOLVED, by the Planning Board of the Borough of Demarest that the following procedural history and resolution of related issues, findings of fact and conclusions of law are hereby adopted in reference to this matter.

PROCEDURAL HISTORY AND RESOLUTION OF RELATED ISSUES:

The Applicant BERGEN COUNTY UNITED WAY/MADELINE HOUSING PARTNERS, LLC. (the "BCUW") submitted an application purporting to contain no variances and proposing to construct seventeen (17) affordable housing units in accordance with the Settlement Agreement *infra*.

This Application arose out of settlement of Mt. Laurel litigation wherein the Borough approved a redevelopment area in the Hardenburgh Redevelopment Plan (the "HARP") and adopted a redevelopment plan by Ordinance No. 1094-21 on July 26, 2021. The redevelopment plan and accompanying zone plan adopted in association with the Borough's affordable housing settlement pursuant to third round compliance requirements provided for the redevelopment of the Borough's downtown area previously designated as an area in need of rehabilitation/redevelopment; and

The Borough Council authorized the preparation of the redevelopment plan for the rehabilitation area that ultimately conditionally permits standalone multi-family residential development subject to certain bulk requirements as follows:

- Minimum Lot Area 0.5 acres
- Maximum Front Yard Setback 26 feet
- Minimum Side Yard Setback 10 feet

- Minimum Rear Yard Setback 30 feet
- Maximum Building Coverage 70 %
- Maximum Impervious Coverage 90%
- Maximum Permitted Density 40 units / acre

The subject property was included in the Borough's Affordable Housing Settlement Agreement with Fair Share Housing Center ("FSHC"), executed on January 23, 2018, to address a portion of the Borough's third round Realistic Development Potential ("RDP") and third round unmet need. This Settlement Agreement anticipated eight (8) credits and one (1) bonus credit (a total of nine (9) credits) to be generated by the site.

The Applicant has presented a plan seeking Preliminary and final Major Site Plan Approval to construct a one hundred (100%) percent affordable seventeen (17) unit residential building including eight (8) family units, five (5) supportive units, and four (4) senior units, which application does not require any variances from the Ordinance.

FINDINGS OF FACT

The Procedural History and Resolution of Related Issues set forth above is incorporated into the Findings of Fact by Reference.

As noted above, the matter was heard at a public hearing on February 1, 2023, and upon proper notice, certified by evidence of Proof of Service to property owners within a 200-foot radius of the subject property and Proof of Publication in an official newspaper of the Borough; and

WHEREAS, Bruce E. Whitaker, Esq. of the firm McDonnell & Whitaker with offices located at 245 East Main Street, Ramsey, New Jersey 07446 appeared before the Board on behalf of the Applicant; and

WHEREAS, the only interdepartmental communications and advisory reports of municipal departments and agencies were:

1. Planning Board Application Package dated October 17, 2022;
2. Cover Letter from Michael E. Dipple, P.E. of L2A Land Design LLC dated December 14, 2022, consisting of four (4) pages;

3. Site Plan prepared by Michael E. Dipple, P.E. of L2A Land Design LLC as follows:
 - Plans entitled "Preliminary and Final Major Site Plan", prepared by Michael E. Dipple, P.E. of L2A Land Design LLC dated October 25, 2022, revised through December 14, 2022, consisting of twelve (12) sheets.
 - Stormwater Management Report, prepared by Michael E. Dipple, P.E. of L2A Land Design LLC dated October 25, 2022, consisting of thirty-three (33) pages.
4. Architectural Plans prepared by Raymond J. Virgona, R.A. of Virgona & Virgona Architects dated September 8, 2022, last revised December 14, 2022 consisting of four (4) pages;
5. Review memoranda of Darlene A. Green, P.P., A.I.C.P., of Colliers Engineering & Design, Planning Board's Planner, dated November 21, 2022, and January 10, 2023;
6. Review memoranda of Craig Zimmermann P.E., Board Engineer, of Colliers Engineering & Design, Planning Board's Engineer, dated December 20, 2022, and January 3, 2023; and
7. Review Approval Correspondence from the County of Bergen, Department of Planning and Engineering dated February 24, 2023, consisting of three (3) pages.

WHEREAS, admitted into evidence were the following exhibits:

- **A1**—Site Plan Application dated February 1, 2023;
- **A2**—Site Plan set prepared by L2A Land Design LLC dated October 25, 2022, last revised December 14, 2022, consisting of twelve (12) pages;
- **A3**— Architectural Plan set prepared by Virgona & Virgona Architects dated September 8, 2022, last revised October 1, 2022, consisting of five (5) pages; and
- **A4**—Stormwater Management Report prepared by L2A Land Design LLC dated October 25, 2022;
- **A5**—Photos of Harrington Park project indicating colors of building façade;
- **A6**—Colorized version of Exhibit A2 dated February 1, 2023
- **A7**—Architectural Rendering View
- **A8**—Market Rate and Affordable Photos

WHEREAS, the subject Application involves the following zoning data:

CATEGORY	PERMITTED	PROVIDED	VARIANCE
Minimum Lot Area	0.5 acre	0.54 acre	No
Maximum Front Yard Setback	26 ft.	15.20 ft.	No
Minimum Side Yard Setback	10 ft.	10 ft.	No
Minimum Rear Yard Setback	30 ft.	30 ft.	No
Maximum Building Coverage	70%	47.56%	No
Maximum Permitted Impervious Coverage*	80%	66.60%	No
Maximum Density	40 Units/AC	31.6 Units/AC	No
Maximum Permitted Building Height	3 Stories/35 ft.	3 Story/32.83 ft.	No
Minimum Parking	22 Spaces	22 Spaces	No

*Parcels containing more than 30,000 square feet shall have a maximum impervious coverage of 80%

The subject property is located on the southwest side of Hardenburgh Avenue in the Downtown Redevelopment Plan District. The site is currently vacant and is surrounded by mixed-use development to the northeast, a former bank to the east, and the Borough's municipal building to the south, and residential uses to the west and northwest.

Yard and Bulk requirements for the Downtown Redevelopment District can be found in Section 6.2.E. and are as follows:

- Minimum Lot Area 0.50 acres
- Maximum Front Yard Setback 26 feet
- Minimum Side Yard Setback 10 feet
- Minimum Rear Yard Setback 30 feet
- Maximum Building Coverage 70 %
- Maximum Impervious Coverage 90%
- Maximum Permitted Density 40 units / acre

WHEREAS, testimony in support of the application was given under oath by Applicant's Engineer, Michael E. Dipple, P.E., of L2A Land Design LLC with offices located at 60 Grand Avenue, Englewood, New Jersey 07631; Applicant's Architect, Raymond J. Virgona, RA of Virgona & Virgona Architects with offices located at 125 River Road, Suite 201, Edgewater, New Jersey 07020.

WHEREAS, testimony was also given under oath by the Planning Board's Engineer, Nick Chelius, P.E. and Planner, Darlene A. Green, P.P., AICP, both of Colliers Engineering & Design; and

WHEREAS, reports were supplied by the Applicant's Engineer and the Board's Engineer and Planner, providing technical comments in the above referenced review and which confirmed that this is a variance free application; and

WHEREAS, the Planning Board considered the testimony and evidence presented, the following are the findings of fact and conclusions of the Board:

THE SITE:

1. The subject parcel consists of 32,401.8 square feet (0.54 acres) fronting the southside of Hardenburgh Avenue. The property is located in the Downtown Redevelopment Plan ("DRP"). The proposed improvements are located in Zone X (areas to be determined to be outside the 0.2% annual chance flood plain) as shown on the Flood Insurance Rate Map ("FIRM") for the Borough of Demarest dated August 2019. The site is currently vacant and is surrounded by mixed-use development to the northeast, the Borough's municipal building to the south and residential uses to the west and northwest. The proposed development provides for impervious coverage to be 15,585 sq. ft. (66.60%) which includes the 11,129.4 sq. ft. building, 4,121.7 sq. ft. of "motor vehicle area", and 33.9 sq. ft. of sidewalk.
2. The Board heard the Applicant's testimony and found the subject project to be consistent with the intent and purpose of the Borough's Zoning Ordinance affecting the subject property, Ordinance No. 1071-19, as amended, which provided for adoption of the downtown redevelopment plan ("Redevelopment Plan"). The Board notes that the subject property was included in the Borough's Affordable Housing Settlement Agreement with Fair Share Housing Center executed on January 23, 2018.
3. In accordance with the Ordinance and the Settlement Agreement, the Property was expected to generate eight (8) credits and one (1) bonus credit towards the portion of the Borough's third-round Realistic Development Potential ("RDP") and third-round unmet need. The Applicant's plan for a seventeen (17) unit residential one hundred (100%) percent affordable project is projected to yield seventeen (17) credits for the Borough's Affordable Housing need.

OTHER SITE PLAN CONSIDERATIONS:

4. The proposed three (3) story multi-family building with seventeen (17) units complies with the impervious coverage requirements of the Ordinance. Specifically, the impervious coverage is permitted at eighty (80%) percent and the Applicant's project proposes impervious coverage of sixty-six-point sixty (66.60%) percent.
5. **Stormwater Management.** The Applicant proposes a large below ground infiltration basin within the northeastern portion of the site to detain runoff prior to discharging to the Hardenburgh Avenue right-of-way. Under proposed conditions, the majority of the site will drain to the infiltration basin and discharge to Hardenburgh Avenue. The drainage stormwater facilities are designed to capture all new impervious areas via catch basins throughout the site and treat the runoff after discharging to the proposed underground basin. Treatment devices to remove suspended solids in accordance with New Jersey Stormwater Management Rules are described in the Stormwater Management Report dated October 25, 2022, submitted in association with the Applicant's Preliminary and Final Major Site Plan Application. The drainage calculations have been submitted to the Board's Engineer's Office and have been reviewed with the outstanding items in line with the Engineer's review letter dated January 3, 2023.
6. **Sanitary Sewer Flow.** The Applicant has represented that the Borough's sanitary sewer system has sufficient capacity to handle the development.

FEBRUARY 1, 2023 HEARING

7. At the hearing on February 1, 2023, the Applicant's Attorney, Bruce E. Whitaker, Esq., provided the Board with an overview of the Application. Mr. Whitaker described that the Application was variance free. The Lot is fully conforming at 0.54 acres where 0.50 acres is required. Mr. Whitaker indicated that the Application requests two (2) waivers, including one for window sill height and one for caliper of replacement trees at the site. Mr. Whitaker indicated that the project was proposed to be one hundred (100%) affordable as a three (3) story multi-family building containing seventeen (17) units for affordable and supportive tenants who require assistance.
8. Mr. Whitaker indicated that the breakdown of proposed units is as follows:
 - ten (10) one (1) bedroom units

- five (5) two (2) bedroom units;
- two (2) three (3) bedroom units;

-or-

- eight (8) family housing units;
- four (4) senior housing units; and
- five (5) supportive housing units.

The building will also have a lower-level ventilated garage with the required number of parking spaces which are calculated using the Residential Site Improvement Standards ("RSIS") which total spaces equals twenty-one-point twenty-five (21.25) or twenty-two (22) spaces, and the Applicant proposes twenty-two (22) parking spaces. The parking level will be a ventilated garage. It will contain handicap spaces and vehicle charging stations.

9. Mr. Whitaker also described that the building will have a community room for tenants and an outdoor patio. A designated mail area together with an area for large packages and deliveries will be provided. There will be an elevator in the building. The building will be pet-friendly provided service certification is provided to qualify the pet. The entries for the lobbies and each individual unit will be keyless. There will be security cameras on the premises, and a fire suppression system.
10. Mr. Whitaker briefly discussed the exterior aesthetics that is designed to complement the downtown of the Borough. There will be lighting for safety on all walkways and parking areas. The project is designed to take advantage of the site's proximity to public transportation, shopping, houses of worship and natural surroundings.
11. Mr. Whitaker indicated that the building will be staffed full-time, with maintenance employees on call. A brochure with pertinent contacts for property management repairs and support staff will be provided to tenants and there will be daily visits from the property management staff for assistance to residents, inspections, and maintenance. In addition, Bergen County United Way specialists in "community integration" will work with the tenants to provide supportive services.
12. At the conclusion of Mr. Whitaker's introduction, he presented the testimony of Mr. Thomas Toronto of Leonia, New Jersey who was sworn in and identified as the President of the Bergen County United Way and the Manager of the related Madeline Housing Project LLC. Mr. Toronto provided a brief history of the Bergen

County United Way's involvement with supportive housing projects in northern New Jersey which includes the completion of thirty-five (35) projects through the offices of the Bergen County United Way. He described that New Jersey has a high population of young individuals with intellectual disabilities, explaining that there is a gap for these young people who receive training until the age of twenty-one (21) and thereafter aftercare and secure and supportive housing are needed for this population. He described that the project is intended to serve individuals twenty-eight (28) years old and older in addition to providing affordable family, senior and aforesaid supported housing within the seventeen (17) unit project. Mr. Toronto indicated that the project would be a rental project and that he will work with the Borough to provide the appropriate affordable housing controls and deed restrictions required by the Downtown Redevelopment Plan and Settlement Agreement.

13. Mr. Toronto described the appearance of the project as intended to be not institutional in style and that United Way will own the project and will maintain it to the highest level. Staff will make daily visits to the project as they do with other similar facilities. The goal of the staff is to assist the residents in integrating into the community. There will be no independent leasing to third parties, all tenants will be placed in the housing units by United Way.
14. In answer to Board questions, Mr. Toronto described that supportive housing tenants may require a different level of assistance than other building residents. The age requirement for seniors could be set at the age of sixty-two (62) and depending on the type of funding that the United Way receives for financing the building construction and operation.
15. With regard to questions on construction procedures, Mr. Toronto indicated that all construction equipment will be stored on site. There will be a trailer for construction meetings and materials will be stored on site and the site will be kept clean and safe for inspections. Any soil removal will be done according to the Borough's rules and regulations. The anticipated commencement of work could be by the end of 2023 provided all considerations of funding, site plan approval and the underwriting process are completed.
16. At the conclusion of Mr. Toronto's testimony, the floor was opened to questions from the public. There were no questions for Mr. Toronto and his testimony was concluded.

17. At that time, Mr. Whitaker introduced the Applicant's Engineer, Mr. Michel E. Dipple, P.E. of L2A Land Design LLC, who was sworn in and qualified as a licensed professional engineer in good standing in the State of New Jersey and the State of New York. He stated that he is familiar with the site of the project and that he is a resident of the Borough of Demarest.
18. Mr. Dipple described the property as being 127 Hardenburgh Avenue, which is a vacant lot currently without existing drainage that backs up to the Demarest municipal building. He referred to plans on Sheet C-02 entitled "Existing Conditions and Demolition Plan". He pointed out that the lot slopes slightly from west to east, with a grade change of fifteen (15%) percent. The site drains to the east. He described the drainage presently as sheet flow without any drainage controls for stormwater runoff.
19. Mr. Dipple described the configuration of the proposed building including the parking below, containing twenty-two (22) spaces by illustrating the building in a colorized version of the plans marked Exhibits "A-6" and "A-7".
20. He described the garage parking as having a dead-end without a wide turn-around which allows the parking area to be enclosed within the walls of the building. Mr. Dipple testified that the dead-end parking would be a safe design as very few vehicles would be entering and exiting at any given time. He also described that there would be proper ventilation provided for the parking area under the building.
21. Mr. Dipple reviewed the zoning data on Sheet C-03 of the plans and testified that the Applicant's plan was variance free.
22. Mr. Dipple also testified that the storm water management plan including an underground detention system will serve to improve the runoff of stormwater from the site and will minimize any flooding issues. Sheet flow will be captured, and the velocity of the discharge will be significantly reduced. The Stormwater Management Report that Mr. Dipple submitted indicates a twenty-seven (27%) percent decrease in existing stormwater discharge from the site as a result of the stormwater controls to be constructed as part of the project.
23. In answer to the Board's concerns, Mr. Dipple indicated that the maintenance of drains will be done by landscapers pursuant to a stormwater maintenance manual. He indicated that a lighting plan had been provided and that there will be bollard lighting for safety along the sidewalk and driveway and that fixtures will dim at

certain hours to thirty-five (35%) percent of peak luminescence. A private trash hauler will attend to the "rollout" for trash.

24. Mr. Dipple described that the Applicant was requesting a waiver for topographic plan as well as a waiver for tree 'caliper' replacement. As to the waiver of the topographic delineation he indicated that the Board's Engineer agreed that this will be acceptable to waive. With respect to the tree caliper waiver, the Applicant originally proposed replacement trees of 3.5-inch caliper but agreed to meeting the requirement of the 4-inch caliber replacement trees.
25. At the conclusion of Mr. Dipple's testimony, the meeting was opened to questions from the public. Mr. Noel Pugh questioned whether the sanitation waste line at Hardenburgh Avenue can accommodate the flow from the development, and whether the exit driveway from the adjoining bank parking lot would be a safer alternative exit for the project. Mr. Dipple testified that he believed the sewer line could accommodate the flow from the project, and that a retaining wall along the bank property would make it impossible to use the property as an exit.
26. There were no further questions from the public of Mr. Dipple and his testimony was closed by the Board.
27. At that time, Mr. Whitaker presented Mr. James Virgona, AIA, of the firm Virgona & Virgona Architects/Planners of Edgewater New Jersey. Mr. Virgona was sworn in and qualified as an expert in architecture.
28. Mr. Virgona described the exterior of the Affordable Housing Project as illustrated in plans prepared by him and revised as per Borough Planner and Engineer reviews, dated December 14, 2022. Mr. Virgona described the aesthetics as utilizing a mixture of stone and shingle on the façade with a grey and off-white pallet. He reviewed the types of units including the difference between the one bedroom units and the senior units with particular attention to barrier free details and he described that there are four (4) one-bedroom senior units, five (5) supportive units and eight (8) family units including five (5) two (2) bedroom units and two (2) three (3) bedroom units.
29. Mr. Virgona discussed that the parking spaces required are twenty-two (22) and the project includes twenty-two (22) parking spaces. Mr. Virgona added that the garage will have full ventilation and appropriate lighting. In addition, he indicated that the garage may have a turn-around spot which would address the concerns of the Board regarding the "dead end" configuration in the parking area.

30. Addressing the amenities proposed for the building, Mr. Virgona described that there would be a community room, an outdoor space for residents to enjoy. The building will also have a generator that will use natural gas. Testing will occur periodically and the Applicant is mindful that there will be a sixty (60) dB and daytime limit for testing of the generator.
31. Mr. Virgona described the building and stated that the bulk conforms to the Ordinance. The height, including the parapet and bulkhead, is below the height limit in the Ordinance. He described the façade materials and indicated that the Applicant is requesting a waiver for the sill height of the windows.
32. Mr. Virgona described that the color of the materials will be “restrained”, having muted greys and off-white. There will be a metal roof overhang and the building will conform to the renderings previously submitted with the Application.
33. In answering to Board concerns, Mr. Virgona described that all units will be handicapped adaptable and that the bedrooms meet Federal standards as to size. With regard to utilities, there will be hot water heaters in each unit. The special needs units and the senior units will have step-in showers. Washers and dryers will be provided in each unit and each unit will have its own HVAC System.
34. Mr. Virgona described certain operating features of the proposed building, the lighting in the garage will remain on for a twenty-four (24) hour period as per code requirements. The elevator goes down to the garage level. There will be an intercom communication system at the entrance doors for deliveries. As previously stated by the Engineer, the design offers a community room and general lobby, a package area, outdoor space, and terrace.
35. Questions were asked on behalf of the Demarest Ambulance Corp. as to the size of the elevator, to which Mr. Virgona responded that the elevator will have an appropriate capacity for the needs of the Ambulance Corp. In addition, there will be signage on the first floor to direct visitors to the different units in the building.
36. Mr. Virgona was asked to provide a description of some of the rental units’ interior features. He indicated a typical senior unit is one (1) bedroom, with a front entryway, kitchen, living room and bathroom. The kitchen is “U” shaped for wheelchair turn-around purposes. All requirements for Federal standards for housing will be met. The Special Needs units will be basically the same as the Senior units due to the same requirements. All public spaces will be ADA compliant.

37. At that time, the Board concluded its questioning of Mr. Virgona, and the meeting was opened to questions from the public. Mr. Pugh of Prospect Street asked if the building garage lighting would be a sealed fixture. Mr. Virgona answered that the lighting would be affixed to the dropped ceiling and also indicated that the garage and the units themselves will be sprinkled for fire suppression.
38. At that time, no further questions were raised by the public and the Board closed Mr. Virgona's testimony.
39. At that time, Mr. Whitaker offered a brief closing statement and reiterated that the Application is variance free and reviewed for the Board that the Applicant is seeking Preliminary and Final Site Plan Approval. Mr. Whitaker indicated that the Applicant has stipulated to conditions requested by the Board's professionals and that the Applicant has met the requirements under the Municipal Zoning Ordinance for the site.
40. At the conclusion of Mr. Whitaker's brief summation, the Chairwoman called for a Motion and a Second and the Board voted to approve the project with conditions and subject to the outstanding comments of the Board's professionals.

FINDINGS OF FACT AND CONCLUSIONS:

Upon hearing the testimony produced on behalf of the Applicant, and studying the exhibits and materials submitted and for the reasons set forth on the record and in this Resolution, the Planning Board finds that the Preliminary and Final Site Plan Application presently before the Board is in substantial compliance with the ordinances and regulations of the Borough of Demarest and should be approved, together with the requested waivers, subject to the conditions listed below. For the reasons set forth in this Resolution and otherwise contained within the record of the public hearings on this matter and by unanimous vote of the Board approving the Application of Bergen County United Way/Madeline Housing Partners, LLC for Preliminary and Final Site Plan Approval.

NOW THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Demarest, that the development application of Block 23, Lot 13 be, and the same is hereby, approved for the foregoing reasons, subject to the specific and general conditions hereinafter set forth.

This approval and the above listed relief are granted subject to compliance with the following conditions:

CONDITIONS SPECIFIC TO THE APPLICATION:

1. Applicant shall comply with all terms of the Settlement Agreement.
2. Subject to the approval of the Bergen County Planning Board and compliance with all conditions of that approval.
3. The Applicant shall comply with Ordinance No. 1094-21 which details the permitted uses and conditions of aspects of the development.
4. The site shall be fully irrigated.
5. Garbage shall be stored inside of the garage.
6. The affordable units shall have at least a thirty (30) year deed restriction, which shall be submitted at least one hundred sixty (160) days prior to the issuance of any Certificate of Occupancy. Said deed restriction shall list the unit address, income level, and number of bedrooms and bathrooms. The deed restriction shall be reviewed by the Board Attorney and Planner prior to being recorded.
7. The Applicant shall be responsible for retaining a qualified Administrative Agent, who has been pre-approved by the Borough in accordance with the Settlement Agreement.
8. All necessary steps shall be taken to make the seventeen (17) units creditworthy pursuant to applicable law for the purpose of addressing the Borough's affordable housing obligation.
9. The Applicant shall comply with all outstanding comments and conditions contained in the Board Planner's review letter dated January 10, 2023.
10. The Applicant shall comply with all outstanding comments and conditions contained in the Board Engineer's review letter dated January 3, 2023.
11. Any landscaping damage as a result of snowplowing and/or storage that is damaged or killed shall be promptly replaced on an ongoing basis.
12. Snow shall be removed from the internal roadway within a reasonable time (not to exceed 24 hours after cessation of the snowfall) and shall not be stockpiled so as

not to interfere with safe and efficient vehicular movement on-site, and to the extent it cannot be stock piled, it shall then be removed from the site.

13. Applicant shall submit an Operation and Maintenance Manual to the Borough for review and approval which shall include a listing and timing of all periodic maintenance for all on-site storm water management facilities. This shall be monitored by the Borough Engineer or the Borough's designee for a period of one (1) year to ensure that all stormwater facilities are functioning as designed and approved. Once approved, the manual shall be recorded in the office of the Bergen County Clerk.
14. Applicant shall provide one (1) fire hydrant on the property in a location to be approved by the Demarest Fire Department.
15. The Applicant shall comply with the Building Code with regard to the design of the staircases and elevators for the Building to ensure that the staircases and elevator are wide enough to accommodate EMT's carrying a patient down the stairs and/or a stretcher in the elevator.
16. The Applicant shall come before the Board if engineering and architectural revisions necessitate a major change of any type.
17. The Applicant and the Borough shall enter into a Developer's Agreement in standard Borough form, but which shall include, *inter alia*, all items set forth as conditions in this resolution to be included therein. The Planning Board shall be provided the opportunity to review same and provide comments prior to execution.
18. The Applicant shall provide easements on-site to allow for entry, by the Borough or its designee, for any necessary repair, replacement, or maintenance of any onsite storm water facilities in the event they are not repaired, replaced, or maintained by the Owner. The Borough shall not be obligated for such repair, replacement, or maintenance.
19. Payment of all fees and obligations incurred by the Applicant to the Borough, including any escrow deficiencies, must be made within thirty (30) days of notice of such deficiency, and in any event prior to the signing of the plans by the Planning Board officers if any deficiency exists at the time of the adoption of the Resolution of Memorialization.

20. The installation of improvements shall be subject to inspection by the Borough Engineer. No certificate of occupancy shall be issued unless all construction and conditions conform to the site development plan as approved. A foundation location as-built survey is to be submitted to, and accepted by, the Borough Engineer prior to framing. At the completion of framing, an as-built height survey shall be submitted to, and accepted by, the Borough Engineer before any exterior finishes and fenestration are installed, At the completion of all construction, of the structures, all appurtenances, and the approved site improvements, a final as-built survey shall be submitted to, and accepted by, the Borough Engineer before any Certificate of Occupancy is issued by the Borough.
21. Applicant shall post all performance and maintenance bonds required by municipal ordinance and the Municipal Land Use Law. Such bonds shall be released subject to the approval of the Borough Engineer and Borough Council. All improvements shall be completed in a timely fashion so as not to leave the site in an unfinished, unsafe, or unsightly condition as determined by the Borough Council and if this is not done, the performance bonds may be used by the Borough to restore the site to an acceptable and safe condition. The issuance of occupancy permits shall be conditioned upon the completion of improvements specified in the site plan as approved and may be issued as Temporary Certificate of Occupancy as permitted by Borough ordinance.
22. All improvements shall be completed in accordance with all applicable design standards of the municipal ordinances and substantially in accordance with the provisions of RSIS or as reflected on the approved plans unless otherwise specifically provided in this resolution.
23. If at any time after approval the escrow funds on deposit for purposes of inspection or other activities required by ordinance shall be depleted, sufficient additional funds shall be deposited before any further inspections are conducted.
24. Failure to comply with any of the conditions of site plan approval subsequent to receipt of a building permit shall be construed as a violation of the Borough Code and this approval and shall be grounds for revocation of any building permit. Written notice of revocation sent by certified mail by the Building Inspector, requiring compliance with the conditions of site plan approval within a period of time not less than five days, shall effectively revoke any building permit if compliance shall not be made within the time limit set forth. No certificate of occupancy shall issue until all conditions of site plan approval are met.

25. The Applicant shall publish a brief notice of this decision in the official newspaper of the Borough of Demarest in the time and manner provided by law.

GENERAL CONDITIONS:

1. All fees, costs, bonds, and escrows shall be paid when due or becoming due. Any monies are to be paid within twenty (20) days of said request by the Board's Secretary.
2. All representations made by Applicant, or its Agents shall be deemed conditions of this approval and any misrepresentations by Applicant's contrary to the representations made before the Board shall be deemed a violation of this approval.
3. The action of the Board in approving this application shall not relieve the Applicant of responsibility for any damages caused by this project, nor does the Board, and the Borough or its reviewing professionals and agencies, accept any responsibility for design of the proposed improvement or for any damages that may be caused by this development.
4. Applicant shall comply with all applicable federal, state, regional, county, and local rules, regulations, and requirements.
5. This approval is conditioned upon the truthfulness of the testimony of the Applicant and Applicant's witnesses. In the event that said testimony is found to be willfully false, this approval may be voidable and may be nullified by the Planning Board.

This Application was approved by the Borough of Demarest Planning Board at a regular meeting held on February 1, 2023 upon motion of Mr. Verp, and seconded by Councilwoman Fox upon roll call as follows:

Ayes: 9 Alevrontas, Bernstein, Fox, Keane, Parlamis, Rifkind, Tabacchi, Verp,
Hayden

Nays: 0

Absent: 0

Abstain: 0

This Resolution was adopted on the 11th day of April 2023 by a vote of
(9) ayes and (0) nays as set forth herein.

Marian Hayden

MARIAN HAYDEN, Chairwoman
Demarest Planning Board

BE IT, FURTHER RESOLVED, that a copy of this Resolution be forwarded to the Applicant, Borough Clerk, Construction Code Official and Zoning Officer of the Borough of Demarest. I do certify that this is a true and correct copy of the Resolution as adopted by the Planning Board of the Borough of Demarest, County of Bergen, and State of New Jersey in the within Application.

Teresa Ferrentino

TERESA FERRENTINO, Board Secretary

DATE APPLICATION APPROVED: FEBRUARY 1, 2023
DATE RESOLUTION APPROVED: APRIL 11, 2023